

# G

COMPANIES FORM No. 155(6)a

## Declaration in relation to assistance for the acquisition of shares.

# 155(6)a

Please do not write in this margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete legibly, preferably in black type, or bold block lettering

**Note**  
Please read the notes on page 3 before completing this form

\*Insert full name of company

†Insert name(s) and address(es) of all the directors

To the Registrar of Companies

For official use

Company number

00048254

Name of company

\* Marston, Thompson & Evershed Limited (the "Company").

I/We†

Please see Rider 1 attached.

§ Delete as appropriate

‡ Delete whichever is inappropriate

~~The sole directors~~ all the directors of the above company do solemnly and sincerely declare that:

The business of the company is:

~~(a) that of a recognised bank, licensed institution within the meaning of the Banking Act 1979, or~~  
~~(b) that of a person authorised under section 3 and 4 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom, or~~

(c) something other than the above ‡

The company is proposing to give financial assistance in connection with the acquisition of shares in the [company] ~~[company's holding company]~~ §

The assistance is for the purpose of ~~[that acquisition]~~ ‡ [reducing or discharging a liability incurred for the purpose of that acquisition].

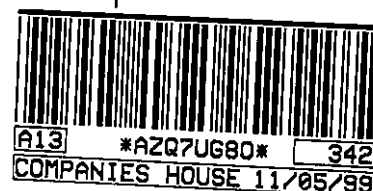
The number and class of the shares acquired or to be acquired is: Please see Rider 2 attached.

Presentor's name, address and reference (if any):

Freshfields  
65 Fleet Street  
London EC4Y 1HS  
DX 23 LONDON  
(DGW/SWJ/MIF)  
(MF3)

For official use  
General Section

Post room



The assistance is to be given to: (note 2)

W. & D. PLC (registered number 03674601) of Park Brewery, Bath Road, Wolverhampton WV1 4NY.

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block  
lettering

The assistance will take the form of:

Please see Rider 3 attached.

The person who [has acquired] ~~will acquire~~ the shares is:  
W. & D. PLC.

\*Delete as  
appropriate

The principal terms on which the assistance will be given are:

Please see Rider 4 attached.

The amount of cash to be transferred to the person assisted is £ £55,000,000

The value of any asset to be transferred to the person assisted is £ Nil

The date on which the assistance is to be given is within 8 weeks of the date hereof

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

†Delete either (a) or  
(b) as appropriate

I/We have formed the opinion, as regards the company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) [I/We have formed the opinion that the company will be able to pay its debts as they fall due during the year immediately following that date] † (note 3)

~~(b) [It is intended to commence the winding up of the company within 12 months of that date and I/we have formed the opinion that the company will be able to pay its debts in full within 12 months of the commencement of the winding up.] † (note 3)~~

And I/we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at  
Park Brewery, Bath Road, Wolverhampton WV1 4NY

Declarants to sign below

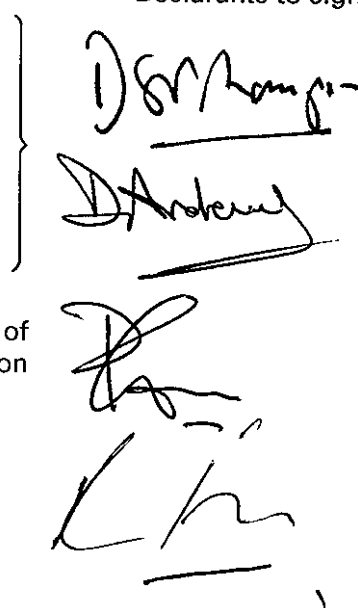
the 6th day of May  
One thousand nine hundred and ninety nine

before me

PH

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

LYNN PHILLIPS  
47 Queen Street  
Wolverhampton  
Solicitor



## NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account-see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.

**Rider 1**

Directors of the Company:

<b>Name</b>	<b>Address</b>
Derek Andrew	Church Hill House Church Hill Kinver Stourbridge DV7 6HY
David George Fossett Thompson	Albrighton Hall Nr Wolverhampton West Midlands WV7 3JQ
Ralph Graham Findlay	3 Wells Close Bridgnorth Shropshire WV6 5JQ
Paul Gilham	Starlings 8 Midway Walton-on-Thames Surrey KT12 3HY

**Rider 2**

92,812,958 ordinary shares of 25p each in the capital of the Company.

### Rider 3

*Certain terms and expressions used in this Rider 3 to this statutory declaration are defined below.*

In connection with its acquisition of the entire issued share capital of the Company, W&DB entered into the Agreements and the Intercreditor Deed.

Each of the Agreements contains a covenant pursuant to which W&DB agrees to ensure that the Company shall become an Additional Guarantor under each of the Agreements by the date falling 90 days after the Company becomes a subsidiary of W.&D. The Company became a subsidiary of W.&D. on 5 February 1999.

In order to become an Additional Guarantor under each of the Agreements, the Company has to deliver to the Agents guarantor accession memoranda substantially in the form prescribed in each of the Agreements, duly executed by W&DB and the Company.

The Company will become a guarantor under each of the Agreements and accede to the Intercreditor Deed. Part of the financial assistance will take the form of:

- (a) the execution, delivery and performance by the Company of its obligations under the Agreements pursuant to which it will guarantee in favour of the Finance Parties (as defined in the Agreements) and Barclays (in the case of the Bilateral Loan Agreement) the obligations of Parent under the Agreements; and
- (b) the execution, delivery and performance of its obligations under the Intercreditor Deed.

In addition, the Loan Agreement contains a clause pursuant to which W&DB procures that certain proceeds of disposals of assets made must be applied in prepayment of the loans/facilities under that agreement (the **Prepayment** and, if more than one, the **Prepayments**). This obligation ceases when £35,000,000 of the loans/facilities made thereunder has been repaid.

Further, the Subordinated Term Loan Agreement contains a clause pursuant to which W.&D. is obliged to repay certain proceeds of disposals of assets in repayment (the **Repayment**) of the loan advanced thereunder after the prepayment of up to £35,000,000 of the loans made under the Loan Agreement.

Pursuant to the Sale and Purchase Agreement, the Company is entitled to the proceeds (the **Proceeds**) of sale of certain pubs in various instalments.

The receipt of instalments of the Proceeds may trigger W&DB's obligation to procure a Prepayment under the Loan Agreement and/or W.&D.'s obligation to make the Repayment under the Subordinated Term Loan Agreement. In order to enable W&DB to make any Prepayment or Prepayments (as applicable) and W.&D. to make the Repayment, the Company will be entering into the Inter-Company Loan Agreements and this will also constitute financial assistance.

Under the terms of each of the Agreements, Additional Guarantors must represent and warrant that no Encumbrance (as defined in each Agreement) exists over all or any of the present or future revenues or assets of any member of the Group, except for Permitted Encumbrances (as defined in each Agreement). The Company will therefore execute the Deeds of Release in respect of all existing Encumbrances which are not Permitted Encumbrances under the terms of the Agreements. This may also constitute financial assistance.

**Agents** means Barclays, HSBC and Barclays under the Loan Agreement, the Subordinated Term Loan Agreement and the Bilateral Loan Agreement respectively.

**Agreements** means the Loan Agreement, the Subordinated Term Loan Agreement and the Bilateral Loan Agreement.

**Barclays** means Barclays Bank PLC.

**Barclays Capital** means Barclays Capital, the investment banking division of Barclays Bank PLC.

**Bilateral Loan Agreement** means a loan agreement as amended from time to time dated 21 January 1999 with W&DB as borrower; W&DB Trading and W.&D. as original guarantors and Barclays as bank.

**Deeds of Release** means deeds of release between, respectively, the Company and Via Vita Cafe Bar and Restaurant Limited and the Company and itself, both to be dated on or about 6 May 1999.

**Greene King** means Greene King Brewing and Retailing Limited.

**HSBC** means HSBC Investment Bank plc.

**Inter-Company Loan Agreements** means an inter-company loan agreement between the Company as lender and W&DB as borrower and an inter-company loan agreement between the Company as lender and W.&D. as borrower, both to be dated on or about 6 May 1999.

**Intercreditor Deed** means an intercreditor deed dated 21 January 1999 between, amongst others, Barclays as Senior Agent, HSBC as Subordinated Agent and W&DB as Obligor.

***Loan Agreement*** means a loan agreement as amended from time to time dated 26 November 1998 between W&DB as parent, W.&D. and W&DB as original borrowers; W&DB, W&DB Trading and W.&D. as original guarantors; Barclays Capital and HSBC as arrangers; Barclays as agent and security trustee; and certain banks outlined therein.

***Sale and Purchase Agreement*** means a sale and purchase agreement dated 30 April 1999 between W&DB, the Company, Greene King PLC and Greene King relating to the purchase by Greene King of a number of pubs.

***Subordinated Term Loan Agreement*** means a loan agreement as amended from time to time dated 21 January 1999 between W&DB as parent, W.&D. as borrower; W&DB and W&DB Trading as original guarantors; HSBC as agent and security trustee and certain banks outlined therein.

***W.&D.*** means W. & D. PLC (registered number 03674601).

***W&DB*** means The Wolverhampton & Dudley Breweries, public limited company (registered number 00031461).

***W&DB Trading*** means Wolverhampton & Dudley Breweries (Trading) Limited (registered number 00040590).



## **Rider 4**

The principal terms on which the assistance will be given are set out in Clauses 22 (*Guarantee and Indemnity*), Clause 11.13 (*Mandatory Prepayment from Disposals*) and Clause 11.14 (*Order of Application*) in the Loan Agreement, Clause 19 (*Guarantee and Indemnity*) and Clause 7 (*Repayment of the Term Facility*) in the Subordinated Term Loan Agreement and Clause 18 (*Guarantee and Indemnity*) in the Bilateral Loan Agreement respectively, in the Intercreditor Deed, the Inter-Company Loan Agreements and the Deeds of Release.

For the purposes of this Rider 4, the defined terms and expressions used in Rider 3 to this statutory declaration shall apply unless otherwise stated.

### **1. LOAN AGREEMENT**

#### **Mandatory Prepayment from Disposals**

Under the Loan Agreement, the Parent shall procure that an amount equal to the Net Disposal Proceeds of any disposal of assets after the date of the Loan Agreement in any one transaction or any series of connected transactions where the book value of all such assets so disposed of is more than £2,500,000 (or its equivalent) in aggregate shall be applied in prepayment of the Term Facility and permanent reduction of the Revolving Facility in the manner specified in clause 11.14 (*Order of Application*) of the Loan Agreement, such repayments to be made on the first relevant Interest Payment Date after the date of receipt of such Net Disposal Proceeds and (to the extent that any such amount is greater than the amount of the Advance relating to such Interest Payment Date) each successive relevant Interest Payment Date until the amount required to be prepaid pursuant to clause 11.13 of the Loan Agreement is prepaid as soon as possible on relevant Interest Payment Dates. Clause 11.13 of the Loan Agreement shall cease to apply on the earlier of:

- (a) the date when the Parent has repaid £35,000,000 of the Facilities pursuant to the provisions of clause 11.13 of the Loan Agreement; and
- (b) the Covenant Change Date.

Under clause 11.14 (*Order of Application*) of the Loan Agreement the amount to be applied in prepayment pursuant to clause 11.12 (*Mandatory Prepayment from New Financings*) and clause 11.13 (*Mandatory Prepayment from Disposals*) both under the Loan Agreement shall be applied as follows:

- (i) first, in prepayment of the Term Loan (and any partial prepayment shall satisfy *pro tanto* the obligations to repay under clause 9.1 (*Term Repayment Instalments*) of the Loan Agreement in inverse chronological order; and
- (ii) secondly, in prepayment or repayment of outstanding Revolving Advances (as specified by Parent or, failing such specification, as the

Agent shall determine) and permanent reduction of the Revolving Facility,

and the Agent is authorised to purchase sterling with any amounts held by it under this clause 11.14 of the Loan Agreement which are not denominated in sterling.

## **GUARANTEE AND INDEMNITY**

### **Parent Guarantee and Indemnity**

Under the Loan Agreement, the Parent irrevocably and unconditionally:

- (i) guarantees to each Finance Party the due and punctual observance and performance of all the terms, conditions and covenants on the part of each Borrower (other than the Parent) contained in the Finance Documents and agrees to pay from time to time on demand any and every sum or sums of money which each Borrower (other than the Parent) is at any time liable to pay to any Finance Party under or pursuant to the Finance Documents and which has become due and payable but has not been paid at the time such demand is made; and
- (ii) agrees as a primary obligation to indemnify each Finance Party from time to time on demand from and against any loss incurred by any Finance Party as a result of any of the obligations of each Borrower (other than the Parent) under or pursuant to the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against such Borrower for any reason whatsoever, whether or not known to any Finance Party or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from such Borrower.

### **Other Guarantors Guarantee and Indemnity**

By becoming an Additional Guarantor under the Loan Agreement the Company irrevocably and unconditionally:

- (i) guarantees to each Finance Party the due and punctual observance and performance of all the terms, conditions and covenants on the part of the Parent contained in the Finance Documents and agrees to pay from time to time on demand any and every sum or sums of money which the Parent is at any time liable to pay to any Finance Party under or pursuant to the Finance Documents and which has become due and payable but has not been paid at the time such demand is made; and
- (ii) agrees as primary obligation to indemnify each Finance Party from time to time on demand from and against any loss incurred by any Finance Party as a result of any of the obligations of the Parent under or pursuant

to the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against the Parent for any reason whatsoever, whether or not known to any Finance Party or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from the Parent.

### **Additional Security**

The obligations of the Company as an Additional Guarantor under the Loan Agreement shall be in addition to and independent of every other security which any Finance Party may at any time hold in respect of any of any Obligor's obligations under the Finance Documents.

### **Continuing Obligations**

The obligations of the Company as an Additional Guarantor under the Loan Agreement shall constitute and be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the obligations of the Obligors under the Finance Documents and shall continue in full force and effect until final payment in full of all amounts owing by any Obligor under the Finance Documents and total satisfaction of all the Obligors' actual and contingent obligations under the Finance Documents.

### **Obligations not Discharged**

Under the Loan Agreement, neither the obligations of the Company as an Additional Guarantor nor the rights, powers and remedies conferred in respect of the Company as an Additional Guarantor upon any Finance Party by the Finance Documents or by law shall be discharged, impaired or otherwise affected by:

- (i) the winding-up, dissolution, administration or re-organisation of any Obligor or any other person or any change in its status, function, control or ownership;
- (ii) any of the obligations of any Obligor or any other person under the Finance Documents or under any other security taken in respect of any of its obligations under the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (iii) time or other indulgence being granted or agreed to be granted to any Obligor in respect of its obligations under the Finance Documents or under any such other security;

- (iv) any amendment to, or any variation, waiver or release of, any obligation of any Obligor under the Finance Documents or under any such other security;
- (v) any failure to take, or fully to take, any security contemplated hereby or otherwise agreed to be taken in respect of any Obligor's obligations under the Finance Documents;
- (vi) any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken in respect of any Obligor's obligations under the Finance Documents;
- (vii) the release of any other obligation of any other person under the terms of any composition or arrangement with any creditor of any member of the Group; or
- (viii) any other act, event or omission which, but for this clause, might operate to discharge, impair or otherwise affect any of the obligations of the Company as an Additional Guarantor under the Loan Agreement herein contained or any of the rights, powers or remedies conferred upon any of the Finance Parties by the Finance Documents or by law.

### **Settlement Conditional**

Under the Loan Agreement, any settlement or discharge between an Obligor and any of the Finance Parties shall be conditional upon no security or payment to any Finance Party by an Obligor or any other person on behalf of an Obligor being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, each Finance Party shall be entitled to recover the value or amount of such security or payment from such Obligor subsequently as if such settlement or discharge had not occurred.

### **Exercise of Rights**

Under the Loan Agreement, no Finance Party shall be obliged before exercising any of the rights, powers or remedies conferred upon them in respect of the Company as an Additional Guarantor by the Finance Documents or by law:

- (i) to make any demand of any Obligor;
- (ii) to take any action or obtain judgment in any court against any Obligor;
- (iii) to make or file any claim or proof in a winding-up or dissolution of any Obligor; or
- (iv) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Obligor under the Finance Documents.

### **Deferral of Additional Guarantor's Rights**

The Company as an Additional Guarantor under the Loan Agreement agrees that, so long as any amounts are or may be owed by an Obligor under the Finance Documents or an Obligor is under any actual or contingent obligations under the Finance Documents, it shall not exercise any rights which it may at any time have by reason of performance by it of its obligations under the Finance Documents:

- (i) to be indemnified by an Obligor; and/or
- (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents; and/or
- (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other security taken pursuant to, or in connection with, the Finance Documents by all or any of the Finance Parties.

### **Suspense Accounts**

Under the Loan Agreement, all moneys received, recovered or realised by a Bank by virtue of the guarantee provided by the Company may, in that Bank's discretion, be credited to a suspense or impersonal account and may be held in such account for so long as such Bank thinks fit pending the application from time to time (as such Bank may think fit) of such moneys in or towards the payment and discharge of any amounts owing by an Obligor to such Bank under the Finance Documents.

For the purposes of the Loan Agreement only, the following definitions apply (and all references to clause numbers or schedules are to clauses and schedules therein):

***Additional Borrower*** means any company which has become an Additional Borrower in accordance with Clause 33 (*Additional Borrowers*).

***Additional Guarantor*** means any company which has become an Additional Guarantor in accordance with Clause 34 (*Additional Guarantors*).

***Agent*** means Barclays acting as agent for the Banks.

***Arrangers*** means Barclays Capital and HSBC as arrangers of the Facilities.

***Bank*** means any financial institution:

- (a) named in Schedule 1 (*The Banks*); or

- (b) which has become a party to the Loan Agreement in accordance with Clause 32.4 (*Assignments by Banks*) or Clause 32.5 (*Transfers by Banks*).

and which has not ceased to be a party to the Loan Agreement in accordance with the terms thereof.

**BidCo** means W. & D.

**Borrowers** means each of the Original Borrowers and each Additional Borrower, **provided that** such company has not been released from its rights and obligations under the Loan Agreement in accordance with Clause 33.3 (*Resignation of a Borrower*).

**Borrower Accession Memorandum** means a memorandum substantially in the form set out in Schedule 7 (*Form of Borrower Accession Memorandum*).

**Business Day** means a day (other than a Saturday or Sunday) on which banks generally are open for business in London.

**Compliance Certificate** means in relation to a certificate to be provided by two Directors of the Parent pursuant to Clause 18.5 (*Compliance Certificates*) a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

**Consolidated EBITDA** means, for any period referred to in Clause 19.1.1 or 19.1.2, Consolidated Profits Before Interest and Tax before any amount attributable to the amortisation of intangible assets and depreciation of tangible assets for such period, as determined by reference to the latest financial statements delivered pursuant to Clause 18 (*Financial Information*).

**Consolidated Net Borrowings** means at any time the aggregate amount of all obligations of the Group for or in respect of Indebtedness for Borrowed Money but excluding any such obligation to any other member of the Group, less the aggregate amount of cash at bank and in hand of the Group (and so that no amount shall be included or excluded more than once).

**Consolidated Profits Before Interest and Tax** means, in respect of any period referred to in Clause 19.1.1 or 19.1.2, the operating profit of the Group before net interest and tax, before any amount attributable to the amortisation of intangible assets and before any items treated as exceptional or extraordinary items for such period plus (in respect of the Relevant Period ending 30 September 1999 only) any re-organisation costs (to the extent that such costs are not treated as exceptional or extraordinary items) (up to, but not exceeding, £10,000,000 in aggregate) which have been incurred by the Group in such period as a consequence of the acquisition of BidCo of the Target Group, all as determined by reference to the latest financial statements delivered pursuant to Clause 18 (*Financial Information*).

**Covenant Change Date** means the date on which the Agent has received financial statements pursuant to Clause 18.1 (*Annual Statements*) or Clause 18.2 (*Semi-annual Statements*) and the relevant Compliance Certificate accompanying such financial statements showing that the ratio of Consolidated Net Borrowings to Consolidated EBITDA is equal to or less than 2.5:1 for a Relevant Period.

**Debenture** means the debenture executed by BidCo in favour of the Security Trustee pursuant to which BidCo provides fixed and floating charges over all of its assets (including all of its shares from time to time in Target) to the Security Trustee, such debenture to be released upon the occurrence of the Target Guarantee Date in accordance with the provisions of the Security Trust Agreement.

**Facilities** means the Term Facility and the Revolving Facility.

**Finance Documents** means the Loan Agreement, any Borrower Accession Memorandum, any Guarantor Accession Memorandum and any Security Document and any other agreement which the Parent and the Arrangers agree is a Finance Document.

**Finance Parties** means the Agent, the Security Trustee, the Arrangers and the Banks.

**Group** means the Parent and its subsidiaries for the time being.

**Guarantors** means each of the Original Guarantors and each Additional Guarantor, **provided that** such company has not been released from its rights and obligations under the Loan Agreement in accordance with Clause 34.3 (*Resignation of a Guarantor*).

**Guarantor Accession Memorandum** means a memorandum substantially in the form set out in Schedule 8 (*Form of Guarantor Accession Memorandum*).

**Indebtedness for Borrowed Money** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) any amount raised pursuant to any issue of shares which are by their express terms capable of being redeemed prior to the final scheduled Term Repayment Date.
- (e) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with generally accepted accounting

principles in the relevant jurisdiction, be treated as a finance or capital lease;

- (f) the amount of any liability in respect of any advance or deferred purchase agreement if one of the primary reasons for entering into such agreement is to raise finance;
- (g) receivables sold or discounted (other than on a non-recourse basis);
- (h) any agreement or option to re-acquire an asset if one of the primary reasons for entering into such agreement or option is to raise finance;
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement) which would, in accordance with generally accepted accounting principles in the relevant jurisdiction, be treated as a borrowing and
- (j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraph (a) to (i) above.

***Interest Payment Date*** means:

- (a) in relation to a Term Advance, the date of an Interest Period relating thereto; and
- (b) in relation to a Revolving Advance, the last day of its Term.

***Interest Period*** means save as otherwise provided under the Loan Agreement:

- (a) any of those periods mentioned in Clause 4.1 (*Interest Periods*); and
- (b) in relation to an Unpaid Sum, any of those periods mentioned in Clause 25.1 (*Default Interest Periods*).

***Net Disposal Proceeds*** means the gross total proceeds received by any member of the Group in cash from any person from all disposals, leases or transfers of any revenues or assets of any member of the Group less:

- (a) reasonable out of pocket expenses incurred in respect of such disposal, lease or transfer;
- (b) the VAT paid or payable by any member of the Group due to such disposal, lease or transfer; and
- (c) any taxes incurred and required to be paid by such member of the Group in connection with such disposal, lease or transfer as reasonably determined in good faith by such member of the Group on the basis of the existing tax rates applicable to the gain (if any) and after taking into account all available credits, deductions and allowances.



**Notice of Drawdown** means a notice substantially in the form set out in Schedule 4 (*Notice of Drawdown*).

**Obligors** means the Borrowers and the Guarantors.

**Original Borrowers** means BidCo and the Parent in their capacity as Borrowers under the Loan Agreement.

**Original Guarantors** means W&DB Trading and BidCo in their capacity as guarantors under the Loan Agreement.

**Parent** means W&DB.

**Relevant Period** means the period of six months ending on 30 September 1999 and each period of twelve months ending at six monthly intervals commencing with the twelve month period ending 31 March 2000.

**Revolving Advance** means an advance made or to be made by the Banks under the Revolving Facility.

**Revolving Facility** means the revolving loan facility granted to the Borrowers in the Loan Agreement.

**Security Documents** means the Security Trust Agreement, the Debenture and any other security executed by any member of the Group on or after the date of the Loan Agreement in favour of the Security Trustee in respect of any obligations of any Obligor under the Finance Documents.

**Security Trust Agreement** means the security trust agreement dated 19 February 1999 between the Security Trustee, the Agent and others.

**Security Trustee** means Barclays acting as Security Trustee for the Finance Parties.

**Target Group** means Target and each of its subsidiaries for the time being.

**Target Guarantee Date** means the date upon which the Agent notifies BidCo that the Banks are satisfied (acting reasonably) that the Parent has complied with the provisions of paragraph (a) of Clause 20.10.1 (*Acceding Guarantors*).

**Term** means, save as otherwise provided herein, in relation to any Revolving Advance, the period for which such Revolving Advance is borrowed, as specified in the Notice of Drawdown relating to thereto.

**Term Advance** means an advance (as from time to time consolidated, divided or reduced by repayment) made or to be made by the Banks under the Term Facility.

**Term Facility** means the term loan facility granted to BidCo in the Loan Agreement.

**Term Loan** means, at any time, the aggregate principal amount of outstanding Term Advances.

**Term Repayment Date** means, in respect of the Term Facility, each of the dates specified in Clause 9.1 (*Term Repayment Instalments*), **provided that** if such date is not a Business Day, it shall be deemed to be the next succeeding Business Day.

**Unpaid Sum** means the unpaid balance of any of the sums referred to in Clause 25.1 (*Default Interest Periods*).

the *winding-up, dissolution or administration* of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.

## **2. SUBORDINATED TERM LOAN AGREEMENT**

### **REPAYMENT OF THE TERM FACILITY**

Under the Subordinated Term Loan Agreement, the Borrower shall repay the Term Loan on the Term Repayment Date.

### **GUARANTEE AND INDEMNITY**

#### **Parent Guarantee and Indemnity**

Under the Subordinated Term Loan Agreement, the Parent irrevocably and unconditionally:

- (i) guarantees to each Finance Party the due and punctual observance and performance of all the terms, conditions and covenants on the part of the Borrower contained in the Finance Documents and agrees to pay from time to time on demand any and every sum or sums of money which the Borrower is at any time liable to pay to any Finance Party under or pursuant to the Finance Documents and which has become due and payable but has not been paid at the time such demand is made; and
- (ii) agrees as a primary obligation to indemnify each Finance Party from time to time on demand from and against any loss incurred by any Finance Party as a result of any of the obligations of the Borrower under or pursuant to the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against the Borrower for any reason whatsoever, whether or not known to any Finance Party or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from the Borrower.

#### **Other Guarantors Guarantee and Indemnity**

Under the Subordinated Term Loan Agreement, by becoming an Additional Guarantor, the Company irrevocably and unconditionally:

- (i) guarantees to each Finance Party the due and punctual observance and performance of all the terms, conditions and covenants on the part of the Parent contained in the Finance Documents and agrees to pay from time to time on demand any and every sum or sums of money which the Parent is at any time liable to pay to any Finance Party under or pursuant to the Finance Documents and which has become due and payable but has not been paid at the time such demand is made; and
- (ii) agrees as primary obligation to indemnify each Finance Party from time to time on demand from and against any loss incurred by any Finance Party as a result of any of the obligations of the Parent under or pursuant

to the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against the Parent for any reason whatsoever, whether or not known to any Finance Party or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from the Parent.

### **Additional Security**

Under the Subordinated Term Loan Agreement the obligations of the Company as an Additional Guarantor shall be in addition to and independent of every other security which any Finance Party may at any time hold in respect of any of any Obligor's obligations under the Finance Documents.

### **Continuing Obligations**

Under the Subordinated Term Loan Agreement the obligations of the Company as an Additional Guarantor shall constitute and be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the obligations of the Obligors under the Finance Documents and shall continue in full force and effect until final payment in full of all amounts owing by any Obligor under the Finance Documents and total satisfaction of all the Obligors' actual and contingent obligations under the Finance Documents.

### **Obligations not Discharged**

Under the Subordinated Term Loan Agreement neither the obligations of the Company as an Additional Guarantor nor the rights, powers and remedies conferred in respect of the Company as an Additional Guarantor upon any Finance Party by the Finance Documents or by law shall be discharged, impaired or otherwise affected by:

- (i) the winding-up, dissolution, administration or re-organisation of any Obligor or any other person or any change in its status, function, control or ownership;
- (ii) any of the obligations of any Obligor or any other person under the Finance Documents or under any other security taken in respect of any of its obligations under the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (iii) time or other indulgence being granted or agreed to be granted to any Obligor in respect of its obligations under the Finance Documents or under any such other security;

- (iv) any amendment to, or any variation, waiver or release of, any obligation of any Obligor under the Finance Documents or under any such other security;
- (v) any failure to take, or fully to take, any security contemplated hereby or otherwise agreed to be taken in respect of any Obligor's obligations under the Finance Documents;
- (vi) any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken in respect of any Obligor's obligations under the Finance Documents;
- (vii) the release of any other obligation of any other person under the terms of any composition or arrangement with any creditor of any member of the Group; or
- (viii) any other act, event or omission which, but for this clause, might operate to discharge, impair or otherwise affect any of the obligations of the Company as an Additional Guarantor or any of the rights, powers or remedies conferred upon any of the Finance Parties by the Finance Documents or by law.

### **Settlement Conditional**

Under the Subordinated Term Loan Agreement, any settlement or discharge between an Obligor and any of the Finance Parties shall be conditional upon no security or payment to any Finance Party by an Obligor or any other person on behalf of an Obligor being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, each Finance Party shall be entitled to recover the value or amount of such security or payment from such Obligor subsequently as if such settlement or discharge had not occurred.

### **Exercise of Rights**

Under the Subordinated Term Loan Agreement, no Finance Party shall be obliged before exercising any of the rights, powers or remedies conferred upon them in respect of the Company as an Additional Guarantor by the Finance Documents or by law:

- (i) to make any demand of any Obligor;
- (ii) to take any action or obtain judgment in any court against any Obligor;
- (iii) to make or file any claim or proof in a winding-up or dissolution of any Obligor; or

- (iv) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Obligor under the Finance Documents.

### **Deferral of Additional Guarantor's Rights**

The Company as an Additional Guarantor under the Subordinated Term Loan Agreement agrees that, so long as any amounts are or may be owed by an Obligor under the Finance Documents or an Obligor is under any actual or contingent obligations under the Finance Documents, it shall not exercise any rights which it may at any time have by reason of performance by it of its obligations under the Finance Documents:

- (i) to be indemnified by an Obligor; and/or
- (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents; and/or
- (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other security taken pursuant to, or in connection with, the Finance Documents by all or any of the Finance Parties.

### **Suspense Accounts**

Under the Subordinated Term Loan Agreement, all moneys received, recovered or realised by a Bank by virtue of the guarantee provided by the Company may, in that Bank's discretion, be credited to a suspense or impersonal account and may be held in such account for so long as such Bank thinks fit pending the application from time to time (as such Bank may think fit) of such moneys in or towards the payment and discharge of any amounts owing by an Obligor to such Bank under the Finance Documents.

For the purposes of the Subordinated Term Loan Agreement only, the following definitions apply (and any references to clauses or schedules are to clauses and schedules therein):

**Additional Guarantor** means any company which has become an Additional Guarantor in accordance with Clause 30 (*Additional Guarantors*).

**Agent** means HSBC as agent for the Banks.

**Bank** means any financial institution:

- (a) named in Schedule 1 (*The Banks*); or

- (b) which has become a party to the Subordinated Term Loan Agreement in accordance with Clause 29.4 (*Assignments by Banks*) or Clause 29.5 (*Transfers by Banks*),

and which has not ceased to be a party to the Subordinated Term Loan Agreement in accordance with the terms of the Subordinated Term Loan Agreement.

**Borrower** means W. & D. in its capacity as borrower under the Subordinated Term Loan Agreement.

**Debenture** means, if permitted by the terms of the Senior Term Facility Agreement, the debenture executed by the Borrower in favour of the Security Trustee pursuant to which the Borrower provides fixed and floating charges over all of its assets (including all of its shares from time to time in Target) to the Security Trustee.

**Finance Documents** means the Subordinated Term Loan Agreement, any Guarantor Accession Memorandum and any Security Document and any other agreement which the Parent and the Agent agree is a Finance Document.

**Finance Parties** means the Agent, the Security Trustee and the Banks.

**Group** means the Parent and its subsidiaries for the time being.

**Guarantors** mean each of the Original Guarantors and each Additional Guarantor, **provided that** such company has not been released from its rights and obligations under the Subordinated Term Loan Agreement in accordance with Clause 30.3 (*Resignation of a Guarantor*).

**Guarantor Accession Memorandum** means a memorandum substantially in the form set out in Schedule 7 (*Form of Guarantor Accession Memorandum*).

**Net Disposal Proceeds** means the gross total proceeds received by any member of the Group in cash from any person from all disposals, leases or transfers of any revenues or assets of any member of the Group less:

- (a) reasonable out of pocket expenses incurred in respect of such disposal, lease or transfer;
- (b) the VAT paid or payable by any member of the Group due to such disposal, lease or transfer; and
- (c) any taxes incurred and required to be paid by such member of the Group in connection with such disposal, lease or transfer as reasonably determined in good faith by such member of the Group on the basis of the existing tax rates applicable to the gain (if any) and after taking into account all available credits, deductions and allowances.

**Obligors** means the Borrowers and the Guarantors.

**Original Guarantors** means W&DB and W&DB Trading in their capacity as guarantors under the Subordinated Term Loan Agreement.

**Parent** means W&DB.

**Security Documents** means the Security Trust Agreement, the Debenture and any other security executed by any member of the Group on or after the date of the Subordinated Term Loan Agreement in favour of the Security Trustee in respect of any obligations of any Obligor under the Finance Documents.

**Security Trust Agreement** means the security trust agreement dated 19 February 1999 between the Security Trustee, the Agent and others.

**Security Trustee** means HSBC as security trustee for the Finance Parties.

**Senior Term Facility Agreement** means the Loan Agreement.

**Term Advance** means an advance (as from time to time consolidated, divided or reduced by repayment) made or to be made by the Banks under the Term Facility.

**Term Facility** means the term loan facility granted to the Borrower in the Subordinated Term Loan Agreement.

**Term Loan** means, at any time, the aggregate principal amount of outstanding Term Advances (including amounts deemed Term Advances in respect of any interest capitalised pursuant to Clause 5.1 (*Payment of Interest*)).

**Term Repayment Date** means the earlier of:

- (a) the date falling sixty months after the date of the Subordinated Term Loan Agreement;
- (b) the day following prepayment or repayment of the Senior Term Facility Agreement;
- (c) receipt of the proceeds of any new equity issue equal to or in excess of the Term Loan at such time;
- (d) receipt of Net Disposal Proceeds in aggregate equal to or in excess of the Term Loan at such time after prepayment of up to £35,000,000 of the loans made under the Senior Term Facility Agreement; and
- (e) receipt of any other subordinated loan proceeds in aggregate equal to or in excess of the Term Loan at such time.



provided that if any such date is not a Business Day, it shall be deemed to be the next succeeding Business Day.

the *winding-up, dissolution or administration* of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.

### **3. BILATERAL LOAN AGREEMENT**

#### **GUARANTEE AND INDEMNITY**

##### **Guarantors Guarantee and Indemnity**

By becoming an Additional Guarantor under the Bilateral Loan Agreement, the Company irrevocably and unconditionally:

- (i) guarantees to the Bank the due and punctual observance and performance of all the terms, conditions and covenants on the part of the Borrower contained in the Finance Documents and agrees to pay from time to time on demand any and every sum or sums of money which the Borrower is at any time liable to pay to the Bank under or pursuant to the Finance Documents and which has become due and payable but has not been paid at the time such demand is made; and
- (ii) agrees as a primary obligation to indemnify the Bank from time to time on demand from and against any loss incurred by the Bank as a result of any of the obligations of the Borrower under or pursuant to the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against the Borrower for any reason whatsoever, whether or not known to the Bank or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from the Borrower.

##### **Additional Security**

Under the Bilateral Loan Agreement, the obligations of the Company as an Additional Guarantor shall be in addition to and independent of every other security which the Bank may at any time hold in respect of any of any Obligor's obligations under the Finance Documents.

##### **Continuing Obligations**

Under the Bilateral Loan Agreement, the obligations of the Company as an Additional Guarantor shall constitute and be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever

and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the obligations of the Obligor under the Finance Documents and shall continue in full force and effect until final payment in full of all amounts owing by any Obligor under the Finance Documents and total satisfaction of all the Obligor's actual and contingent obligations under the Finance Documents.

### **Obligations not Discharged**

Neither the obligations of the Company as an Additional Guarantor under the Bilateral Loan Agreement nor the rights, powers and remedies conferred in respect of the Company as an Additional Guarantor under the Bilateral Loan Agreement upon the Bank by the Finance Documents or by law shall be discharged, impaired or otherwise affected by:

- (i) the winding-up, dissolution, administration or re-organisation of any Obligor or any other person or any change in its status, function, control or ownership;
- (ii) any of the obligations of any Obligor or any other person under the Finance Documents or under any other security taken in respect of any of its obligations under the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (iii) time or other indulgence being granted or agreed to be granted to any Obligor in respect of its obligations under the Finance Documents or under any such other security;
- (iv) any amendment to, or any variation, waiver or release of, any obligation of any Obligor under the Finance Documents or under any such other security;
- (v) any failure to take, or fully to take, any security contemplated hereby or otherwise agreed to be taken in respect of any Obligor's obligations under the Finance Documents;
- (vi) any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken in respect of any Obligor's obligations under the Finance Documents;
- (vii) the release of any other obligation of any other person under the terms of any composition or arrangement with any creditor of any member of the Group; or
- (viii) any other act, event or omission which, but for this clause, might operate to discharge, impair or otherwise affect any of the obligations of the Company as an Additional Guarantor under the Bilateral Loan

Agreement or any of the rights, powers or remedies conferred upon the Bank by the Finance Documents or by law.

### **Settlement Conditional**

Under the Bilateral Loan Agreement, any settlement or discharge between an Obligor and the Bank shall be conditional upon no security or payment to the Bank by an Obligor or any other person on behalf of an Obligor being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, the Bank shall be entitled to recover the value or amount of such security or payment from such Obligor subsequently as if such settlement or discharge had not occurred.

### **Exercise of Rights**

Under the Bilateral Loan Agreement, the Bank shall not be obliged before exercising any of the rights, powers or remedies conferred upon it in respect of the Company as an Additional Guarantor by the Finance Documents or by law:

- (i) to make any demand of any Obligor;
- (ii) to take any action or obtain judgment in any court against any Obligor;
- (iii) to make or file any claim or proof in a winding-up or dissolution of any Obligor; or
- (iv) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Obligor under the Finance Documents.

### **Deferral of Additional Guarantor's Rights**

Under the Bilateral Loan Agreement, by becoming an Additional Guarantor, the Company agrees that, so long as any amounts are or may be owed by an Obligor under the Finance Documents or an Obligor is under any actual or contingent obligations under the Finance Documents, it shall not exercise any rights which it may at any time have by reason of performance by it of its obligations under the Finance Documents:

- (i) to be indemnified by an Obligor; and/or
- (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents; and/or
- (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bank under the Finance Documents or of any other security taken pursuant to, or in connection with, the Finance Documents by the Bank

## Suspense Accounts

Under the Bilateral Loan Agreement, all moneys received, recovered or realised by the Bank by virtue of the guarantee provided by the Company may, in its discretion, be credited to a suspense or impersonal account and may be held in such account for so long as the Bank thinks fit pending the application from time to time (as the Bank may think fit) of such moneys in or towards the payment and discharge of any amounts owing by an Obligor to the Bank under the Finance Documents.

For the purposes of the Bilateral Loan Agreement only, the following definitions apply (and any references to clauses or schedules are to clauses and schedules therein):

**Additional Guarantor** means any company which has become an additional guarantor in accordance with Clause 27 (*Additional Guarantors*).

**Bank** means Barclays.

**Borrower** means W&DB.

**Finance Documents** means the Bilateral Loan Agreement, any Guarantor Accession Memorandum and any other agreement which the Borrower and the Bank agree is a Finance Document.

**Guarantors** means each of the Original Guarantors and each Additional Guarantor, **provided that** any such company has not been released from its rights and obligations under the Bilateral Loan Agreement in accordance with Clause 27.3 (*Resignation of a Guarantor*).

**Guarantor Accession Memorandum** means a memorandum substantially in the form set out in Schedule 6 (*Form of Guarantor Accession Memorandum*).

**Obligors** means the Borrower and the Guarantors.

**Original Guarantors** means W&DB Trading and W.&D. in their capacity as guarantors under the Bilateral Loan Agreement.

the **winding-up, dissolution or administration** of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.

#### 4. INTERCREDITOR DEED

By acceding to the Intercreditor Deed the Company agrees that the Senior Liabilities rank in priority to the Subordinated Liabilities and agrees not to pay, prepay, purchase or acquire any of the Subordinated Liabilities except in certain circumstances and agrees not to amend any term of the Subordinated Documents except in certain circumstances.

For the purposes of the Intercreditor Deed only, the following definitions apply (and any references to clauses or schedules are to clauses or schedules therein):

***Bilateral Bank*** means Barclays.

***Obligor*** means the Original Obligors and any other party who becomes a guarantor of or otherwise becomes liable for (except as a provider) any of the Senior Liabilities or the Subordinated Liabilities.

***Original Obligors*** means W.&D., W&DB and W&DB Trading.

***Overdraft Bank*** means Barclays.

***Overdraft Facility Agreement*** means the overdraft facility made between, inter alia, the Overdraft Bank and the Borrower (as defined therein), under which the Overdraft Bank has agreed to make available to the Borrower (as defined in the Overdraft Facility Agreement) an overdraft facility of such amount and on the terms referred to in the Overdraft Facility Agreement for the purposes therein mentioned.

***Permitted Indebtedness Agreement*** means any documents entered into after the date hereof pursuant to which a Permitted Indebtedness Lender grants to any Obligor Financial Indebtedness described in paragraphs (g) or (k) of the definition of "Permitted Indebtedness" in the Senior Facilities Agreement.

***Permitted Indebtedness Lender*** means any person becoming a party to the Intercreditor Deed by executing and delivering to the Senior Agent a Deed of Accession in accordance with such Intercreditor Deed.

***Senior Agent*** means Barclays as agent for the Banks as defined in the Senior Facilities Agreement.

***Senior Documents*** means each of the Senior Facilities Agreement, the Overdraft Facility Agreement, the Bilateral Loan Agreement or, as the case may be, a Permitted Indebtedness Agreement and any documents entered into pursuant thereto.

***Senior Facilities Agreement*** means the Loan Agreement under which the Senior Lenders have agreed to make available to the Borrowers (as defined in the Senior Facilities Agreement) loan facilities of such amount and on the terms

referred to in the Senior Facilities Agreement for the purposes therein mentioned.

**Senior Lenders** means each of the Banks, from time to time, defined in the Senior Facilities Agreement.

**Senior Liabilities** means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing due or incurred by any Obligor to any of the Senior Agent, the Senior Lenders, the Overdraft Bank, the Bilateral Bank or any Permitted Indebtedness Lender pursuant to the terms of the Senior Documents.

**Subordinated Agent** means HSBC as agent for the Subordinated Lenders under the Subordinated Facility Agreement.

**Subordinated Documents** means the Subordinated Facility Agreement and any documents entered into pursuant thereto.

**Subordinated Facility Agreement** means the Subordinated Term Loan Agreement under which the Subordinated Lenders have agreed to make available to W.&D. a loan facility of such amount and on the terms referred to in the Subordinated Facility Agreement.

**Subordinated Lenders** means the Banks, from time to time, defined in the Subordinated Facility Agreement.

**Subordinated Liabilities** means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing, due or incurred by any Obligor to any of the Subordinated Agent and the Subordinated Lenders pursuant to the terms of the Subordinated Documents.

## **5. INTER-COMPANY LOAN AGREEMENTS**

Under the respective Inter-Company Loan Agreements the Company will provide committed facilities of up to £35,000,000 to W&DB and £20,000,000 to W.&D., respectively, which may be used by W&DB to prepay up to £35,000,000 under the Loan Agreement and by W.&D. to repay £20,000,000 under the Subordinated Term Loan Agreement respectively (in each case amounts borrowed and/or liability incurred for the purpose of the acquisition of shares in the Company).

## **6. DEEDS OF RELEASE**

Under the Deeds of Release, the Company releases and discharges Via Vita Cafe Bar and Restaurant and the Company (the **Chargors**) from all their obligations and liabilities under the Security Documents (as defined in each Deed of Release), releases and discharges all the property, assets, rights and undertakings of the Chargors subject to the Security Documents and reassigns to the Chargors

all rights, title and interest assigned to the Company pursuant to the Security Documents.

PricewaterhouseCoopers  
Temple Court  
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Telephone +44 (0) 121 265 5000  
Facsimile +44 (0) 121 265 5050

The Directors  
Marston, Thompson & Evershed Limited  
The Brewery  
Shobnall Road  
Burton on Trent  
Staffordshire  
DE14 2BW

6 May 1999

Reference: whis01mm

Dear Sirs

**Auditors' report to the directors of Marston, Thompson & Evershed Limited  
pursuant to Section 156 (4) of the Companies Act 1985**

We have examined the attached statutory declaration of the directors of Marston, Thompson & Evershed Limited ('the Company') dated 6 May 1999 in connection with the proposal that the Company should give financial assistance for the purchase of the whole of the Company's issued ordinary share capital.

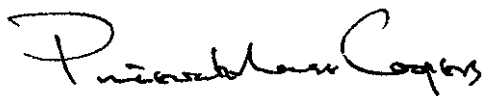
**Basis of opinion**

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

**Opinion**

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully



PricewaterhouseCoopers  
*Chartered Accountants and Registered Auditors*