

# M

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legibly, preferably  
in black type, or  
bold block lettering

\* insert full name  
of Company

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

A fee of £10 is payable to Companies House in respect  
of each register entry for a mortgage or charge.

# 395

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number

2948772

2948772

Name of company

\* TILLIAN LIMITED

Date of creation of the charge

1ST DECEMBER 1999

Description of the instrument (if any) creating or evidencing the charge (note 2)

Mortgage Debenture (the Mortgage Debenture) dated 1st December 1999  
and made between Hand Picked Hotels Limited (No. 3760451) (the  
Borrower) (1), the Charging Subsidiaries (including the Company) (2)  
and The Royal Bank of Scotland plc as trustee and agent for the Banks  
(as hereinafter defined) (in such capacity the Agent) (3).

Amount secured by the mortgage or charge

SEE RIDER

Names and addresses of the mortgagees or persons entitled to the charge

THE ROYAL BANK OF SCOTLAND plc AS AGENT AND SECURITY TRUSTEE  
36 ST ANDREW SQUARE  
EDINBURGH

Postcode EH2 2YB

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

CMS Cameron McKenna  
Mitre House  
160 Aldersgate Street  
London  
EC1A 4DD

AMN/JRN 009717.01120

Time critical reference

For official Use  
Mortgage Section

Post room



KLO  
COMPANIES HOUSE

0328  
15/12/99

Short particulars of all the property mortgaged or charged

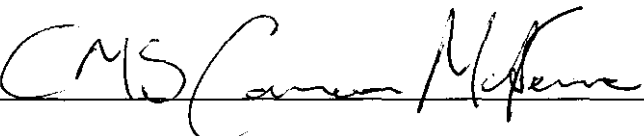
SEE RIDER

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legibly, preferably  
in black type, or  
bold block  
lettering**

Particulars as to commission allowance or discount (note 3)

NIL

Signed  Date 14TH DECEMBER 1999  
On behalf of [company] (mortgagee/chargee) †

**A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)**

† delete as  
appropriate

## Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-  
Companies House, Crown Way, Cardiff CF4 3UZ

## **OBLIGOR**

Tillian Limited (the "Company")

2948772

## **Description of the Instrument**

Mortgage Debenture (the "Mortgage Debenture") dated 1st December 1999 and made between Hand Picked Hotels Limited (No. 3760451) (the "Borrower") (1), the Charging Subsidiaries (including the Company) (2) and The Royal Bank of Scotland plc as trustee and agent for the Banks (as hereinafter defined) (in such capacity the "Agent") (3).

## **Amount Secured**

- A. All indebtedness and monies and the discharge of all obligations and liabilities whatsoever, in whatever currency denominated, whether actual or contingent, present or future, which may be at the time of the creation of the Mortgage Debenture or thereafter due, owing or incurred by it to the Banks under or in connection with the Finance Documents as defined in the Facility Agreement dated 1st December 1999 made between the Borrower (1), The Royal Bank of Scotland plc and The Governor and Company of the Bank of Scotland (the "Banks") (2), the Agent (3), The Royal Bank of Scotland plc in its capacity as overdraft bank (the "Overdraft Bank") (4), The Royal Bank of Scotland plc and The Governor and Company of the Bank of Scotland as joint arranger (the "Joint Arranger") (5), and whether on any current or other account whether alone or jointly and whether as principal or surety.
- B. All costs (including legal costs), charges, expenses and damages sustained or incurred by the Banks, or any of them, in connection with the enforcement, defence or protection of the security constituted by the Mortgage Debenture or the appointment of any receiver, receiver or manager or administrative receiver appointed pursuant to the provisions of the Mortgage Debenture (a "Receiver"), delegate or sub-delegate thereunder or the pursuit of any rights therein contained or under or in connection with the Facilities, the Mortgage Debenture or the Charged Property (as hereinafter defined) in each case on a full indemnity basis.
- C. The due and punctual observance, performance, payment and discharge of all monies, obligations and liabilities as have already been referred to in Paragraphs A and B but on behalf of each of the Charging Subsidiaries (except such obligations as are incurred by each of the Charging Subsidiaries as guarantor for the Company) together with all other conditions, covenants and obligations of the Charging Subsidiaries to the Banks arising pursuant to or in connection with the Finance Documents (the "Guaranteed Obligations") and the payment to the Agent on demand of an amount equal to and/or the discharge or performance of such of the Guaranteed Obligations that shall not have been paid, discharge or performed when due and all and any costs (including legal costs), charges, losses, expenses and damages incurred by the Banks, or any of them as a result of any failure by such Obligor to carry out any such Guaranteed Obligations or as a result of any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective for any reason whatsoever.

- D. Interest on and in respect of any amounts due under the foregoing from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Company) at such rate or rates as may from time to time be payable or deemed to be payable and compounded (whether before or after demand or judgment) in accordance with the Facilities and, in the case of any sum payable under paragraph B above at the rate of two per cent (2%) over the Base Rate of the Agent from time to time; PROVIDED THAT, in relation to such costs, charges, expenses, and damages and other sums as are mentioned in paragraph B above interest shall accrue and be payable as from the date on which the same are paid by any Bank, any Receiver, delegate or sub-delegate as therein mentioned or became due to such Receiver, delegate or sub-delegate under the terms of his appointment without the necessity for any demand being made for payment thereof.

### **Particulars of all the Property Charged**

- A. As a continuing security for all the respective liabilities and obligations described above:-
- (i) by way of legal mortgage all of the freehold and leasehold property now vested in the Company including but not limited to the Hotels and all buildings and fixtures (including trade fixtures, tenant's fixtures and fixed plant and machinery) at the time of creation of the Mortgage Debenture or thereafter from time to time therein or thereon but excluding all land in Scotland and Jersey (the "Legally Mortgaged Property") and/or the proceeds of sale thereof;
  - (ii) by way of first fixed equitable charge all estates or interests in any freehold and leasehold property (other than such property effectively mortgaged under paragraph (i) above) now and at any time during the continuance of this security belonging to or charged to the Company and all licences at the time of creation of the Mortgage Debenture or thereafter held by the Company to enter upon or use land and the benefit of all other agreements relating to land to which the Company is or may become a party or otherwise entitled and all buildings fixtures (including trade and tenant's fixtures) and fixed plant and machinery owned by the Company and from time to time in or on any freehold or leasehold property an interest in which is charged or mortgaged thereunder (the "Equitably Charged Property") and/or the proceeds of sale thereof;
  - (iii) by way of first fixed charge all book debts and other monetary debts and claims at the time of creation of the Mortgage Debenture or from time to time thereafter due or owing to the Company and the benefit of all rights relating thereto including (without prejudice to the generality of the foregoing) things in action which give rise or may give rise to a debt or debts including all the right, title and interest of the Company to and in any policies of insurance and the proceeds thereof and the Realisation Account (as hereinafter defined) and all other accounts of the Company (the "Book and other Debts");

- (iv) by way of first fixed charge all the shares listed in Schedule 6 of the Mortgage Debenture and all other stocks, shares and/or other securities legally and/or beneficially owned by the Company or any nominee including without limitation all dividends, benefits, property, rights, accretions, monies, advantages, credits, rebates, refunds (including rebates and refunds in respect of any tax, duties, imposts or charges) and other distributions paid or payable in respect thereof whether by way of bonus, capitalisation, preference, option, redemption or otherwise (the “Securities”) together with all bills of exchange, promissory notes, negotiable instruments, debentures, loan capital indebtedness or liabilities on any account or in any manner owing to the Company;
- (v) by way of first fixed charge the uncalled capital, goodwill, patents, trademarks, service marks, design rights (registered and unregistered) together with any applications for any of the foregoing and the benefit of priority dates attaching to such applications, copyrights (including rights in computer software), database rights, topography rights, confidential information, know-how and all other intellectual property rights of any description whatsoever owned by or licensed to the Company at the time of creation of the Mortgage Debenture or at any time during the continuance of this security belonging to the Company (the “Goodwill and Intellectual Property”);
- (vi) by way of first fixed charge all the Company’s rights of action in respect of the Goodwill and Intellectual Property and all proceeds thereof including but not limited to the right to commence proceedings and/or receive and recover damages in respect of any infringement of the Goodwill and Intellectual Property whether such infringement occurred at the time of creation of the Mortgage Debenture or at any time thereafter during the continuance of the security;
- (vii) by way of first fixed charge all amounts realised upon the enforcement or execution of any order of the court under Sections 212, 213, 214, 238, 239, 244 or 423 of the Insolvency Act 1986;
- (viii) by way of first fixed charge all plant vehicles and machinery at the time of creation of the Mortgage Debenture or at any time thereafter belonging to the Company (excluding however plant and machinery for the time being forming part of its stock in trade);
- (ix) by way of first fixed charge all chattels at the time of creation of the Mortgage Debenture or at any time thereafter owned or hired, leased or rented by the Company to any other person together in each case subject to and with the benefit of the related hiring, leasing or rental contract and any guarantee, indemnity or other security for the performance of the obligations of any person under or in respect of such contract;
- (x) by way of first fixed charged the benefit of all justices excise and other licences or registration certificates held from time to time in connection with the business carried on at each of the Hotels whether by the

Borrower, any other Obligor or any of their respective nominees (the "Justices Licences") and the right to recover and receive any compensation payable at any time on account of the non-renewal of the Justices Licences;

- (xi) by way of deposit with the intention of charging the same or the assets to which they relate (as the case may be) as and when the deposit is made:-
  - (a) all deeds and documents of title relating to all freehold leasehold and heritable property from time to time belonging to the Company (and the insurance policies relating thereto);
  - (b) all stock and share certificates and documents of title relating to the Securities;
  - (c) the Policies (as hereinafter defined) and all other assurance policies from time to time effected by the Company on the lives of key officers and employees; and
  - (d) all such documents relating to the Charged Property (as hereinafter defined) as the Agent may from time to time require;
- (xii) by way of first floating charge its undertaking and all its other property, assets and rights whatsoever and wheresoever present or future including, without limitation, the stock in trade of the Company and the property, assets and rights mortgaged or charged under paragraphs (i) - (x) (inclusive) above and (xiii) below if and in so far as the mortgage or charges thereon herein contained shall for any reason be ineffective as fixed charges or security (all such property assets and rights hereinafter called the "Property charged by way of Floating Charge" and together with the Legally Mortgaged Property, the Equitably Charged Property, the Book and other Debts, the Deposits, the Accounts, the Securities, the Goodwill and Intellectual Property, the Documents (as hereinafter defined), the Justices Licences and all other property hereby mortgaged or charged collectively called the "Charged Property" which expression shall be taken to refer to the real and/or the personal or incorporeal property hereby mortgaged or charged as the context may require or admit);
- (xiii) by way of assignment all the Company's right, title and interest in and to, and the benefit of the interest bearing blocked deposit account entitled "RBS re: Hand Picked Hotels Limited" opened by the Borrower with the Agent before 1st December 1999 (the "Realisation Account") and by way of assignment all the Company's right, title and interest to and in the Sale and Purchase Agreement made between Patriot American Hospitality Inc. (1), Wyndham International Inc. (2) and the Borrower (3) dated 1st December 1999 (the "Sale and Purchase Agreement"), the Tax Deed made between Patriot American Hospitality Inc. (1), Wyndham International Inc. (2) and the Borrower (3) dated 1st

December 1999 and the Management Contract between the Borrower (1), Macdonald Hotels (Management) Limited (SC141208) (2) and Macdonald Hotels plc (SC125204) (3) dated 1st December 1999 (together the "Documents"), including without limitation:-

- (a) right to demand and receive all monies whatsoever payable to or for the benefit of the Company under or arising from the Documents;
- (b) all remedies provided for in the Documents or available at law or in equity;
- (c) right of the Company to compel performance of the Documents; and
- (d) other rights, interests and benefits whatsoever accruing to or for the benefit of the Company arising from the Documents.

(B) With regard to any asset held by the Company which has a situs in Jersey and which by its nature is an intangible moveable asset under the laws of Jersey, without prejudice to the creation of the charges pursuant to Clauses (i) to (xii) (inclusive), the terms of Clauses (i) to (xii) (inclusive) above shall be deemed to constitute the creation of a security interest in such asset under Article 2(3) or 2(4) of the Security Interests (Jersey) Law 1983 (the "Law"), as amended, where delivery of the certificate of title to such asset to the Agent or someone on behalf of the Agent has been made and under Article 2(6) of such law where the requirements of such law with regard to the giving of notice have been complied with and this Deed shall constitute a security interest agreement for the purposes of that law and any event described in Clause 16.1 shall constitute an event of default for the purpose of the Law.

(C) The mortgages and charges in Clauses (i) to (xi) (inclusive) shall not extend to the Excluded Property.

N.B. The Mortgage Debenture contains provisions whereby the Company covenants and agrees that it will not without the prior consent in writing of the Agent:-

- (a) create or attempt to create or permit to subsist any mortgage, charge (fixed or floating), pledge, lien, assignment or hypothecation or any other type of preferential right or arrangement (including set-off, title transfer, title retention and trust arrangements), the economic or commercial effect of which is similar to conferring security (a "Security Interest"), or permit any other proprietary right or interest to arise on or affect the Charged Property or any part thereof or any interest therein (unless permitted by the Facility Agreement); or
- (b) part with possession of, transfer, sell, lease or otherwise dispose of the Charged Property or any part thereof or any interest therein or attempt or agree so to do whether by a single or a series of transactions save that

this provision shall not apply to such of the Charged Property as is charged pursuant to Clauses (i) to (xii) inclusive only and not otherwise where any such disposals are made in the ordinary course of trading as it is now conducted for full value and for the purpose of carrying on its business or disposals;

- (c) withdraw any of the Deposits or moneys from any of the Accounts or otherwise charge or assign any of them in favour of any other person or purport to do so.

N.B. The Mortgage Debenture also contains the following provision:-

- (a) notwithstanding anything herein contained, upon the Agent serving a demand under the Mortgage Debenture or if the Company creates any Security Interest in respect of or otherwise encumbers in any way the Charged Property, or attempts to do so or if any person levies or attempts to levy any distress execution or sequestration or other process against any of the Charged Property, the floating charge shall automatically and without need for notice operate as a fixed charge the moment any such event occurs.

### Definitions

**“Charging Subsidiaries”**: the companies whose respective names and numbers appear in the table below:

Name	Company Number
Wy (Mollington) Limited	3819484
Wy (L’Horizon) Limited	3819481
Wy (Nutfield Priory) Limited	3819446
Wy (Woodland Park) Limited	3819472
Wy (Rookery Hall) Limited	3819475
Wy (Wood Hall) Limited	3819470
Wy (Priest House) Limited	3819494
Wy (The Haycock) Limited	3819511
Wy (Brands Hatch) Limited	3819502
Wy (Chilston Park) Limited	3819493
Wy (Ettington Park) Limited	3819491
Chilston Park Limited	3133980
Ettington Park Group Limited	1786119
The Mollington Banastre Hotel Limited	392632

Name	Company Number
Tillian Limited	2948772
Hotel L'Horizon Limited	RC673

**“Excluded Property”:** the shares held by the Borrower in each of the Virgin Hotel Companies, the Proceeds Accounts and the Trading Accounts and all monies standing to the credit of the Proceeds Accounts and the Trading Accounts from time to time

**“Facilities”:** the facilities to be made available to the Borrower pursuant to the Facility Agreement and the Overdraft Letter dated 1st December 1999 from the Agent to the Borrower as the same may from time to time be varied, amended, supplemented, novated or assigned, whether by virtue of any increase or decrease in any facility made available pursuant thereto, the provision of any additional, further or substituted facility(ies), or otherwise howsoever and “Facilities” shall include any of the same and “Facility” shall be construed accordingly.

**“Hotels”:** each of the properties and hotels listed in the table below and any other hotel owned from time to time by an Obligor, and so far as the contract shall permit the expression “Hotel” shall include a hotel owning company:

	Hotel Name and Address	Title No.	Charging Subsidiary
1.	Brandshatch Place Fawkham Green Kent	K474662 K511054 K546305 K512339 K517538 K222539	Wy (Brands Hatch) Limited
2.	Chilston Park Maidstone Kent	K583220 K583219	Chilston Park Limited
3.	Ettington Park Stratford-upon-Avon Warwickshire	WK300793	Ettington Park Group Limited
4.	The Haycock Peterborough Cambridgeshire	CB183026  CB183025 CB183027	Tillian Limited (owning CB183026)  Wy (The Haycock) Limited (owning CB183025 and CB183027)
5.	Mollington Banastre Chester Cheshire	CH119883 CH442126	The Mollington Banastre Hotel Limited
6.	Nutfield Priory Redhill Surrey	SY604121 SY625671 SY628455 SY630366	Wy (Nutfield Priory) Limited

		SY605203	
7.	The Priest House Castle Donnington Leicestershire	LT207464 LT116469 LT167627 LT262130	Wy (Priest House) Limited
8.	Rookery Hall Nantwich Cheshire	CH234233 CH306098	Wy (Rookery Hall) Limited
9.	Wood Hall Wetherby West Yorkshire	WYK166912 WYK142788	Wy (Wood Hall) Limited
10.	Woodlands Park Cobham Surrey	SY656361 SY427292 SY502313 SY572935 SY659393	Wy (Woodland Park) Limited

**“Obligor”:** the Borrower and each of its subsidiary undertakings from time to time which has at any time granted security in favour of the Banks (as defined in the Mortgage Debenture);

**“Proceeds Accounts”:** the deposit accounts maintained by the Borrower with “Samuel Montagu & Co Limited” and bearing account numbers 01117718 and 115725-MC-GBP-01 (or any account from time to time substituted for the same) together with all sums from time to time deposited therein or standing to the credit thereof (including any renewed or substituted deposits) in whatever currency denominated and all interest accrued and accruing thereon provided that all such sums relate to and derive exclusively from the businesses of the Virgin Hotel Companies;

**“Trading Account”:** means the account maintained by the Borrower with HSBC bearing account number 403301 22017695 (or any account from time to time substituted for the same) together with all sums from time to time deposited therein or standing to the credit thereof (including any renewal or substituted deposits) in whatever currency denominated and all interest accrued and accruing thereon provided that all such sums relate to and derive exclusively from the businesses of the Virgin Hotel Companies;

**“Virgin Hotel Companies”:** the companies whose names and numbers appear in the table below:

Name	Company Number
Rhinefield House Hotel Limited	3785381
Buxted Park Hotel Limited	3784925
Coed-y-Mwstwr Hotel Limited	3784924
Cwrd Bleddyn Hotel Limited	3784926
Seiont Manor Hotel Limited	3779729

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## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 02948772

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A MORTGAGE DEBENTURE DATED THE 1st DECEMBER 1999 AND CREATED BY TILLIAN LIMITED FOR SECURING ALL INDEBTEDNESS AND MONIES AND ALL OBLIGATIONS AND LIABILITIES DUE OR TO BECOME DUE FROM HAND PICKED HOTELS LIMITED AND THE CHARGING SUBSIDIARIES (INCLUDING THE COMPANY) TO THE ROYAL BANK OF SCOTLAND PLC (AS AGENT AND SECURITY TRUSTEE) UNDER OR IN CONNECTION WITH THE FINANCE DOCUMENTS AS DEFINED IN THE FACILITY AGREEMENT DATED 1 DECEMBER 1999 WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 15th DECEMBER 1999.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 20th DECEMBER 1999.

A handwritten signature in black ink, appearing to be 'P. H.' followed by a flourish.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



C O M P A N I E S H O U S E