

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

Company number

3437534

Name of company

\* The Malmaison Company (Edinburgh) Limited

X<sub>W</sub>We 0 See continuation sheet page 1

~~XXXXXXXXXX~~ [all the directors]<sup>†</sup> of the above company do solemnly and sincerely declare that:

The business of the company is:

XX

is that of a Depository Bank licensed pursuant to the meaning of the Banking Act 1978.

[illegible]

insurance businesses in the United Kingdom.

(c) something other than the above§

The company is proposing to give financial assistance in connection with the acquisition of shares in the

~~XXXXXX~~ [company's holding company] Malmaison Limited

The assistance is for the purpose of ~~(the 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:

26,962,147 ordinary shares of 1p each.

Post room



**A13**  
**COMPANIES HOUSE**

0635

25/05/02

17

The assistance is to be given to: (note 2) MWB Malmaison Holdings Limited (Registered No. 3917393)  
whose registered office is at 179 Great Portland Street, London W1W 5LS.

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:

See Annexure 1.

The person who [has acquired] ~~XXXXXXX~~ the shares is:

† delete as  
appropriate

MWB Malmaison Holdings Limited (Registered Number 3917393) (formerly known as MWB Hotel  
Properties Limited) whose registered office is at 179 Great Portland Street, London W1W 5LS.

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

See Annexure 2.

The amount of cash to be transferred to the person assisted is £ Nil.

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**

**X** 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)

- \* delete either (a) or (b) as appropriate
- (a) **X** 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 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 **X** 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 \_\_\_\_\_ Declarants to sign below

on

Day	Month	Year
<div></div>	<div></div>	<div></div>

before me \_\_\_\_\_

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

NOTES

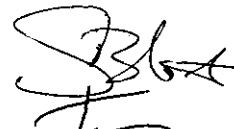

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should 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.
- 5 The address for companies registered in England and Wales or Wales is:-  
  
The Registrar of Companies  
Companies House  
Crown Way  
Cardiff  
CF14 3UZ  
  
or, for companies registered in Scotland:-  
  
The Registrar of Companies  
37 Castle Terrace  
Edinburgh  
EH1 2EB

The Malmaison Company (Edinburgh) Limited

Form 155(6)a

Continuation page 1

1. Ian Bruce Cave, 82 Park Street, Thame, Oxfordshire, OX9 3HX
2. Jagtar Singh, 163 Hempstead Road, Hertfordshire WD1 3HF

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

Declared at 1 West Garden Place, Kendal Street, London W2 2AQ

the 17 day of May 2002  
before me

**JULIET WALLER, Solicitor**  
46 Blandford Street  
London W1U 7HT



A Solicitor having the powers conferred on a Commissioner for Oaths.

**THE MALMAISON COMPANY (EDINBURGH) LIMITED**

Company No. 3437534

(the "Company")

Annexure 1 - Form 155(6)a

**Definitions**

In this Statutory Declaration (including Annexures 1 & 2) the following expressions shall have the following meanings:

- "Borrower"** means MWB Malmaison Holdings Limited (Company Number 03917393)
- "BoS"** means the Governor and Company of the Bank of Scotland plc.
- "BoS Facility Letter"** means the facility letter dated on or about the date hereof between BoS and the Borrower whereby the maximum aggregate sum of £110,000,000 is to be advanced, comprising term loan facilities of up to £110,000,000, revolving credit facilities of up to £36,400,000 and revolving credit facilities of up to £17,400,000. The proceeds of the term loan facilities are to be used to refinance borrowings advanced under a credit agreement dated 3 November 2000 entered into between Société Générale (in various capacities) and MWB Hotel Properties Limited (now known as MWB Malmaison Holdings Limited) the proceeds of which were, inter alia, used by it to acquire the entire issued share capital of Malmaison Limited and The Malmaison Hotel (Birmingham) Limited.
- "BoS Floating Charge"** means a floating charge dated on or about the date hereof, to be granted by the Company in favour of BoS whereby the Company:
- (a) covenants that it will on demand pay or discharge all monies and liabilities due, owing or incurred by the Company to BoS whether actually or contingently, solely or jointly, whether as principal or surety, more particularly referred to as the "Secured Liabilities" therein; and
  - (b) grants a floating charge over the whole of the property (including uncalled capital) which is or may be comprised in the property and undertaking of the Company in favour of BoS as a continuing security for the payment and discharge of such Secured Liabilities.

**"BoS Guarantee"**

means the corporate guarantee dated on or about the date hereof to be granted by inter alios various group companies, including the Company in favour of BoS guaranteeing payments of monies due and owing by the "Principal" (as defined in the BoS Guarantee) to BoS, including under the BoS Facility Letter.

**"BoS Standard Security"**

means the standard security dated on or about the date hereof, to be granted by the Company in favour of BoS to secure all present and future sums of money due now or in the future to BoS under the terms of the a personal bond to be granted by MWB Malmaison Holdings Limited to BoS (under which MWB Malmaison Holdings Limited covenants to pay to BoS all sums of money, including principal, interest and charges, due and that may become due to BoS in any manner by MWB Malmaison Holdings Limited either solely or jointly with any person or persons or corporation and whether as principal or surety) whereby the Company grants a standard security over the whole of the "Property" (as defined therein) and assigns its whole right, title and interest in and to the "Property Insurance Proceeds" (as defined therein) to BoS.

**"Intra-Group Loan Agreement"**

means the intra-group loan agreement to be granted by various group companies (including the Company) as lenders to the Borrower as borrower, pursuant to which such group companies may lend money to the Borrower to service interest costs and repay advances and make other payments due under the BoS Facility Letter

**"Mezzanine Loan Agreement"**

means the Mezzanine Loan Agreement dated 3 November 2000 between Hotel Invest UK A/S (as lender) and the Borrower whereby the maximum sum of £18,000,000 was advanced for the purpose (inter alia) of the acquisition of the entire issued share capital of Malmaison Limited and The Malmaison Hotel (Birmingham) Limited.

**"Subordination and Priority Deed"**

means the subordination and priority deed dated on or about the date hereof between (inter alios) the Company and various other of the Malmaison Group Companies whereby any amounts owing to BoS pursuant to the terms of the BoS Facility Letter and pursuant to any security granted in favour of BoS by the Company, and any Group Company (as defined therein) shall rank in priority to all sums due to the Subordinated Creditors (as defined therein) and in particular, any monies owing by the Company to (inter alia) MWB Malmaison Holdings Limited are

subordinated until all the monies owing to BoS under the Facility Letter are paid.

The assistance will take the form of:

1. The BoS Guarantee.
2. The BoS Floating Charge
3. The BoS Standard Security.
4. The Subordination and Priority Deed
5. The Intra-Group Loan Agreement

This is Annexure 1 referred to in Form 155(6)a declared by the directors of the Company on 17 May 2002.

Signed

\_\_\_\_\_  
Solicitor

JULIET WALLER, Solicitor  
46 Blandford Street  
London W1U 7HT

**THE MALMAISON COMPANY (EDINBURGH) LIMITED**

Company No. 3437534

(the "Company")

Annexure 2 - Form 155(6)a

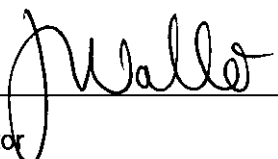
All capitalised terms in this Annexure 2 shall have the meanings given to them in Annexure 1.

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

1. The BoS Guarantee under which (inter alios) the Company guarantees payments of monies due and owing by the "Principal" (as defined therein) to BoS including under the BoS Facility Letter.
2. The BoS Floating Charge under which the Company:
  - (a) covenants that it will on demand pay or discharge all monies and liabilities due, owing or incurred by the Company to BoS whether actually or contingently, solely or jointly, whether as principal or surety, more particularly referred to as the "Secured Liabilities" therein; and
  - (b) grants a floating charge over the whole of the property (including uncalled capital) which is or may be comprised in the property and undertaking of the Company in favour of BoS as a continuing security for the payment and discharge of such Secured Liabilities.
3. The BoS Standard Security under which the Company grants a standard security over the "Property" (as defined therein) and assigns its whole right, title and interest in and to the "Property Insurance Proceeds" (as defined therein) to BoS as security for monies due by the Company to BoS under the terms of a personal bond to be granted by MWB Malmaison Holdings Limited to BoS (under which MWB Malmaison Holdings Limited covenants to pay to BoS all sums of money, including principal, interest and charges, due and that may become due to BoS in any manner by MWB Malmaison Holdings Limited either solely or jointly with any person or persons or corporation and whether as principal or surety.
4. The Subordination and Priority Deed whereby any amounts owing to BoS pursuant to the terms of the BoS Facility Letter and pursuant to any security granted in favour of BoS by the Company, and any Group Company (as defined therein) shall rank in priority to all sums due to the Subordinated Creditors (as defined therein) and in particular, any monies owing by the Company to (inter alia) MWB Malmaison Holdings Limited are subordinated until all the monies owing to BoS under the Facility Letter are paid.
5. The Intra-Group Loan Agreement under which various group companies (including the Company) as lenders will lend monies to the Borrower as borrower to service interest costs and repay advances and make other payments due under the BoS Facility Letter.

This is Annexure 2 referred to in Form 155(6)a declared by the Directors of the Company on 17 May 2002.

Signed

  
Solicitor

**JULIET WALLER, Solicitor**  
46 Blandford Street  
London W1U 7HT





**KPMG Audit Plc**

Canary Wharf (38th Floor)  
1 Canada Square  
London  
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Fax 020 7311 3311  
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**Private & confidential**

The Directors  
Malmaison Limited  
179 Great Portland Street  
London W1W 5LS

Our ref jg/592

Contact Tony Cates  
020 7311 6366

The Directors  
Bank of Scotland  
Corporate Banking  
1 Bothwell Street  
Dunfermline KY11 3AG

17 May 2002

Dear Sirs

**Auditors' report to the directors of The Malmaison Hotel (Edinburgh) Limited  
pursuant to Section 156(4) of the Companies Act 1985**

We refer to the statutory declaration (Form 155(6)a) to which this report is annexed made by the directors of the Company and dated the same date as this report.

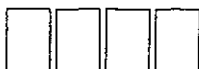
We have examined the attached statutory declaration of the directors dated 17 May 2002 in connection with the proposal that the company should give financial assistance in connection with the refinancing of the debt used to acquire the entire issued share capital of Malmaison Limited and The Malmaison Hotel (Birmingham) Limited. We have enquired into the state of the company's affairs in order to review the bases for the statutory declaration.

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

*KPMG Audit Plc*

*KPMG Audit Plc*



KPMG Audit Plc, a company  
incorporated under the UK Companies  
Acts, is a member of KPMG  
International, a Swiss association

KPMG Audit Plc is  
registered to carry on audit  
work by the Institute of  
Chartered Accountants in

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Registered in England  
No 3110745

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