

G

COMPANIES FORM No. 155(6)a

Declaration in relation to
assistance for the acquisition
of shares

155(6)a

CHFP025

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

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

1111

4914723

Note

Please read the notes
on page 3 before
completing this form.

Name of company

* SPIRIT INTERMEDIATE ACQUISITIONS LIMITED (the "Company")

Insert full name
of company

I/We ☐ Nicholas Mark Leslau of Romney's House, 5 Holly Bush Hill, London NW3 6SH; and

☐ insert name(s) and
address(es) of all
the directors

Sandra Louise Gumm of 46 Providence Square, George Row, Jacobs
Island, London SE1 2EA

delete as
appropriate

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

The business of the company is:

delete whichever
is inappropriate

~~(a) that of a recognised bank licensed institution within the meaning of the Banking Act 1979~~

~~(b) that of a person authorised under section 2 of the Insurance Companies Act 1982 to carry on~~

~~insurance business 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
[company] ~~[company's holding company]~~

Limited

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

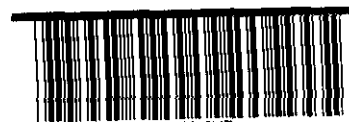
The number and class of the shares acquired or to be acquired is: 15,424,858 ordinary
shares of £1 each

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

Taylor Wessing
Carmelite, 50 Victoria
Embankment, Blackfriars,
London, EC4Y 0DX

DX 41 London/Chancery
RMG/JME Target 155(6)a

For official Use
General Section



A24
COMPANIES HOUSE

A2492TUB

0205
30/03/04

The assistance is to be given to: (note 2) PRESTBURY WENTWORTH LIMITED whose registered
office is at 46 Providence Square, George Row, Jacobs Island, London SE1 2EA

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 Schedule 1 attached

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

† delete as
appropriate

Prestbury Wentworth Acquisitions Limited whose registered office is at 11-
12 Wigmore Place, London W1U 2LU

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

See Schedule 2 attached

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

* 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) ~~[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)

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

Declarants to sign below

One Bunhill Row, London EC1Y 8YY

Day Month Year
on

2	5	0	3	2	0	0	4
---	---	---	---	---	---	---	---

before me Stephanie Luxton

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

STEPHANIE LUXTON

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

SCHEDULE 1

to Form 155(6)a

The Form of the Financial Assistance

1. Definitions

If not otherwise defined in these Schedules 1 and 2, the following expressions have the following meanings:

Acquisition Documents means:

- (a) the Sale and Purchase Agreement; and
- (b) the tax covenant dated 25 March 2004 between the Sellers and the Borrower;

Act means the Law of Property Act 1925;

Additional Guarantor means a member of the Group which becomes a Guarantor in accordance with Clause 29.7 (Additional Guarantors) of the Loan Agreement;

Additional Loan has the meaning given to that term in Clause 4.3 (Additional Loan) of the Loan Agreement;

Administrative Party means the Mandated Lead Arranger or an Agent;

Affiliate means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company;

Agent means the Facility Agent or the Security Agent;

Agreement for Lease means an agreement to grant an Occupational Lease of all or part of a Property;

Agreement for Sale and Leaseback means the agreement for sale and leaseback dated 27 January 2004 made between, amongst others, the Relevant Spirit Tenants and Sunningdale;

Asset Management Agreement means the management agreement dated on or about the date of the Loan Agreement, made between the Borrower, PIHL Wentworth Manager Limited and Prestbury Investment Holdings Limited pursuant to which PIHL Wentworth Manager Limited agrees to provide investment and property management services to the Borrower;

Asset Manager means PIHL Wentworth Manager Limited, a company registered in England and Wales under number 5063116 or any other asset manager appointed with the approval of the Facility Agent;

Assignment of Rents means an assignment of rents by an Obligor in favour of the Security Agent in respect of the Secured Liabilities over Rental Income under all Permitted Occupational Leases relating to Scottish heritable or leasehold property held by an Obligor in a form satisfactory to the Security Agent and duly intimated to the tenants;

Borrower means Prestbury Wentworth Limited (company number 4875853);

Business Plan means the business plan in the agreed form dated 22 March 2004 provided as a condition precedent under the Loan Agreement;

Chargor means the Company;

Commitment means:

- (a) for an Original Lender, the amount set opposite its name in Schedule 1 (Original Parties) to the Loan Agreement under the heading "Commitments" designated Facility A or Facility B and the amount of any other Commitment, as so designated, it acquires;
- (b) for any other Lender, the amount of any other Commitment it acquires,

in each case, to the extent not cancelled, transferred or reduced under the Loan Agreement;

Debt means any or all of the Senior Debt, the Hedging Debt, the Investor Debt and the Intercompany Debt, as the context requires;

Default means:

- (a) an Event of Default; or
- (b) an event set out in Clause 22 (Default) of the Loan Agreement which would be (with the expiry of a grace period, the giving of notice or the making of any determination or any combination thereof in each case as specified in Clause 22 (Default)) an Event of Default;

Discharge Date means the date on which the Security Agent is satisfied that all of the Senior Debt and Hedging Debt has been irrevocably paid and discharged and all Commitments of the Senior Creditors have been cancelled and all obligations of the Hedging Banks under the Hedging Documents have been terminated;

Drawdown Date means each date on which a Loan is borrowed;

Duty of Care Agreement means the duty of care agreement to be entered into between, in each case:

- (a) the Asset Manager, the Borrower and the Facility Agent; and
- (b) the Managing Agent, the Borrower and the Facility Agent,

in respect of their respective duties and obligations regarding the Properties;

Event of Default means an event specified as such in Clause 22 (Default) of the Loan Agreement;

Excess Hedging Debt means any Hedging Debt incurred in breach of Clause 13.3 (Limit on Hedging Debt) of the Priority Deed;

Facility means the credit facility made available under the Loan Agreement;

Facility Agent means the Governor and Company of the Bank of Scotland;

Fee Letter means any letter entered into by reference to the Loan Agreement between one or more Administrative Parties and the Borrower setting out the amount of certain fees referred to in the Loan Agreement;

Finance Document means:

- (a) this Agreement;
- (b) a Security Document;
- (c) a Fee Letter;
- (d) a Transfer Certificate;
- (e) an Accession Agreement;
- (f) the Hedging Letter;
- (g) a Hedging Document;
- (h) the Priority Deed; or
- (i) any other document designated as such by the Facility Agent and the Borrower;

Finance Party means a Lender, a Hedging Bank or an Administrative Party;

Financial Indebtedness means (without double counting) any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit or bill discounting facility (including any dematerialised equivalent);
- (c) any bond, note, debenture, loan stock, loan note or other similar instrument;
- (d) any redeemable preference share to the extent redeemable at the option of the holder prior to the date falling 12 months after the Final Maturity Date;
- (e) any agreement treated as a finance or capital lease in accordance with the Accounting Principles;
- (f) receivables sold or discounted (otherwise than on a non-recourse basis);
- (g) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;
- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);

- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any item referred to in the above paragraphs;

Group means the Borrower and its Subsidiaries and if a Holding Company of the Borrower is incorporated, Group shall mean such Holding Company and its Subsidiaries;

Guarantor means the Borrower or any Additional Guarantor;

Hedging means interest rate or currency swap, derivative transaction or hedging facility;

Hedging Bank means each person (if any) named in Schedule 2 to the Priority Deed (Hedging Banks and Hedging Documents) and any other person which becomes a party to the Priority Deed as a Hedging Bank under Clause 12.1 (Accession of Hedging Banks) of the Priority Deed, in each case in its capacity as provider of Hedging to any of the Obligors;

Hedging Debt means all Liabilities of any Obligor to any Hedging Bank under or in connection with the Hedging Documents;

Hedging Documents means any ISDA master agreement or other interest hedging agreements or documents which may be entered into with a Hedging Bank by a member of the Group as contemplated in the Hedging Letter;

Hedging Letter means a letter dated 25 March 2004 between the Borrower and the Facility Agent relating to the interest hedging to be effected by the Group;

Holding Company of any other person, means a company in respect of which that other person is a Subsidiary;

Initial Valuation means the valuation prepared as of 15 March 2004 by DTZ of the Properties and supplied to the Facility Agent as a condition precedent under the Loan Agreement on or before the Drawdown Date;

Insolvency Event means any Event of Default specified in Clauses 22.6 to 22.8 (inclusive) of the Loan Agreement;

Insolvent Obligor means an Obligor in respect of which any of the Events of Default referred to in Clause 6.1 (Subordination Events) of the Priority Deed occurs;

Intercompany Creditors means each Obligor in its capacity as a creditor in relation to any Intercompany Debt;

Intercompany Debt means all Liabilities of any Obligor to any other Obligor:

- (a) under or in connection with the Intercompany Documents; or

- (b) in respect of any Financial Indebtedness, including all Financial Indebtedness payable or owing by one Obligor to another Obligor,

but excluding in each case any trading liabilities arising in the ordinary course of business;

Intercompany Debtors means each Obligor in its capacity as a debtor in relation to, or who is liable for, any Intercompany Debt;

Intercompany Documents means all documents evidencing (or guaranteeing) any Financial Indebtedness payable or owing by one Obligor to another Obligor;

Investments means:

- (a) the shares in Prestbury Wentworth Finance Limited held by the Borrower;
- (b) the shares in Prestbury Wentworth Acquisitions Limited held by the Borrower;
- (c) the shares in the Company;
- (d) all other shares, stocks, debentures, bonds or other securities and investments included in the definition of Security Assets;
- (e) any dividend or interest paid or payable in relation to any of the above; and
- (f) any right, money or property accruing or offered at any time in relation to any of the above by way of redemption, substitution, exchange, bonus or preference under option rights or otherwise;

Investor means an Original Investor or any transferee of any interest in the share capital of the Borrower and/or any interest in the Investor Loan Agreements;

Investor Debt means all Liabilities of any Obligor to any Investor (or any of its Affiliates):

- (a) under or in connection with the Investor Documents, including any dividends or other distributions and any amount payable to any Investor on a liquidation or other Insolvency of any Obligor; or
- (b) in respect of any advisory, monitoring, management or other fees or expenses;

Investor Documents means:

- (a) the Joint Venture Agreement;
- (b) the memorandum of the Borrower dated 21 August 2003 and the articles of association of the Borrower dated 16 March 2004; and
- (c) the Investor Loan Agreements;

Investor Loan Agreements means each subordinated and unsecured loan agreement in the agreed form pursuant to which certain Original Investors will make certain loans available to the Borrower;

Investors means the persons named in Schedule 3 (Investors) to the Priority Deed in their capacity as creditors in respect of any Investor Debt;

Joint Venture Agreement means the joint venture agreement in the agreed form dated 16 March 2004 and made between, among others, the Borrower and the Original Investors;

Junior Creditors means at any time on or prior to the Discharge Date, the Investors and the Intercompany Creditors;

Junior Debt means at any time on or prior to the Discharge Date, the Investor Debt and the Intercompany Debt;

KPMG Structure Paper means the structure paper and the paper on capital loss planning each provided by KPMG as a condition precedent to the Loan Agreement;

Leaseback has the meaning given to that term in the Sale and Purchase Agreement;

Lease Document means:

- (a) the Agreement for Sale and Leaseback;
- (b) a Permitted Occupational Lease; or
- (c) any other document designated as such by the Facility Agent and the Borrower;

Lender means:

- (a) an Original Lender; or
- (b) any person which becomes a Lender after the date of the Loan Agreement;

Loan means, unless otherwise stated in the Loan Agreement, the principal amount of each borrowing under the Loan Agreement or the principal amount outstanding of that borrowing;

Loan Agreement means the £475,000,000 facility agreement dated 24 March 2004 entered into the Borrower (1), the Governor and Company of the Bank of Scotland as mandated lead arranger (2), the Original Lenders named therein (3) and the Governor and Company of the Bank of Scotland as facility agent and as security agent (4);

Majority Lenders means, at any time, Lenders:

- (a) whose share in the outstanding Loans then aggregate $66\frac{2}{3}$ per cent. or more of the outstanding Loans;
- (b) if there is no Loan outstanding, whose undrawn Commitments then aggregate $66\frac{2}{3}$ per cent. or more of the Total Commitments; or
- (c) if there is no Loan outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated $66\frac{2}{3}$ per cent. or more of the Total Commitments immediately before the reduction;

Managing Agent means GVA Grimley or any other managing agent appointed by the Borrower in respect of the Properties with the approval of the Facility Agent;

"Mandated Lead Arranger means the Governor and Company of the Bank of Scotland;

Obligor means the Borrower or an Additional Guarantor;

Occupational Lease means any lease or licence or other right of occupation or right to receive rent to which a Property may at any time be subject;

Original Investor means:

- (a) Uberior Ventures Limited, a company registered in Scotland under SC235067;
- (b) Prestbury Investments Holdings Limited, a company registered in England and Wales under number 3985560; and
- (c) WestCoast Capital Prestven Limited, a company registered in Scotland under SC220870;
- (d) Dominic Silvester;
- (e) JAA Investments Limited, a company registered in Scotland under SC252838; and
- (f) PIHL Wentworth Manager Limited, a company registered in England and Wales under number 5063116,

together, in each case, with any person to whom shares in the capital of the Borrower may be transferred by any of the persons listed above, in each case in accordance with article 15 of the articles of association of the Borrower (in force as at the date of the Loan Agreement);

Original Lender means the financial institutions listed in Schedule 1 to the Loan Agreement;

Original Property means the real or heritable (including leasehold) property listed in Schedule 8 (Real Property) to the Loan Agreement provided such property is and continues to be wholly, legally and beneficially owned by one or more wholly-owned members of the Group;

Party means a party to the Loan Agreement;

Permitted Occupational Lease means any Leaseback or Substitute Leaseback, in each case granted by Sunningdale to any Relevant Spirit Tenant on the terms set out in the Agreement for Sale and Leaseback;

Priority Deed means the priority deed dated 25 March 2005 between, among others, the Parties and certain other investors in and creditors of the Group;

Priority Majority Lenders means the Majority Lenders, as adjusted under clause 12.6 (Voting Rights) of the Priority Deed;

Pro-Forma Financial Statements means the pro-forma cash flow statements of the Group as set out in the Business Plan;

Property means the Original Property and any other real or heritable property which is, now or in the future, wholly, legally and beneficially owned by one or more members of the Group;

Receiver means an administrative receiver, receiver and manager or a receiver, in each case, appointed under the Security Agreement;

Relevant Contract means in relation to an Obligor:

- (a) any Investor Documents to which it is a party;
- (b) any Hedging Document to which it is a party;
- (c) in the case of the Borrower only, the Sale and Purchase Agreement;
- (d) any Lease Document to which it is a party; and
- (e) in the case of the Borrower only the Asset Management Agreement and any Duty of Care Agreement to which it is a party;

Relevant Spirit Tenants means each of:

- (a) Huggins and Company Limited;
- (b) The Chef & Brewer Group Limited;
- (c) Spirit Group Retail Limited;
- (d) Freshwild Limited;
- (e) Partstripe Limited;
- (f) CPH (R&L) No. 2 Limited;
- (g) Aspect Ventures Limited;
- (h) Spirit Group Retail (Pubs) No. 2 Limited; and
- (i) AVL (Pubs) No. 2 Limited;

Rental Income means any amounts payable to or for the account of any member of the Group under or in connection with any Lease Document;

Report on Title means a report or certificate of title addressed to, amongst others, the Facility Agent with respect to the Original Properties delivered to and approved by the Facility Agent;

Reports means:

- (a) the Initial Valuation;
- (b) each Report on Title; and

- (c) the other reports referred to in Part 1 of Schedule 2 (Conditions Precedent Documents) of the Loan Agreement under the heading "Due Diligence Reports";

Sale and Purchase Agreement means the sale and purchase agreement in the agreed form between the Borrower, the Sellers and Spirit Intermediate Holdings Limited relating to the sale and purchase of the shares in Target;

Secured Debt means the Senior Debt and the Hedging Debt;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor and of any member of the Group which has acceded to the Security Agreement to any Finance Party under the Finance Documents, except for any obligation which, if it were so included, would result in the Security Agreement contravening any law (including Section 151 of the Companies Act 1985);

Security means any security created by the Security Agreement or any document entered into pursuant thereto;

Security Account means any account which a Chargor purports to charge under the Security Agreement;

Security Agent means the Governor and Company of the Bank of Scotland;

Security Agreement means the security agreement dated 25 March 2004 made between, amongst others, the Borrower and the Security Agent;

Security Assets means all assets of the Chargor and of any member of the Group which has acceded to the Security Agreement, the subject of any security created by the Security Agreement or any document entered into pursuant thereto;

Security Document means:

- (a) the Security Agreement;
- (b) each Standard Security;
- (c) each Assignations of Rent; and
- (d) any other document designated as such by the Facility Agent and the Borrower;

Security Interest means any mortgage, pledge, lien, charge, assignment, assignation in security, hypothecation, standard security or security interest or any other agreement or arrangement having a similar effect;

Security Period means the period beginning on the date of the Security Agreement and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

Sellers means Spirit Acquisition Holdings Limited and Spirit Acquisitions Guarantee Limited;

Senior Creditor means each of:

- (a) the persons named in Schedule 1 (Senior Creditors) to the Priority Deed in their capacity as Lenders under the Loan Agreement; and
- (b) the Mandated Lead Arranger under and as defined in the Loan Agreement, the Facility Agent and the Security Agent;

Senior Debt means all Liabilities of any Obligor to any Senior Creditor under or in connection with the Senior Finance Documents;

Senior Finance Document means the Finance Documents but for the purpose of the Priority Deed excludes the Hedging Documents;

Set-off includes rights of retention, claims of compensation or rights of balancing accounts on insolvency;

Standard Security means a standard security by an Obligor in favour of the Security Agent in security of the Secured Liabilities over all Scottish heritable or long leasehold property held by an Obligor in a form satisfactory to the Security Agent;

Subsidiary means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership;

Substitute Leaseback has the meaning given to that term in the Sale and Purchase Agreement;

Sunningdale means Spirit Sunningdale Limited, a company incorporated in England and Wales under registered number 4930446;

Target means Spirit Intermediate Acquisitions Limited, a company incorporated in England and Wales under registered number 4914723;

Target Group means Target and its Subsidiaries;

Total Commitments means the aggregate for the time being of the Total Facility A Commitments and the Total Facility B Commitments, being £475,000,000 at the date of the Loan Agreement;

Total Facility A Commitments means the aggregate for the time being of the Facility A Commitments, being £321,300,000 at the date of the Loan Agreement to the extent not cancelled or transferred or reduced under the Loan Agreement;

Total Facility B Commitments means the aggregate for the time being of the Facility B Commitments, being £153,700,000 at the date of the Loan Agreement to the extent not cancelled or transferred or reduced under the Loan Agreement; and

Transfer Certificate means a certificate, substantially in the form of Schedule 5 (Form of Transfer Certificate) to the Loan Agreement, with such amendments as the Facility Agent may approve or reasonably require or any other form agreed between the Facility Agent and the Borrower.

1.2 In these Schedules a reference to a document is a reference to that document as amended.

2. The Form of Financial Assistance

2.1 The financial assistance by the Company shall be effected by:

- (a) the Company entering into an accession agreement to the Loan Agreement with the Borrower and the Facility Agent (the "**Accession Agreement**") whereby it will accede to the Loan Agreement as an Additional Guarantor and agree to be bound by the terms of the Loan Agreement as an Additional Guarantor;
- (b) the Company entering into and performing its obligations under a deed of accession to the Security Agreement with the Borrower and the Security Agent (the "**Security Agreement Accession Deed**") whereby it will accede to the Security Agreement as an Additional Chargor and agree to be bound by all the terms of the Security Agreement as an Additional Chargor;
- (c) the Company entering into and performing its obligations under a deed of accession to the Priority Deed with the Borrower and the Security Agent (the "**Priority Deed Accession Deed**") whereby it will accede to the Priority Deed and agree to be bound by the terms of the Priority Deed;

(the Accession Agreement, Loan Agreement, Security Agreement Accession Deed, Security Agreement, Priority Deed Accession Deed and the Priority Deed being referred to as the "**Financial Assistance Documents**"); and

- (d) the Company assuming liabilities and obligations under and pursuant to each Financial Assistance Document in accordance with and subject to the terms of each such document.

This is Schedule 1 referred to in the Form 155(6)a declared by the directors of Spirit Intermediate Acquisitions Limited.

Signed ...
Solicitor

Stephanie Luxon
STEPHANIE LUXON

SCHEDULE 2

to Form 155(6)a

The Principal Terms of the Financial Assistance

1. General

- 1.1 The principal terms of each Financial Assistance Document are summarised and separately described below.
- 1.2 Clause and other document references as used in each part of this Schedule are to clause and other references in the particular Financial Assistance Document to which that particular part of this Schedule relates.

2. Security Agreement and Security Agreement Accession Deed

2.1 General

- (a) All the security created under the Security Agreement:
 - (i) is created in favour of the Security Agent;
 - (ii) is created over present and future assets of the Chargor;
 - (iii) is security for the payment of all the Secured Liabilities; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 or in respect of property governed by Scots law, subject to the Permitted Occupational Leases, with absolute warrandice.
- (b) The Security Agent holds the benefit of the Security Agreement on trust for the Finance Parties.

2.2 Land

- (a) The Chargor charges:
 - (i) by way of a first priority legal mortgage all estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use property; and
 - (ii) (to the extent that they are not the subject of a mortgage under subparagraph (i) above) by way of first fixed charge all estates or interests in any freehold or leasehold property owned by it and all rights and licences or other agreement or document which gives the Chargor a right to occupy or use property.
- (b) A reference in the Security Agreement to any freehold or leasehold property includes:
 - (i) all buildings, fixtures, fittings and fixed plant and machinery on that property owned by the Chargor; and

- (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

2.3 Investments

(a) The Chargor charges:

- (i) by way of a first priority legal mortgage all shares in any member of the Group (other than itself) owned by it or held by any nominee on its behalf; and
- (ii) (to the extent that they are not the subject of a mortgage under subparagraph (i) above) by way of a first fixed charge its interest in all shares, stocks, debentures, bonds or other securities and investments owned by it or held by any nominee on its behalf.

(b) A reference in the Security Agreement to any stock, share, debenture, bond or other security includes:

- (i) any dividend or interest paid or payable in relation to it; and
- (ii) any right, money or property accruing or offered at any time in relation to it by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

2.4 Plant and machinery

The Chargor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession.

2.5 Credit balances

The Chargor charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any account (including any account contemplated by the Security Agreement) it has with any person and the debt represented by it.

2.6 Book debts etc.

The Chargor charges by way of a first fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights, securities or guarantees of any nature enjoyed or held by it in relation to any item under paragraph (a) or (b) above.

2.7 Insurances

The Chargor assigns absolutely by way of security, subject to a proviso for re-assignment on redemption, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.

2.8 Other contracts

The Chargor assigns absolutely by way of security, subject to a proviso for re-assignment on redemption, all of its rights in respect of:

- (a) its Relevant Contracts;
- (b) any letter of credit issued in its favour; and
- (c) any bill of exchange or other negotiable instrument held by it.

2.9 Intercompany Loans

The Chargor assigns absolutely by way of security, subject to a proviso for re-assignment on redemption, all of its rights in respect of any Intercompany Loans to which it is a party provided that while no Event of Default is outstanding the Chargor may, subject to the terms of the Loan Agreement, exercise all its rights in respect of any Intercompany Loan to which it is a party and receive and exercise all rights in respect of the proceeds thereof.

2.10 Miscellaneous

The Chargor charges by way of first fixed charge:

- (a) any beneficial interest, claim or entitlement it has in any pension fund;
- (b) its goodwill;
- (c) the benefit of any authorization (statutory or otherwise) held in connection with its use of any Security Asset;
- (d) the right to recover and receive compensation which may be payable to it in respect of any authorization referred to in paragraph (c) above; and
- (e) its uncalled capital.

2.11 Floating charge

- (a) Each Chargor charges by way of a first floating charge:
 - (i) all its assets not at any time otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under this Clause; and
 - (ii) all its assets located in or otherwise governed by Scots law (irrespective of whether or not such assets are effectively mortgaged, charged or assigned by way of first mortgage, charge or assignment under this Clause).
- (b) Except as provided below, the Security Agent may (acting on the instructions of the Majority Lenders) by notice to the Chargor convert the floating charge created by the Chargor under this Subclause into a fixed charge as regards any of the Chargor's assets specified in that notice, if:

- (i) an Event of Default is outstanding; or
 - (ii) the Security Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- (c) The floating charge created by this Subclause may not be converted into a fixed charge solely by reason of:
- (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium,
- under the Insolvency Act 2000.
- (d) The floating charge created by this Subclause will automatically convert into a fixed charge over all of the Chargor's assets if an administrator is appointed or the Security Agent receives notice of an intention to appoint an administrator.
- (e) The floating charge created by this Subclause is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

2.12 Undertakings in respect of Scottish Properties

The Chargor undertakes to the Security Agent forthwith:

- (a) to enter into a Standard Security in respect of each Scottish heritable or long leasehold property held by it from time to time and not currently the subject of a Standard Security;
- (b) to enter into an Assignment of Rents in respect of Rental Income under each Permitted Occupational Lease of the Scottish heritable or leasehold property held by it from time to time and not currently the subject to an Assignment of Rents and to intimate such an assignment to the tenants under the Permitted Occupational Leases.

2.13 Expenses and indemnity

The Chargor must:

- (a) immediately on demand pay all costs and expenses (including legal fees) (which, before the Security becomes enforceable, must be reasonable) incurred in connection with the Security Agreement by any Finance Party, Receiver, attorney, manager, agent or other person appointed by the Security Agent under the Security Agreement; and
- (b) keep each of them indemnified against any failure or delay in paying those costs or expenses; this includes any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise.

2.14 Further assurances

The Chargor must, at its own expense, take whatever action the Security Agent or a Receiver may require for:

- (a) creating, perfecting or protecting any security intended to be created by the Security Agreement (including without prejudice to the foregoing generality) any fixed security intended to be created pursuant to Clause 2.11(b) thereof; or
- (b) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of its delegates or sub-delegates in respect of any Security Asset.

This includes:

- (i) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration, which, in any such case, the Security Agent may think expedient.

2.15 Covenant to pay

The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.

2.16 Time deposits

Without prejudice to any right of set-off any Finance Party may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with any Finance Party within the Security Period when:

- (a) the Security has become enforceable; and
- (b) no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which that Finance Party considers appropriate.

3. Accession Agreement and Loan Agreement

3.1 Guarantee and indemnity

The Chargor jointly and severally and irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual performance by each Obligor of all its payment obligations under the Finance Documents;
- (b) undertakes with each Finance Party that, whenever any Obligor does not pay any amount when due under any Finance Document, the Chargor must immediately on demand by the Facility Agent pay that amount as if it were the principal obligor; and
- (c) indemnifies each Finance Party immediately on demand against any loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal; the amount of the loss or liability

under this indemnity will be equal to the amount the Finance Party would otherwise have been entitled to recover.

3.2 Continuing guarantee

The guarantee in clause 16 of the Loan Agreement is a continuing guarantee and will extend to the ultimate balance of all sums payable by each Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

3.3 Set-Off

A Finance Party may set off any matured obligation owed to it by the Chargor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

4. Priority Deed Accession Deed and Priority Deed

4.1 Ranking

(a) Unless expressly provided to the contrary in the Priority Deed:

- (i) the Debt shall rank in right and priority of payment; and
- (ii) the Security shall rank and secure the Senior Debt,

in each case in the following order:

First the Senior Debt and the Hedging Debt (pari passu, without any preference between themselves);

Second the Intercompany Debt; and

Third the Investor Debt.

(b) The ranking and priority in paragraph (a) above applies regardless of:

- (i) the order of registration, filing, notice or execution of any document;
- (ii) the date upon which the Debt was incurred or arose;
- (iii) whether a person is obliged to advance any such Debt; and
- (iv) any fluctuations in the outstanding amount, or any intermediate discharge in whole or in part of any Debt.

(c) The Priority Deed does not purport to rank any elements of the Intercompany Debt or Investor Debt, in each case, as between themselves. The Intercompany Debt and the Investor Debt are and will remain unsecured.

4.2 Undertakings

- (a) Prior to the Discharge Date, except as the Majority Lenders have agreed in writing, or to the extent permitted by Clause 6.2 (Filing of Claims):
 - (i) no Obligor will (and each Obligor will procure that none of its Subsidiaries will) make any payment of or in respect of, or purchase, redeem or acquire, any of the Junior Debt in cash or in kind;
 - (ii) no Junior Creditor will demand or receive payment of or in respect of any Junior Debt in cash or kind or apply any money or property in or towards the discharge of any Junior Debt;
 - (iii) no Junior Creditor or Obligor will discharge any Junior Debt by set-off, any right of combination of accounts or otherwise;
 - (iv) no Obligor will (and each Obligor will procure that none of its Subsidiaries will) create or permit to subsist any Security Interest over any of its assets for any of the Junior Debt;
 - (v) no Obligor will (and each Obligor will procure that none of its Subsidiaries will) give any financial support to any person for or in connection with the Junior Debt;
 - (vi) no Obligor or Junior Creditor will allow any Junior Debt to be evidenced by a negotiable instrument;
 - (vii) no Junior Creditor will allow any Junior Debt to be subordinated to any person otherwise than as may arise as a matter of law or in accordance with the Priority Deed; and
 - (viii) no Obligor or Junior Creditor will take or omit to take any action whereby the ranking and/or subordination of the Junior Debt provided for in the Priority Deed may be impaired.

For the avoidance of doubt, nothing in this Clause shall prevent the Borrower making, and the Junior Creditors making, any payment which is permitted by Clause 4 below.

4.3 Permitted Payments

- (a) Prior to the Discharge Date, but subject to paragraphs (b), (c), (d) and (e) of this clause below and to Clause 5 (Turnover), unless the Priority Majority Lenders otherwise agree no Obligor may pay, or receive and retain payment, whether in cash or kind of, any amount of Junior Debt.

4.4 Subordination Events

If an Insolvency Event occurs to or in respect of any Obligor, then (unless otherwise required by the Priority Majority Lenders) the Investor Debt and the Intercompany Debt owed by the Insolvent Obligor will be subordinate in right of payment to the Secured Debt (if any) owed by such Insolvent Obligor.

4.5 Restrictions on enforcement

Subject to Clause 6 (Subordination on Insolvency), until the Discharge Date unless the Majority Lenders have previously agreed in writing none of the Junior Creditors will:

- (a) demand payment of any Junior Debt;
- (b) accelerate any of the Junior Debt or otherwise declare any of the Junior Debt prematurely due or payable on an Event of Default or otherwise;
- (c) enforce any of the Junior Debt by attachment, set-off, execution or otherwise;
- (d) (or will give instructions to the Security Agent to) crystallise any floating charge in the Security Documents, appoint a receiver or otherwise enforce the Security;
- (e) petition for (or vote in favour of any resolution for) or initiate, support or take any steps with a view to any Insolvency or any voluntary arrangement or assignment for the benefit of creditors or any similar proceedings involving an Obligor;
- (f) sue or bring or support any legal proceedings against any Obligor (or any of its Subsidiaries), except that nothing in this paragraph will restrict the bringing of proceedings by the Investors against the Company if permitted by Clause 7.2 (Junior Creditor Actions), where doing so would not conflict with any other provision of this Agreement;
- (g) otherwise exercise any remedy for the recovery of any Junior Debt; or
- (h) (in the case of the Investors only), sue or bring or support proceedings against or make demand on the provider of any of the Reports (a **Report Provider**) in connection with the Reports or receive payment from any of the Report Providers in connection with any such suit, proceedings or demand if there is an aggregate limit on the amount of claims which may be brought against that Report Provider and the aggregate amount of all those claims might exceed the amount of any limitation of liability on which that Report Provider is entitled to rely, provided that in any case:
 - (i) a Junior Creditor must notify the Senior Agent before suing or bringing or supporting proceedings against or making a demand on a Report Provider in connection with the Reports; and
 - (ii) the Senior Creditors will be entitled to full payment of their claims against that Report Provider in connection with any Report in priority to the claims of the Junior Creditors against that Report Provider and each Junior Creditor will on demand pay to the Security Agent for application as provided in Clause 4.7 (Proceeds of Enforcement) an amount equal to any amount received by it in breach of this Subclause.

4.6 Junior Creditor Actions

If any restriction in this Clause preventing a Junior Creditor from suing or bringing or supporting proceedings against any member of the Group or Report Provider would result in such Junior Creditor being prevented from suing or bringing or supporting those proceedings by reason of the expiry of any statutory limitation period, that Junior Creditor shall be able to sue or bring or support those proceedings against that

member of the Group or Report Provider, but only to the extent necessary to prevent loss of the right to sue or bring or support those proceedings.

4.7 Proceeds of Enforcement

- (a) Subject to the rights of any creditor with prior security or preferential claims, the proceeds of enforcement of the Security shall be paid to the Security Agent. Those proceeds and all other amounts paid to the Security Agent under the Priority Deed shall be applied in the following order:

- | | |
|---------------|--|
| First | in payment of the fees, costs, expenses and liabilities (and all interest thereon as provided in the Finance Documents) of the Security Agent and any receiver, attorney or agent appointed under the Security Documents or the Priority Deed; |
| Second | in payment of the balance of the costs and expenses of any Senior Creditor or Hedging Bank in connection with such enforcement; |
| Third | in payment to the Facility Agent for application towards the balance of the Senior Debt and the Hedging Debt (but excluding any Excess Hedging Debt) <i>pari passu</i> between themselves; |
| Fourth | in payment to the Facility Agent for application towards any amounts of Excess Hedging Debt; and |
| Fifth | the payment of the surplus (if any) to the Obligor or other person entitled to it. |

- (b) No such proceeds or amounts shall be applied in payment of any amounts specified in any of the sub-paragraphs in paragraph (a) above until all amounts specified in any earlier sub-paragraph have been paid in full.

4.8 Guarantee

Each Obligor jointly and severally and irrevocably and unconditionally guarantees to each Hedging Bank payment in full of the Hedging Debt owed to such Hedging Bank by any other Obligor on the same terms as are set out in clause 16 (Guarantee and indemnity) of the Loan Agreement (or any Accession Agreement by which an Obligor became an Additional Guarantor) as though they were set out in full in this Agreement, except that references in that clause to a Finance Party will be construed as though they were references to a Hedging Bank, references in that clause to a Borrower shall be construed as though they were references to the counterparty to such Hedging Debt and references in that clause to the Senior Finance Documents shall be construed as though they were references to the Hedging Documents.

4.9 Enforcement Costs

Each Obligor and each Junior Creditor will within three Business Days of demand pay to each Senior Creditor or Hedging Bank the amount of all costs and expenses incurred by it in connection with the enforcement against that Obligor or Junior Creditor (as the case may be) of such person's rights against it under the Priority Deed.

4.10 **Legal Expenses and Taxes**

The costs and expenses referred to above include the fees and expenses of legal advisers and any value added tax or similar tax, and are payable in the currency in which they are incurred.

- 4.11 The Obligors will (at their own cost) take such action and execute such documents as is required by the Security Agent (acting reasonably) so that the Security Documents provide for effective and perfected security in favour of any successor Security Agent.

This is Schedule 2 referred to in the Form 155(6)a as declared by the directors of Spirit Intermediate Acquisitions Limited.

Signed *Stéphanie Luxton*

Solicitor *STÉPHANIE LUXTON*



BDO Stoy Hayward
Chartered Accountants

BDO Stoy Hayward LLP
Emerald House East Street
Epsom Surrey KT17 1HS
Telephone: +44 (0)1372 734300
Facsimile: +44 (0)1372 734301
Web Site: www.bdo.co.uk

The Directors
Spirit Intermediate Acquisitions Limited
11/12 Wigmore Place
London
W1U 2LU

25 March 2004

Dear Sirs

Independent auditors' report to the directors of Spirit Intermediate Acquisitions Limited pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors of Spirit Intermediate Acquisitions Limited (the "Company") dated 25 March 2004 in connection with the proposal that the Company should give financial assistance for the purchase of the entire share capital of the Company.

Our report has been prepared pursuant to the requirements of section 156(4) the Companies Act 1985 and for no other purpose. No person is entitled to rely on this report unless such a person is a person entitled to rely upon this report by virtue of and for the purpose of section 156(4) of the Companies Act 1985 or has been expressly authorised to do so by our prior written consent. Save as above, we do not accept responsibility for this report to any other person or for any other purpose and we hereby expressly disclaim any and all such liability.

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

BDO Stoy Hayward LLP

BDO Stoy Hayward LLP
Chartered Accountants and Registered Auditors