

**155(6)b**

Please do not  
write in this  
margin

**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

05554875

Name of company

\* ORCHID PUBS ALASKA LIMITED (the "Company")

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

\* insert full name  
of company

XWe See paragraph 1 of Appendix A

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

† delete as appropriate

~~XXXXXXXXXXXX~~ [all the directors] † of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

§ delete whichever  
is inappropriate

The business of this company is:

(c) something other than the above §

This company is [the] ☒ holding company of\* ORCHID PUBS TAY LIMITED (Company Regis-  
tration No:05746045) (the "Subsidiary") which is  
proposing to give financial assistance in connection with the acquisition of shares  
in [this company] [ \_\_\_\_\_ ]

Presentor's name address and  
reference (if any) :  
TXN  
Sceptre Court,  
40 Tower Hill,  
London,  
EC3N 4DX  
774 London/City

For official Use  
General Section

Post room



The assistance is for the purpose of ~~XXXXXX~~ [reducing or discharging a liability incurred for the purpose of that acquisition]. † (note 1)

Please do not write in this margin •

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

The number and class of the shares acquired or to be acquired is: 100 shares of £1 each

The assistance is to be given to: (note 2) Orchid Pubs Limited, Sceptre Court, 40 Tower Hill, London EC3N 4DX

The assistance will take the form of:

See paragraph 1 of Appendix B

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

Orchid Pubs Limited, Sceptre Court, 40 Tower Hill, London EC3N 4DX

† delete as appropriate

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

See paragraph 2 of Appendix B

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is 0

The amount of cash to be transferred to the person assisted is £ See paragraph 3 of Appendix B

The value of any asset to be transferred to the person assisted is £ 0



## Appendix A

- 1 The directors of Orchid Pubs Alaska Limited (company registration number 05554875) are:
  - 1.1 Jonathan Rufus Hall of 47 Crouch Hall Lane, Redbourn, St Albans, Hertfordshire, AL3 7EU; and
  - 1.2 Charles Truscott Freeman of 9 Uplands, Harpenden, Hertfordshire, AL5 2PG.

## Appendix B

### 1 Form which assistance will take

#### 1.1 In this Statutory Declaration the following expressions have, unless otherwise defined, the following meanings:

**Acquisition** means the acquisition by OPL (as defined below) of the Target Shares;

**Additional Borrower** means a company which becomes a Borrower in accordance with Clause 30 (Changes to the Obligors) of the OpCo Facilities Agreement;

**Arranger** means The Governor and Company of the Bank of Scotland;

**Assigned Agreements** means the following documents, each as further defined in the OpCo Facilities Agreement (unless otherwise specified in this Appendix B), the Acquisition Documents, the Hedging Agreements, the Insurances and any other agreement designated as an Assigned Agreement by amongst others the Subsidiary and the Security Agent in accordance with the terms of the Debenture;

**Book Debts** means all book and other debts arising in the ordinary course of trading;

**Borrower** means each of the companies listed in Part 1 of Schedule 1 (The Original Parties) of the OpCo Facilities Agreement or an Additional Borrower unless it has ceased to be a Borrower in accordance with the terms of the OpCo Facilities Agreement;

**Bridge Facility Agreement** means the facilities agreement dated 8 June 2006 between, amongst others, the Parent, the Facility Agent and the Security Agent as amended or restated from time to time;

**Business Assets** means the business and assets of each of Orchid Pubs Thames Limited, Orchid Pubs Tyne Limited and Orchid Pubs Tay Limited which will be transferred to OpCo pursuant to the terms of the Property and Business Transfer Agreement;

**Business Properties** means the properties of each of OpCo, Orchid Pubs Thames Limited, Orchid Pubs Tyne Limited and Orchid Pubs Tay Limited which will be transferred to PropCo pursuant to the terms of the Property and Business Transfer Agreement;

**Cash Collateral Accounts** means the Holding Accounts and the Mandatory Prepayment Accounts, each as defined in the OpCo Facilities Agreement;

**Charged Property** means all of the assets of the Obligors which from time to time are, or expressed to be, the subject of the Transaction Security;

**Charging Companies** means OPL, the Subsidiary and each of the companies listed in schedule 1 of the Debenture and each company which grants security over its assets in favour of the Security Agent by executing a Security Accession Deed (as defined in the Debenture);

**Collection Accounts** means the accounts of the Charging Companies set out in schedule 5 of the Debenture and/or such other accounts of the relevant Charging Company as the Security Agent shall agree or (following the occurrence of a Declared Default (as defined in the Debenture) as the Security Agent shall specify;

**Debenture** means the debenture to be entered into between, amongst others, the Company, the other Charging Companies and the Security Agent on or about the date of the Refinancing;

**Delegate** means any delegate, agent, attorney or co-trustee appointed by the Security Agent;

**Distribution Rights** means all dividends, distributions and other income paid or payable on an Investment or Subsidiary Share, together with all shares or other property derived from that Investment or Subsidiary Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Investment or Subsidiary Share (whether by way of conversion, redemption, bonus, preference, option or otherwise);

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

**First Intercompany Loan Agreement** means the intercompany loan agreement entered into between the Subsidiary as borrower and OPL as lender at the time of the Acquisition;

**Group** means OPL and each of its Subsidiaries (as defined in the OpCo Facilities Agreement) for the time being but excluding the Propco Group (as defined in the OpCo Facilities Agreement);

**Guarantor** means each of the companies listed in Part 1 of Schedule 1 (The Original Parties) of the OpCo Facilities Agreement or an Additional Guarantor unless it has ceased to be a Guarantor in accordance with the terms of the OpCo Facilities Agreement;

**Incentive Scheme Bank Account** means the bank account in the name of Orchid Pubs Limited having the designation 'Employee Incentive Scheme' with sort code 12-01-03 and account number 06079626;

**Insurances** means all policies of insurance and all proceeds of them either now or in the future held by, or written in favour of, a Charging Company or in which it is otherwise interested, but excluding any third party liability or public liability insurance and any directors and officers insurance;

**Intellectual Property** means the Intellectual Property Rights owned or used by Group Companies (as defined in the OpCo Facilities Agreement) throughout the world or the interests of any Group Company in any of those Intellectual Property Rights, together with the benefit of all agreements entered into or the benefit of which is enjoyed by any Group Company relating to the use or exploitation of any of those Intellectual Property Rights;

**Intellectual Property Rights** means all patents and patent applications, trade and service marks and trade and service mark applications (and all goodwill associated with any such registrations and applications), all branch and trade names, all copyrights and rights in the nature of copyright, all design rights, all registered designs and applications for registered designs, all inventions, all trade secrets, all know-how and all other intellectual property rights throughout the world;

**Intercreditor Deed** means the intercreditor deed to be entered into between, amongst others, the Parent, the Company, the other Obligors and the Security Agent;

**Intercompany Loan Agreements** means the intercompany loan agreements to be entered into between (a) the Subsidiary as lender and PropCo as borrower for the purpose of enabling PropCo to acquire the Business Properties of the Subsidiary as described in the Property and Business Transfer Agreement and (b) the Subsidiary as lender and OpCo as Borrower for the purpose of enabling OpCo to acquire the Business Assets of the Subsidiary as described in the Property and Business Transfer Agreement on or about the date of the Refinancing;

**Investments** means any stock, share, debenture, loan stock, security, interest in any investment fund and any other comparable investment (whether or not marketable) whether owned directly by or to the order of a Charging Company or by any trustee, fiduciary or clearance system on its behalf (including, unless the context otherwise requires, the Subsidiary Shares);

**NewManCos** means the Subsidiary, Orchid Pubs Thames Limited incorporated in the United Kingdom under number 5746012 and Orchid Pubs Tyne Limited incorporated in the United Kingdom under number 5746083;

**Nominated Account** has the meaning given to it in clause 8.4(a) (Collection of Book Debts and other Debts) of the Debenture;

**OpCo** means Orchid Pubs Operations Limited a company incorporated in the United Kingdom under number 5835622;

**OpCo Facilities Agreement** means the facility agreement to be entered into on or about the date of the Refinancing between, amongst others, OpCo, the Security Agent and the Facility Agent;

**Obligor** means a Borrower or Guarantor;

**Parent** means Orchid Pubs Alaska Limited a company incorporated in the United Kingdom under number 5554875;

**OPL** means Orchid Pubs Limited a company incorporated in the United Kingdom under number 5623539;

**Propco** means Orchid Pubs Properties Limited a company incorporated in the United Kingdom under number 5835640;

**Propco Facility Agent** means the facility agent from time to time under the Propco Facilities Agreement;

**Propco Facilities Agreement** means the facility agreement to be entered into on or about the date of the Refinancing between, amongst others, Propco, the Security Agent and the Facility Agent;

**Propco Subordination Deed** means the subordination deed to be entered into between, amongst others, the Facility Agent, the Security Agent, the Group Companies (as defined in the OpCo Facilities Agreement) and the PropCo Group Companies (as defined in the OpCo Facilities Agreement);

**Property and Business Transfer Agreement** means the agreement to be entered into on or about the date of the Refinancing between the Parent, OpCo, Propco and each of the NewManCos, pursuant to which each of the NewManCos agrees to sell the Business Properties (as defined therein) to Propco and the Business Assets (as defined therein) to OpCo;

**Receiver** means a receiver, receiver and manager or administrative receiver of the whole or part of the Charged Property;

**Refinancing** means the refinancing of the Acquisition through the entry by the relevant parties thereto into the OpCo Facilities Agreement and the PrOpCo Facilities Agreement and all related documentation;

**Secured Parties** means each Senior Finance Party from time to time party to the OpCo Facilities Agreement and any Receiver or Delegate;

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

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

**Senior Finance Document** means the following documents, each as further defined in the OpCo Facilities Agreement (unless otherwise specified in this Appendix B), the Syndication Letter, the Report Recoveries Letter, any Accession Letter, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Intercreditor Agreement, the Subordination Deed, the BoS Counter Indemnity, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a "Senior Finance Document" by the Subsidiary and the Facility Agent;

**Senior Finance Party** means the following parties, each as further defined in the OpCo Facilities Agreement (unless otherwise specified in this Appendix B), the Facility Agent, an Arranger, the Security Agent, a Lender, the Issuing Bank, a Hedge Counterparty and any Ancillary Lender;

**Standard Security** means each standard security to be entered into between the Subsidiary and the Security Agent on or about the date of the Refinancing;

**Subordination Deed** means the subordination deed to be entered into between, amongst others, the Facility Agent, the Propco Group Companies (as defined in the OpCo Facilities Agreement) and the Group Companies (as defined in the OpCo Facilities Agreement) relating to the subordination of certain loans which may be made by Propco Group Companies (as defined in the OpCo Facilities Agreement) to Group Companies (as defined in the OpCo Facilities Agreement);

**Subsidiary** means Orchid Pubs Tay Limited a company incorporated in the United Kingdom under number 5746045;

**Subsidiary Shares** means all shares owned by a Charging Company in its subsidiaries (as set out in the Debenture) including those listed in Schedule 3 to the Debenture;



**Target Shares** means all of the shares in the Parent and all warrants and options in respect of the share capital of the Parent; and

**Transaction Security** means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents (as defined in the OpCo Facilities Agreement).

- 1.2 The Refinancing requires the Subsidiary, following the whitewash procedure, to provide certain financial assistance as described in paragraph 1.3 for the purpose of reducing or discharging the liabilities incurred in respect of the Acquisition.
- 1.3 The financial assistance referred to in paragraph 1.2 will take the form of execution, delivery and performance by the Subsidiary of (which includes all notices, certificates and any other documents required under the following):
  - 1.3.1 a guarantee of the Subsidiary in accordance with the terms of the OpCo Facilities Agreement;
  - 1.3.2 obligations undertaken in accordance with the terms of the Intercreditor Deed;
  - 1.3.3 security provided in respect of its obligations under the Senior Finance Documents pursuant to the Debenture; and
  - 1.3.4 the Standard Security.
- 1.4 Further, in order to assist with Refinancing, the PrOpCo Facilities Agreement will be entered into between, amongst others Orchid Properties Structureco Limited and The Governor and the Company of the Bank of Scotland, the availability of which is subject to the Subsidiary following the whitewash procedure, providing certain financial assistance as described in paragraph 1.5 for the purposes of reducing or discharging the liabilities incurred in respect of the Acquisition.
- 1.5 The financial assistance referred to in paragraph 1.4 will take the form of execution, delivery and performance by the Subsidiary (which includes all notices, certificates and other documents required under the following):
  - 1.5.1 the Intercompany Loan Agreements,
  - 1.5.2 the Property and Business Transfer Agreement,
  - 1.5.3 the Subordination Deed,
  - 1.5.4 the Propco Subordination Deed,
  - 1.5.5 the Intragroup Loan Facility; and
  - 1.5.6 the repayment of the First Intercompany Loan Agreement.

## **2 Principal terms of the assistance**

- 2.1 By executing the OpCo Facilities Agreement, the Debenture, the Intercreditor Deed, the Standard Security, the Subordination Deed, the Propco Subordination Deed, the Property

and Business Transfer Agreement, the Intragroup Loan Facility and the Intercompany Loan Agreements, the Subsidiary will, among other things:

2.1.1 in relation to the OpCo Facilities Agreement:

- i together with each Guarantor, jointly and severally and irrevocably and unconditionally;
- a guarantee to each Senior Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Senior Finance Documents;
- b undertake with each Senior Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Senior Finance Document, it shall immediately on demand pay that amount as if it were the principal obligor;
- c indemnify each Senior Finance Party immediately on demand against any cost, loss or liability suffered by that Senior Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Senior Finance Party would otherwise have been entitled to recover; and
- d indemnify the Arranger and each other Secured Party against any cost, loss or liability arising out of or as a result of the conversion of any sum due from an Obligor under the Senior Finance Documents or any order, judgment or award given or made in relation to such sum, which has to be converted from the currency in which such sum is payable into another currency for the purpose of: (i) making or filing a claim or proof against that Obligor; or (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,
- ii permit any Senior Finance Party to set off any matured obligation due by the Subsidiary to that Senior Finance Party against any matured obligation owed by that Senior Finance Party to the Company;
- iii agree that its guarantee and indemnity obligations will not be affected by (amongst other things) any act, omission, matter or thing which would otherwise reduce, release or prejudice any of its obligations;
- iv make a number of representations and warranties to each Senior Finance Party; and
- v undertake to comply with certain undertakings, including an undertaking not to create or allow to exist any Security over any of its assets or to dispose of any of its assets (subject to certain exceptions).

2.1.2 in relation to the Debenture:

- i covenant to the Security Agent (for the benefit of itself and the other Secured Parties) that it will on demand pay the Indebtedness (as defined in the Debenture) when it falls due for payment in accordance with the terms of the relevant Senior Finance Documents;

- ii as security for the payment of all Indebtedness, charge in favour of the Security Agent with full title guarantee, the following assets, both present and future, from time to time owned by it or in which it has an interest:
  - a by way of first legal mortgage, all freehold and leasehold property (including the property specified in Schedule 2 of the Debenture) together with all buildings and fixtures (including trade fixtures) on that property; and
  - b by way of first fixed charge:
    - i all the Subsidiary Shares and Investments (except for the shares in Orchid Properties Structureco Limited held by Orchid Pubs Limited) and all corresponding Distribution Rights;
    - ii all other interests in any freehold or leasehold property, the buildings and fixtures (including trade fixtures) on that property, all proceeds of sale derived therefrom and the benefit of all warranties and covenants given in respect thereof and all licences to enter upon or use land and the benefit of all other agreements relating to land;
    - iii all plant, machinery, vehicles, computer, office and other equipment and the benefit of all contracts, licences and warranties relating thereto;
    - iv all Book Debts and all rights and claims against third parties and against any security in respect of those Book Debts;
    - v all debts and monetary claims (other than Book Debts) and all rights against third parties in respect of those debts and claims,
    - vi monies standing to the credit of its accounts (including the Cash Collateral Accounts, the Nominated Accounts and the Collection Accounts, but excluding the Incentive Scheme Bank Account) with any bank, financial institution or other person and all rights related to those accounts;
    - vii all its Intellectual Property;
    - viii the benefit of all consents and agreements held by it in connection with the use of any of its assets;
    - ix its goodwill and uncalled capital;
    - x all its rights and interests in (and claims under) the Assigned Agreements;
  - c with full title guarantee, by way of first floating charge, all its present and future assets not effectively charged by way of first fixed charge under Clause 3.1 (Fixed Charges) or assigned under Clause 3.3 (Security Assignment) of the Debenture;
  - iii undertake to do all such acts or execute all such documents as the Security Agent reasonably requires to:
    - a perfect the Security created or intended to be created under or evidenced by the Debenture or for the exercise of any rights, powers and remedies of the Security

Agent, any Receiver or the Secured Parties provided by or pursuant to the Debenture or by law;

- b confer on the Security Agent or on the Secured Parties Security over any property and assets of the Subsidiary located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Debenture; and/or
- c facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by the Debenture;
- iv undertake not to create or permit to subsist any Security over any Charged Property, nor do anything else prohibited by Clause 27.14 (Negative Pledge) of the OpCo Facilities Agreement, except as permitted by that clause; and
- v permit any Senior Finance Party to set off or otherwise apply sums standing to the credit of the Company's accounts with that Secured Party (irrespective of the terms applicable to those accounts) and to set off any other obligations (whether or not then due for performance) owed by that Secured Party to the Company against any liability of the Company to the relevant Secured Party under the Senior Finance Documents due and owing at the time of such set-off.

2.1.3 In relation to the Intercreditor Deed, be bound by the terms and payment regulations and to agree to the arrangements thereunder. The Intercreditor Deed is the mechanism which sets out the priority of security between the parties thereto and the Subsidiary acknowledges the priority of security between the parties and the subordination of their respective rights as creditors and the Subsidiary agrees to subordinate any claims it has as an intra-group creditor and agrees to turn over all amounts and distributions received in respect of such subordinated claims (other than in accordance with the terms of the Subordination Deed) to the Facility Agent.

2.1.4 By executing the Intragroup Loan Facility, the Subsidiary together with other members of the Group will amongst other things, grant a loan facility to the borrowers on the terms and conditions thereof, enabling the borrowers to utilise loans made thereunder in order to assist the borrowers to comply with their obligations under the OpCo Facilities Agreement (including without limitation repayment of principal and repayment of interest), pay the fees and expenses incurred in connection with the Refinancing and fund any dividend payments.

2.2 By executing the Subordination Deed, the Subsidiary together with other members of the Group will agree to be bound by the terms and payment regulations and to agree to the arrangements thereunder. The Subsidiary agrees to turn over all amounts and distributions received in respect of any subordinated claims (other than in accordance with the terms of the Subordination Deed) to the Facility Agent.

2.3 By executing the Propco Subordination Deed, the Subsidiary together with other members of the Group will agree to be bound by the terms and payment regulations and to agree to the arrangements thereunder. The Subsidiary agrees to turn over all amounts and distributions received in respect of any subordinated claims (other than in accordance with the terms of the Propco Subordination Deed) to the Facility Agent. The Subsidiary agrees to subordinate any claims against Propco and to turn over all amounts and distributions received in respect of any claims against Propco to the Propco Facility Agent.

- 2.4 By executing the Standard Security, the Subsidiary will grant as security for the payment and discharge of the Indebtedness as defined in the Debenture a standard security over the Excluded Properties (as defined in the Property and Business Transfer Agreement) of the Subsidiary each in favour of the security trustee.
- 2.5 By executing the Property and Business Transfer Agreement, the Subsidiary will, among other things, sell the relevant Business Properties to Propco and the relevant Business Assets to OpCo.
- 2.6 By executing the Intercompany Loan Agreements the Subsidiary will, among other things, agree to make a loan to Propco to fund the payment of part of the purchase price payable by Propco under the Property and Business Transfer Agreement for the relevant Business Properties and make a loan to OpCo to fund the payment of part of the purchase price payable by OpCo under the Property and Business Transfer Agreement for the relevant Business Assets.
- 2.7 By making the repayment under the First Intercompany Loan Agreement, the Subsidiary will be repaying the principal amount outstanding and owing to OPL pursuant to the intercompany loan agreement entered into between OPL and the Subsidiary at the time of the Acquisition.
- 2.8 The Company's obligations as described above continue in relation to the Senior Finance Documents as they may be amended modified, varied or restated from time to time.

### **3 Further information**

The amount of cash to be transferred to the persons assisted is nil at the time of the giving of the financial assistance however cash may become payable under the Intragroup Loan Facility from time to time.

The date on which the assistance is to be given is any date prior to eight weeks from the date of this Statutory Declaration.



KPMG LLP  
20 Farringdon Street  
London EC4A 4PP  
United Kingdom

Tel +44 (0)20 7311 1000  
Fax +44 (0) 20 7694 5164  
DX 38050 Blackfriars

The Directors  
Orchid Pubs Alaska Limited  
Park Mill  
Burydell Lane  
Park Street  
St Albans  
Herts, AL2 2HB

Our ref mc/mp

26 January 2007

Dear Sirs

**Auditors' report to the directors of Orchid Pubs Alaska Limited pursuant to Section 156(4) of the Companies Act 1985**

We have examined the attached statutory declaration of the directors dated 26 January 2007 in connection with the proposal that Orchid Pubs Alaska Limited should give financial assistance for the purpose of discharging the liability incurred by Orchid Pubs Limited in its purchase of Orchid Pubs Alaska Limited's ordinary shares.

This report is made solely to the company's directors as a body in accordance with section 156(4) of the Companies Act 1985. Our work has been undertaken so that we as the company's auditors might state to the company's directors those matters we are required to state to them in a report under section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's directors as a body for our work under section 156(4) of that Act or for this report.

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 LLP  
Registered Auditor