

MG01

162904/13



Particulars of a mortgage or charge

A fee is payable with this form.

We will not accept this form unless you send the correct fee

Please see 'How to pay' on the last page



What this form is for

You may use this form to register particulars of a mortgage or charge in England and Wales or Northern Ireland



What this form is NOT for

You cannot use this form to particulars of a charge for a company. To do this, please form MG01s

TUESDAY



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AO9ADQP9

11/01/2011

185

COMPANIES HOUSE

1

Company details

Company number

0 5 9 3 6 4 9 8

Company name in full

Rome PIK Holdco Limited (the "Chargor")

2

For official use

Filling in this form

Please complete in typescript or in bold black capitals

All fields are mandatory unless specified or indicated by *

2

Date of creation of charge

Date of creation

d0 d5 m0 m1 y2 y0 y1 y1

3

Description

Please give a description of the instrument (if any) creating or evidencing the charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

A security agreement dated 5 January 2011 between Rome PIK Holdco Limited and Hutton Collins Partners LLP (the "Security Agent") (the "Security Agreement").

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

All present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of any Obligor to any Secured Creditor under the Mezzanine Finance Documents and the PIK Finance Documents, except for any obligation or liability which, if it were so included, would result in the Security Agreement contravening sections 678 or 679 of the Companies Act 2006 (the "Secured Liabilities")

For definitions see section 6.

Continuation page

Please use a continuation page if you need to enter more details

MG01**Particulars of a mortgage or charge****5 Mortgagee(s) or person(s) entitled to the charge (if any)**

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Continuation page

Please use a continuation page if you need to enter more details

Name Hutton Collins Partners LLP

Address 50 Pall Mall

London

Postcode S W 1 Y 5 J H

Name

Address

Postcode

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Continuation page

Please use a continuation page if you need to enter more details

Short particulars

- 1 As security for payment of the Secured Liabilities, the Chargor has:
- 1.1 charged to the Security Agent:
- (a) by way of first legal mortgage, the Shares, and
- (b) (to the extent that they are not the subject of a mortgage under sub-paragraph 1.1(a) above) by way of a first fixed charge its interest in all Investments;
- 1.2 assigned absolutely, subject to a proviso for reassignment on redemption, all of its rights in respect of
- (a) its Relevant Contracts and any and all amounts owing at any time to the Chargor by Holdco thereunder, and
- (b) all other moneys due and owing to the Chargor from time to time under any Shareholder Loans,
- provided that to the extent that any right described in paragraphs 1.2(a) or (b) above is not assignable or capable of assignment, the assignment of that right purported to be effected by this paragraph 1.2 shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right, and
- 1.3 charged by way of first fixed charge all of its rights under each agreement and document to which it is a party, to the extent that these do not fall within any other clause of the Security Agreement and are not effectively assigned under paragraph 1.2 above

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7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission allowance
or discount

Nil

8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 866)

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 870). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK)

9 Signature

Please sign the form here

Signature

Signature

X *Wolfgang Schuster* X

This form must be signed by a person with an interest in the registration of the charge

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Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name Michael Barron

Company name Dickson Minto W.S.

Address The Broadgate Tower

20 Primrose Street

Post town London

County/Region

Postcode E C 2 A 2 E W

Country

DX

Telephone 020 7628 4455



Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following.

- ☐ The company name and number match the information held on the public Register
- ☐ You have included the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgage or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below.

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

- 2 The Chargor has agreed that
- 2 1 before the Security becomes enforceable
- (a) the Chargor may continue to exercise the voting rights, powers and other rights in respect of its Investments, and
- (b) all dividends or other income or distributions paid or payable in relation to any Investments must be paid to the Chargor; and
- 2 2 after the Security has become enforceable
- (a) to the extent that any of the Investments remain registered in the name of the Chargor, the Chargor irrevocably appoints the Security Agent or its nominee as its proxy to exercise all voting rights in respect of those Investments, and
- (b) to the extent that the Security Agent becomes the registered holder of any of the Investments, the Security Agent or its nominee may exercise or refrain from exercising
- (1) any voting rights attached to the relevant Investment, and
- (11) any other powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise,
- in each case, in the name of the Chargor, the registered holder or otherwise and without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor, and
- (c) to the extent that any of the Investments remain registered in the name of the Chargor, the Chargor shall hold any dividend received by it on trust for the Secured Creditors and pay the same to the Security Agent, and
- (d) to the extent that the Security Agent becomes the registered holder of any of the Investments, then the Security Agent shall be entitled to receive any dividends received from those Investments for application in accordance with the Security Agreement
- 3 The Chargor has agreed that it will not
- 3 1 create or allow to exist any Security Interest on any of its assets, or

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

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Short particulars

3 2 either in a single transaction or in a series of transactions and whether related or not and whether voluntarily or involuntarily, dispose of all or any part of its assets,

except as expressly allowed under the Mezzanine Finance Documents and the PIK Finance Documents

4 The Security Agreement contains covenants for further assurance

5 In this form MG01

Accounting Standards means IFRS

Additional Guarantor means a member of the UK Group which becomes a Guarantor after the date of this Agreement under Clause 27 6 (Additional Guarantors) of the Mezzanine Facility Agreement, and/or Clause 25 6 (Additional Guarantors) or the PIK Facility Agreement

Borrower means Rome Bidco Limited in relation to the Mezzanine Facility Agreement, and Rome Pikco Limited in relation to the PIK Facility Agreement

Capital Expenditure means, for any period, expenditure which should be treated as capital expenditure in accordance with the Accounting Standards (and so that, to the extent the relevant expenditure is financed under a Finance Lease, the total amount expended by the relevant lessor during such period shall be included as Capital Expenditure) and, for the avoidance of doubt, excluding any acquisitions of businesses or undertakings or any shares or other interest therein

Facility Agent means Bank of Scotland plc

Finance Lease means any lease under which a member of the UK Group is the lessee which is or should be treated as a finance lease under the Accounting Standards (and includes any hire purchase contract or other arrangement which is or should be similarly treated).

Guarantor means an Original Guarantor or an Additional Guarantor

Holdco means Rome Pikco Limited a private company with limited liability incorporated under the laws of England and Wales with registered number 5936386

Investments means:

- (a) the Shares, and
- (b) all other shares, stocks, debentures, bonds, warrants, coupons, securities and ownership interests owned by the Chargor or held by any nominee on its behalf in the issued share capital of the Holdco on the date of the Security Agreement or any time thereafter

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Short particulars

Kiosk means an outlet trading as Nero Express and serving only take-away customers

Mezzanine Facility Agreement means the £50,000,000 mezzanine facility agreement dated 22 December 2010 between (among others) Rome Bidco Limited, Rome Pikco Limited and the Facility Agent

Mezzanine Finance Documents has the meaning given to it in the Mezzanine Facility Agreement

Obligor means the Borrower or a Guarantor

Original Guarantor means the persons listed in Part 1 of Schedule 1 to the Mezzanine Facility Agreement and/or Part 1 of Schedule 1 to the PIK Facility Agreement

Outlet means a Store or a Kiosk

Overseas Group means the Overseas Parent and its Subsidiaries and any joint venture, associate or other minority interest in which the Overseas Parent or its Subsidiaries has an interest

Overseas Investment means

- (a) any acquisition of any company, business or other undertaking,
- (b) any investment in any joint venture, associate or minority interest,
- (c) the opening of any Outlet,
- (d) any franchise or license arrangement entered into by any member of the UK Group with any person which is not a member of the UK Group for the purposes of carrying on any business or other activity,
- (e) the making of any Capital Expenditure or any other investment, or
- (f) the carrying on of any other business or activity,

in each case, in any jurisdiction other than the UK, which is made through a wholly-owned member of the UK Group on arms length terms and which relates to the business and related activities of the UK Group

Overseas Parent means Caffè Nero Investments Ltd, a company incorporated with under the laws of England with registered number 06127290, which owns (directly or indirectly) all interests in any Overseas Investment

PIK Facility Agreement means the £49,000,000 PIK facility agreement dated 22 December 2010 between (among others) Rome Pikco Limited and the Facility Agent.

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6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

PIK Finance Documents has the meaning given to it in the PIK Facility Agreement

Relevant Contract means, in relation to the Chargor

- (a) an agreement specified in Schedule 1 (Security Assets) under the heading **Relevant Contracts** in the Security Agreement, and
- (b) any other agreement to which the Chargor is a party and which the Chargor and the Security Agent have designated a Relevant Contract

Secured Creditors means:

- (a) the Finance Parties, as defined in the Mezzanine Facility Agreement, and
- (b) the Finance Parties, as defined in the PIK Facility Agreement

Security Interest means any mortgage, pledge, lien, charge (fixed or floating), assignment, hypothecation, set off or trust arrangement for the purpose of creating security, reservation of title or security interest or any other agreement or arrangement having a substantially similar effect

Shareholder Loans means any loan made by the Chargor to Holdco and including any capitalised interest

Shares means all shares owned (now or in the future) by the Chargor (or held by any nominee on its behalf) in Holdco, including those shares specified in Schedule 1 (Security Assets) under the heading Shares in the Security Agreement

Store means a store, shop or other retail outlet other than a Kiosk

Subsidiary means

- (c) a subsidiary within the meaning of section 1159 of the Companies Act 2006,
- (d) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006,
- (e) 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, or
- (f) an entity treated as a subsidiary in the financial statements of any person pursuant to the relevant Accounting Standards.

UK Group means Holdco and its Subsidiaries excluding any member of the Overseas Group



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 5936498
CHARGE NO. 2**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED 5
JANUARY 2011 AND CREATED BY ROME PIK HOLDCO
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME
DUE FROM ANY OBLIGOR TO ANY SECURED CREDITOR ON
ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE
AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING
THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1
PART 25 OF THE COMPANIES ACT 2006 ON THE 11 JANUARY
2011

GIVEN AT COMPANIES HOUSE, CARDIFF THE 12 JANUARY
2011



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES