



Registration of a Charge

Company name: **AZZURRI RESTAURANTS LIMITED**

Company number: **02792998**

Received for Electronic Filing: **07/02/2017**



Details of Charge

Date of creation: **02/02/2017**

Charge code: **0279 2998 0010**

Persons entitled: **COÖPERATIEVE RABOBANK U.A., P.O. BOX 17100, 3500 HG, UTRECHT, NETHERLANDS AS SECURITY AGENT (AS TRUSTEE FOR EACH OF THE SECURED PARTIES)**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

CLIFFORD CHANCE LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2792998

Charge code: 0279 2998 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd February 2017 and created by AZZURRI RESTAURANTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th February 2017 .

Given at Companies House, Cardiff on 8th February 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

EXECUTION VERSION

DATED 2 FEBURARY 2017

AZZURRI CENTRAL LIMITED

AND

AZZURRI RESTAURANTS LIMITED

IN FAVOUR OF

COÖPERATIEVE RABOBANK U.A.
AS SECURITY AGENT

SUPPLEMENTAL DEBENTURE

EXECUTED IN CONNECTION WITH THE
AMENDMENT AND RESTATEMENT OF THE
PROJECT AZZURRI SENIOR FACILITIES
AGREEMENT DATED 29 NOVEMBER 2014 AND AS
AMENDED AND RESTATED FROM TIME TO TIME

SUPPLEMENTAL TO A DEBENTURE
DATED 21 JANUARY 2015

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THIS SUPPLEMENTAL DEBENTURE is made by way of deed on 2 February 2017.

BY:

- (1) **AZZURRI CENTRAL LIMITED** registered in England and Wales with company number 03084650 (a "**Chargor**");
 - (2) **AZZURRI RESTAURANTS LIMITED** registered in England and Wales with company number 02792998 (a "**Chargor**");
- together the "**Chargors**" in favour of
- (3) **COÖPERATIVE RABOBANK U.A.** (formerly Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.) (trading as Rabobank International, London Branch) as trustee for each of the Secured Parties on the terms and conditions set out in the Intercreditor Agreement (the "**Security Agent**").

RECITALS:

- (A) Pursuant to the Original Security Agreement (as defined below) each of the Chargors created security over certain of its assets in favour of the Security Agent as continuing security for the payment and discharge of all the Secured Obligations (as defined in the Original Security Agreement).
- (B) The Parent and the Agent, among others, have agreed to amend the Original Facility Agreement pursuant to the terms of the Amendment and Restatement Agreement (each as defined below).
- (C) Each Chargor and the Security Agent consider that the security interests created by the Chargors under the Original Security Agreement secure payment of the Secured Obligations (as defined below) but enter into this Supplemental Debenture in case they do not.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Supplemental Debenture:

"Amended Facilities Agreement" means the Original Facility Agreement as amended and restated by the Amendment and Restatement Agreement.

"Amended Secured Obligations" means the Secured Obligations as defined in the Original Security Agreement and including, for the avoidance of doubt, such obligations arising under the Finance Documents on and after the Effective Date under and as defined in the Amendment and Restatement Agreement.

"Amendment and Restatement Agreement" means the amendment and restatement agreement dated 2 February 2017 between, amongst others, Azzurri Trading Limited as Original Borrower, Azzurri Midco 2 Limited as Parent, the Security Agent,

Coöperatieve Rabobank U.A. as the Facility Agent and the financial institutions named therein as Consenting Lenders and New Lenders.

"Fixed Security" means any mortgage, fixed charge or assignment expressed to be created by or pursuant to Clause 4 (*Supplemental Fixed Security*) of this Supplemental Debenture.

"Original Security Agreement" means the Debenture dated 21 January 2015 between the Chargors and the Security Agent.

"Original Facility Agreement" means the facility agreement originally dated 29 November 2014 and as amended and restated on 2 February 2017 2017, made between, amongst others, Azzurri Midco 2 Limited as Parent, Azzurri Trading Limited as Original Borrower, the Original Guarantors as defined therein, Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. (trading as Rabobank International) London Branch, HSBC Bank plc, Lloyds Bank plc, Mediterranean Bank plc and the Royal Bank of Scotland plc as Arrangers, the Agent, the Security Agent and the financial institutions named therein as Lenders as amended from time to time before the Effective Date under and as defined in the Amendment and Restatement Agreement.

"Original Security" means the Security created by or pursuant to the Original Security Agreement.

1.2 Terms defined in other Finance Documents

Unless defined in this Supplemental Debenture, or the context otherwise requires, a term defined in the Original Security Agreement, the Amendment and Restatement Agreement or the Amended Facilities Agreement has the same meaning in this Supplemental Debenture, or any notice given under or in connection with this Supplemental Debenture.

1.3 Construction

In this Supplemental Debenture:

- (a) the rules of interpretation contained in clauses 1.2 (*Construction*) and 1.3 (*Currency Symbols and definitions*) of the Amended Facilities Agreement shall apply to the construction of this Supplemental Debenture, or in any notice given under or in connection with this Supplemental Debenture;
- (b) any reference to the **"Security Agent"**, the **"Secured Parties"**, the **"Finance Parties"**, the **"Chargor"** or any **"Obligor"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Intercreditor Agreement; and
- (c) unless otherwise specified, or the context otherwise requires, references in this Supplemental Debenture, to any Clause or Schedule shall be to a Clause or Schedule contained in this Supplemental Debenture.

1.4 Present and future assets

- (a) A reference in this Supplemental Debenture to any Mortgaged Property, Charged Asset or other asset includes, unless the contrary intention appears, present and future Mortgaged Property, Charged Assets and other assets.
- (b) The absence of or incomplete details of any Charged Assets in any Schedule shall not affect the validity or enforceability of any Security under this Supplemental Debenture.

1.5 Real Property

- (a) A reference in this Supplemental Debenture to any freehold, leasehold or commonhold property includes all buildings, fixtures and fittings from time to time on or forming part of that property and all Related Rights.
- (b) The terms of the Amended Facilities Agreement and each other Finance Document are incorporated into this Supplemental Debenture and each other Finance Document to the extent required for any purported disposition of any Real Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.6 Separate Security

Clauses 3.1 (*Mortgage of Real Property*) to 3.14 (*Assignment of Insurance Policies*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets defined in this Supplemental Debenture and the failure to create an effective mortgage, fixed charge or assignment (whether arising out of this Supplemental Debenture or any act or omission by any party) over any one asset shall not affect the nature or validity of the mortgage, charge or assignment imposed on any other asset whether within that same class of assets or not.

1.7 Security Agent assumes no obligation

The Security Agent shall not be under any obligation in relation to the Charged Assets as a consequence of this Supplemental Debenture and each Chargor shall at all times remain liable to perform all obligations in respect of the Charged Assets.

2. COMMON PROVISIONS

2.1 Common provisions as to all Security

All the Security created by or pursuant to this Supplemental Debenture is:

- (a) created with full title guarantee (with the covenant implied pursuant to section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 being subject to any Permitted Security);

- (b) created in favour of the Security Agent as trustee for the Secured Parties and the Security Agent shall hold the benefit of this Supplemental Debenture and the Security created by or pursuant to it on trust for the Secured Parties;
- (c) continuing security for the payment and discharge of all the Amended Secured Obligations.

2.2 Supplemental Security

- (a) All the Security created by or pursuant to Clauses 3 (*Supplemental Fixed Security*) and 4 (*Supplemental Floating Charge*) is created in addition and without prejudice but subject only to the Original Security.
- (b) Where this Supplemental Debenture purports to create a first fixed security interest, that security interest will be a second ranking security interest ranking subject to the equivalent security interest created by the Original Security Agreement until such time as the security interest created by the Original Security Agreement ceases to have effect. All references in this Supplemental Debenture to "full title guarantee" shall also be qualified by reference to the Original Security Agreement.
- (c) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Original Security Agreement and the same asset or right is expressed to be assigned again under this Supplemental Debenture, that second assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment if the relevant security interest created by the Original Security Agreement ceases to have effect at a time when this Supplemental Debenture still has effect.

2.3 Consent for Fixed Security

Each Chargor creates each Fixed Security subject to obtaining any necessary consent to such Fixed Security from any relevant third party and using reasonable endeavours to obtain such consent in respect of any material asset.

3. SUPPLEMENTAL FIXED SECURITY

3.1 Mortgage of Real Property

Each Chargor charges, by way of first legal mortgage, its Mortgaged Property.

3.2 Fixed charge over Real Property

Each Chargor charges (to the extent not validly and effectively charged by way of first legal mortgage pursuant to Clause 3.1 (*Mortgage of Real Property*)), by way of first fixed charge, all of its rights, title and interest from time to time in and to all the Real Property and all Related Rights.

3.3 Fixed charge over Tangible Moveable Property

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Tangible Moveable Property and all Related Rights.

3.4 Fixed charge over Accounts

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Accounts (except for the Control Accounts) and all Related Rights.

3.5 Fixed charge over contracts

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to any contract or agreement to which that Chargor is a party (except for the Specific Contracts) (including each of its interest or currency rate swap, cap, floor, collar or option transactions) and all Related Rights.

3.6 Fixed charge over Monetary Claims

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Monetary Claims (other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to this Supplemental Debenture) and all Related Rights (to the extent not already charged under this Clause 3.6).

3.7 Fixed charge over Investments

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Investments and all dividends, interest and other monies payable in respect of those Investments and all Related Rights (whether derived by way of redemption, bonus, preference, options, substitution, conversion, compensation or otherwise).

3.8 Fixed charge over Shares

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Shares and all dividends, interest and other monies payable in respect of those Shares and all Related Rights (whether derived by way of redemption, bonus, preference, options, substitution, conversion, compensation or otherwise).

3.9 Fixed charge over Intellectual Property

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Intellectual Property and all Related Rights.

3.10 Fixed charge over goodwill

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to any goodwill, rights and claims in relation to the uncalled capital of that Chargor.

3.11 Fixed charge over other assets

Each Chargor charges (to the extent not validly and effectively assigned pursuant to Clauses 3.12 (*Assignment of Control Accounts*) to 3.14 (*Assignment of Insurance*

Policies), by way of first fixed charge, all of its rights, title and interest from time to time in and to each Control Account, each Specific Contract and each Insurance Policy of that Chargor and all Related Rights in relation to each of those assets.

3.12 Assignment of Control Accounts

Each Chargor assigns and agrees to assign absolutely, all of its rights, claims, title and interest from time to time in and to each Control Account of that Chargor and all Related Rights.

3.13 Assignment of Specific Contracts

- (a) Each Chargor assigns and agrees to assign absolutely, all of its rights, claims, title and interest from time to time in and to each Specific Contract of that Chargor and all Related Rights.
- (b) For the avoidance of doubt, prior to the occurrence of a Declared Default which is continuing, each Chargor shall (in its sole discretion), subject to the other terms of the Finance Documents, continue to exercise all and any of its rights, remedies, discretion or judgements (including the giving of any waivers or consents) under and in connection with the Specific Contracts and be entitled to all proceeds and claims arising therefrom.

3.14 Assignment of Insurance Policies

Each Chargor assigns and agrees to assign absolutely, all of its rights, claims, title and interest from time to time in and to the proceeds of each Insurance Policy and all Related Rights.

4. SUPPLEMENTAL FLOATING CHARGE

4.1 Floating charge

- (a) Each Chargor charges by way of first floating charge in favour of the Security Agent all present and future assets and undertaking of that Chargor.
- (b) The floating charge created pursuant to paragraph (a) of Clause 4.1 above shall be deferred in point of priority to all Fixed Security validly and effectively created by that Chargor under the Finance Documents in favour of the Security Agent as security for the Secured Obligations.
- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to paragraph (a) of Clause 4.1 above.

5. MISCELLANEOUS

5.1 Incorporation of provisions from the Amended Facilities Agreement

The provisions of clauses 1.4 (*Third party rights*), 19 (*Tax gross up and indemnities*), 21 (*Other indemnities*), 39.1 (*Accounts*), 39.2 (*Certificates and determinations*) and 42 (*Amendments and waivers*) of the Amended Facilities Agreement are incorporated into this Supplemental Debenture as if expressly set out in full in this Supplemental

Debenture, but so that references in those clauses to the Amended Facilities Agreement are references to this Supplemental Debenture.

5.2 Incorporation of provisions from the Original Security Agreement

The provisions of clauses 2 (*Covenant to pay*) (for the avoidance of doubt, the reference to "Secured" shall mean "Secured Obligations" in clause 2 (*Covenant to pay*)), 5.2 (*Crystallisation: by notice*), 5.3 *Crystallisation: automatic*, 6 (*Provisions as to Security and Perfection*), 7 (*Further Assurance*), 8 (*Shares and Investments*), 9 (*Accounts*), 10 (*Monetary Claims*), 11 (*Insurances*), 12 (*Real Property*), 13 (*Enforcement of Security*), 14 (*Extension of Powers and Right of Appropriation*), 15 (*Appointment of Receiver or Administrator*), 16 (*Powers of Receiver*), 17 (*Application of Proceeds*), 18 (*Protection of Purchasers*), 20 (*Effectiveness of Security*), 21 (*Prior Security Interests*), 22 (*Subsequent Security Interests*), 23 (*Suspense Accounts*), 24 (*Release of Security*), 25 (*Set-off*), 27 (*Discretion and Delegation*), and 29 (*Jurisdiction*) of the Original Security Agreement are incorporated into this Supplemental Debenture as if set out in full in this Supplemental Debenture, but so that references in those clauses to:

- (a) the "**Facility Agreement**" are references to the "Amended Facilities Agreement";
- (b) the "**Secured Obligations**" are references to the "Amended Secured Obligations";
- (c) "**Charged Assets**" are references to the assets of each Chargor charged in favour of, or assigned (whether at law or in equity) to the Security Agent pursuant to this Supplemental Debenture;
- (d) "**this Debenture**" are references to this Supplemental Debenture; and
- (e) the requirement to deliver notices, deposit documents of title and share certificates pursuant to clause 6 (*Provisions as to Security and Perfection*) of the Original Security Agreement shall apply to the extent where they have not already been delivered and upon the occurrence of a Declared Default.

5.3 Original Security Agreement

Except insofar as supplemented by this Supplemental Debenture, the Original Security Agreement shall remain in full force and effect.

5.4 No merger

For the avoidance of doubt, any mortgage, charge or assignment (whether at law or in equity) created by the Original Security Agreement shall continue in full force and effect notwithstanding this Supplemental Debenture and shall not merge in any security constituted by this Supplemental Debenture or be released, extinguished or affected in any way by the security constituted by this Supplemental Debenture.

6. EXTENSION OF POWERS

The power of sale or other disposal conferred on the Security Agent and on any Receiver by this Supplemental Debenture shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Amended Secured Obligations shall be deemed due and payable for that purpose) on the date of this Supplemental Debenture but shall be exercisable only at any time after the occurrence of a Declared Default.

7. POWER OF ATTORNEY

7.1 Appointment and powers

Each Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to:

- (a) carrying out any obligation imposed on any Chargor by this Supplemental Debenture, or any other agreement binding on such Chargor to which the Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Charged Assets); and
- (b) enabling the Security Agent and any Receiver to exercise, or delegate the exercise of, any of the Collateral Rights (including, after the occurrence of a Declared Default, the exercise of any right of a legal or beneficial owner of the Charged Assets),

provided that these powers cannot be exercised unless there has been a Declared Default or the relevant Chargor has failed to comply with a further assurance or perfection obligation in accordance with the terms of this Supplemental Debenture within 10 Business Days of being notified of that failure (with a copy of that notice being sent to Azzurri Midco 2 Limited) and being requested to comply.

7.2 Ratification

Each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers except to the extent caused by such attorney's fraud, negligence or wilful misconduct.

8. GOVERNING LAW

This Supplemental Debenture and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS SUPPLEMENTAL DEBENTURE has been signed by the Security Agent and executed as a deed by each of the Chargors.

EXECUTION PAGES TO SUPPLEMENTAL DEBENTURE

The Chargors

EXECUTED as a DEED
by AZZURRI CENTRAL LIMITED

[Redacted Signature]

Signature of director

JIM PICKWORTH

Name of Director

in the presence of

[Redacted Signature]

Signature of witness

Barry Newman

Name of witness

Travers Smith LLP

Address of witness

10 Snow Hill

London EC1A 2AL

Solicitor

Occupation of witness

EXECUTED as a DEED
by AZZURRI RESTAURANTS LIMITED

[Redacted Signature]

Signature of director

JIM PICKWORTH

Name of Director

in the presence of

[Redacted Signature]

Signature of witness

Barry Newman

Name of witness

Travers Smith LLP

Address of witness

10 Snow Hill

London EC1A 2AL

Solicitor

Occupation of witness

The Security Agent

SIGNED for and on behalf of
COÖPERATIEVE RABOBANK U.A.

By: .

Name

Title