

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

| | |
|------------------------------|---|
| SUBMISSION TYPE: | CORRECTIVE ASSIGNMENT |
| NATURE OF CONVEYANCE: | Corrective Assignment to correct the Assignor, Assignee, Type of Conveyance and document attachment previously recorded on Reel 002551 Frame 0677. Assignor(s) hereby confirms the Assignment from JBB (Greater Europe) PLC to Tullibardine Limited was prior to the Change of Name hereby corrected. |

CONVEYING PARTY DATA

| Name | Formerly | Execution Date | Entity Type |
|--------------------------|---------------------------------------|----------------|-------------------------|
| JBB (Greater Europe) PLC | FORMERLY The Whyte & Mackay Group PLC | 06/08/2001 | COMPANY: UNITED KINGDOM |

RECEIVING PARTY DATA

| | |
|--------------------------|-----------------------------|
| Name: | Tullibardine Limited |
| Street Address: | Stirling Street |
| Internal Address: | Tullibardine Distillery |
| City: | Blackford, Perthshire |
| State/Country: | UNITED KINGDOM |
| Postal Code: | PH4 1QG |
| Entity Type: | CORPORATION: UNITED KINGDOM |

PROPERTY NUMBERS Total: 1

| Property Type | Number | Word Mark |
|-----------------------------|---------|--------------|
| Registration Number: | 1414455 | TULLIBARDINE |

CORRESPONDENCE DATA

Fax Number: (202)887-0763
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 2028871500
 Email: trademark-dc@mofo.com
 Correspondent Name: Christopher E. George
 Address Line 1: 2000 Pennsylvania Avenue, N.W.
 Address Line 2: Suite 5500
 Address Line 4: Washington, DISTRICT OF COLUMBIA 20006

| | |
|--------------------------------|----------------|
| ATTORNEY DOCKET NUMBER: | 25535-6000.000 |
|--------------------------------|----------------|

CH \$40.00 1414455

DOMESTIC REPRESENTATIVE

Name:
Address Line 1:
Address Line 2:
Address Line 3:
Address Line 4:

| | |
|--------------------|-------------------------|
| NAME OF SUBMITTER: | Christophe E. George |
| Signature: | /Christopher E. George/ |
| Date: | 04/20/2007 |

Total Attachments: 13
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MCCLURE NAISMITH

The Determining Factor

GLASGOW EDINBURGH LONDON

ASSET SALE AGREEMENT


between

JBB (GREATER EUROPE) PLC

and

TULLIBARDINE LIMITED

8 June 2001
GWF CJM 3397.7

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CERTIFIED A TRUE AND
COMPLETE COPY

SOLICITOR
31/32 MORAY PLACE, EDINBURGH
EH3 6BZ

49 Queen Street
Edinburgh
EH2 3NH
DX ED135
Tel: 0131 220 1002
Fax: 0131 220 1003
E-mail: edinburgh@McClureNaismith.com

292 St Vincent Street
Glasgow
G2 5TQ
DX: GW64
Tel: 0141 204 2700
Fax: 0141 248 3998
E-mail: glasgow@McClureNaismith.com

Pountney Hill House
6 Laurence Pountney Hill
London EC4R 0BL
DX: 764 CDE
Tel: 020 7623 9155
Fax: 020 7623 9154
E-mail: london@McClureNaismith.com

www.McClureNaismith.com

TRADEMARK
REEL: 003526 FRAME: 0651

AGREEMENT

between

JBB (GREATER EUROPE) PLC a company incorporated under the Companies Acts (No. 14456) and having its registered office at Dalmore House, 310 St. Vincent Street, Glasgow (hereinafter "the Seller")

OF THE FIRST PART

and

TULLIBARDINE LIMITED a company incorporated under the Companies Acts (No. SC210027) and having its registered office at 7 Lynedoch Crescent, Glasgow G3 6DZ (hereinafter "the Purchaser")

OF THE SECOND PART

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EH3 6BZ

WHEREAS

- (A) the Seller carries on inter alia the business of maturing and warehousing Scotch whisky and spirit fillings from its distillery at Tullibardine, Scotland;
- (B) the Purchaser wishes to purchase the whole of such business including the trading assets, the name and associated goodwill and the Seller has agreed to sell the same to the Purchaser on the terms and conditions contained in this Agreement.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1 Definitions

- 1.1 In this Agreement and the Schedule, unless the context otherwise requires, the following expressions shall have the following meanings:

"the Accounting Records"

means all accounting books, records, vouchers, information and data (howsoever recorded or stored) kept by the Seller in relation inter alia to the Business including pursuant to the requirements of any legislation or regulations relating to taxation;

"in Agreed Terms"

means in relation to any document that it shall be in the form of a draft agreed between the Seller's Solicitors and the Purchaser's Solicitors prior to Completion;

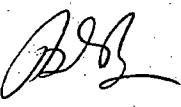
"the Assets"

means the assets and rights specified in Clause 3.1 to be sold to the Purchaser in terms hereof;

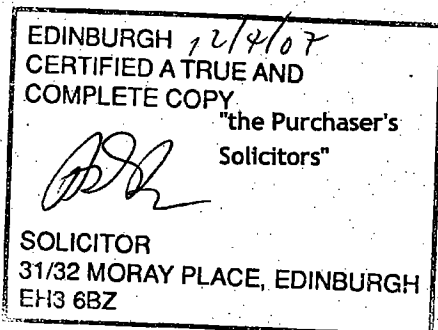
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| | |
|--------------------------------|---|
| "the Brand" | means Tullibardine single malt Scotch whisky; |
| "the Business" | means the business of maturation and warehousing of grain and malt Scotch Whisky and immature spirit fillings for Scotch Whisky to the extent carried on by the Seller at the Completion Date from the Property under the Name; |
| "Completion" | means completion of the sale and purchase of the Business and Assets in terms of Clause 5; |
| "the Completion Date" | means as defined in Clause 5.1; |
| "the Contracts" | means these agreements (other than the Distribution Agreements) to which the Seller is a party in respect of the Business as detailed in Part 8 of the Schedule; |
| "the Debts" | means the trade debts (if any) owed to the Seller in connection <u>inter alia</u> with the Business at Completion in respect of goods sold or services rendered prior to the Time of Sale by the Seller to customers (whether or not invoices have been raised by the Seller prior to Completion); |
| "the Designs and Packaging" | means all labels, cartons, boxes, packages and designs currently used for the bottling of or packaging of the Brand; |
| "the First Disclosure Letter" | means the letter dated as at the Signing Date from the Seller's Solicitors to the Purchaser's Solicitors setting out certain matters qualifying the Warranties and includes all documents annexed or referred to therein; |
| "the Second Disclosure Letter" | means the letter dated as at the Completion Date from the Seller's Solicitors to the Purchaser's Solicitors setting out certain matters qualifying the Warranties and includes all documents annexed or referred to therein; |
| "the Distribution Agreements" | means those agreements entered into by the Seller prior to the Signing Date with distributors and importers for the supply <u>inter alia</u> of Tullibardine single malt Scotch whisky and the Stillman's Dram Tullibardine single malt Scotch whisky as detailed in Part 8 of the Schedule and which are still in force at the Signing Date; |


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- "the Employees" means the employees of the Seller engaged in the Business, details of whom as at the Signing Date are set out in Part 1 of the Schedule;
- "the Excluded Assets" means the Debts and the Excluded Stocks;
- "the Excluded Stocks" means the stocks of malt spirits held in cask at the Property and owned (and to be retained by) the Seller or third parties as detailed in Part 7 of the Schedule;
- "the Goodwill" means the goodwill relating to the Business, including the right of the Purchaser to represent itself as carrying on the Business in succession to the Seller, and all rights of the Seller to the Name;
- "the Intellectual Property Rights" means the industrial and intellectual property rights owned by the Seller and used in relation to the Business comprising only the following:
- (1) the Brand;
 - (2) the Name;
 - (3) the Trade Marks;
 - (4) the Designs and Packaging;
- "Interest" where specified to be payable on any sum means interest at the rate of 2% per annum above the base rate of Barclays Bank plc from time to time, accruing daily;
- "Liabilities" means all obligations or liabilities of the Seller as at the Completion Date, howsoever arising, and of whatever nature and whether actual or contingent;
- "the Name" means "Tullibardine Distillery";
- "the Plant and Machinery" means the plant, machinery and equipment situated at the Property, owned by the Seller details of which as at the Signing Date are set out in Part 2 of the Schedule;
- "the Property" means the heritable property at Tullibardine Distillery, Blackford, Perthshire, a brief description of which is set out in Part 3A of the Schedule;
- "the Purchaser's Solicitors" means Messrs Drummond Miller, 32 Moray Place, Edinburgh;



"Records"

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means the following but only to the extent and insofar as relating exclusively to the Business: all files, production and distribution records, computer discs and data, notebooks, customer lists and customer records, and all advertising material, circulars and promotional material and other like material bearing the Brand name or the Name belonging to and in the possession of or under the control of the Seller but excluding specifically the Accounting Records;

"the Regulations"

means the Transfer of Undertakings (Protection of Employment) Regulations 1981;

"the Seller's Solicitors"

means Messrs McClure Naismith, 292 St. Vincent Street, Glasgow;

"the Signing Date"

means the date of execution of this Agreement by the Seller;

"the Stocks"

means the bulk maturing stocks of Tullibardine single malt Scotch whisky held on the Property or elsewhere at the Signing Date as detailed in Part 6 of the Schedule;

"the Systems Agreement"

means an agreement to be in Agreed Terms between the Seller and the Purchaser relating to the supply by the Seller to the Purchaser of systems and services;

"Third Party Rights"

means the benefit of all rights and claims which the Seller may have, in respect of warranties, guarantees right under insurance or otherwise against any third party in respect of any of the Assets;

"the Time of Sale"

means close of business on the Completion Date;

"the Trade Marks"

means the registered trade marks detailed in part 5 of the Schedule;

"the Warranties"

means the warranties to be granted to the Purchaser in the terms set out in Clause 10 and Part 4 of the Schedule and, in addition, in relation to the Property, in Part 3 of the Schedule.

1.2 References in this Agreement to clauses are, unless otherwise stated, to clauses in this Agreement; references to the Schedule are to the Schedule annexed and executed as relative hereto.

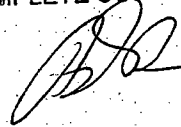
- 1.3 The headings in this Agreement are for convenience only and shall not affect the construction hereof.
- 1.4 In this Agreement, references to the masculine gender shall include the feminine and neuter and vice versa and the singular number shall include the plural and vice versa; and references to this Agreement shall include the Schedule.
- 1.5 All references to statutory provisions shall be construed as references to any statutory modification or re enactment thereof from time to time.
- 1.6 The Schedule shall form part of this Agreement and shall be given effect as if incorporated herein.

2 Conditions Precedent

2.1 The obligations of the Purchaser pursuant to this Agreement shall be conditional upon:

2.1.1 the Purchaser obtaining from HM Customs and Excise such licences and consents as may be necessary in order for the Purchaser to carry on the Business in succession to the Seller;

2.1.2 the Purchaser obtaining in respect of the Property and adjacent subjects Planning Permission, Listed Building Consent, Change of Use Consent, Consent to demolish any existing building and Road Construction Consent ("the Permissions and Consents") acceptable to the Purchaser (which shall at all times act reasonably in relation thereto) for a commercial development including retail development and relative car parking on these subjects and that on the following conditions:-

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2.1.2.1 the Purchaser undertakes to submit an Application for Detailed Planning Permission within three months of the Signing Date and will at its discretion be entitled to make more than one application in relation to the Permissions and Consents and to amend any Applications made in connection therewith and to appeal any decision or deemed refusal thereof to The Secretary of State and/or Court of Session and, subject to Clause 2.3, this Agreement will remain in full force and effect until all said appeals have been finally determined;

2.1.2.2 the Seller will do nothing which might prejudice the success of any Application by the Purchaser for the Permissions and Consents;

2.1.2.3 in the event that the Purchaser has not intimated that the terms of this Condition 2.1.2 have been purified within twelve months of the Signing Date and an appeal as hereinbefore provided has been lodged by the Purchaser and is in the process of being determined, subject to Clause 2.3, the Seller will not rescind this Agreement;

2.1.2.4 notwithstanding receipt by the Purchaser of Detailed Planning Consent in terms of this Condition 2.1.2 the Purchaser will not be bound to declare this Condition 2.1.2 to be purified until a period of six weeks has passed from the date of the grant of Detailed Planning Consent and no appeal or Petition for Judicial Review has been taken to the Court of Session. In the event of such an appeal or Petition for Judicial Review being lodged with the Court of Session within the said six week period, subject to Clause 2.3, the Seller will not rescind this Agreement unless the Purchaser has not intimated this Condition 2.1.2 is purified within Twenty eight days of the judgement being pronounced in the Court of Session in relation to such Petition for Judicial Review (said last mentioned date being herein referred to as "the final determination date").

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- 2.1.3 the Purchaser being satisfied (acting reasonably) as a result of an investigation of the sub-soil conditions ("the investigations") that the sub-soil conditions are satisfactory for the proposed development of the Property which investigations and report following thereon must also meet the requirements of the Local Authority Building Control Department; the Purchaser will, subject to giving the Seller reasonable notice, be afforded access to the Property after the Signing Date to carry out the investigations and will make good any damage caused to the Property as a result of the investigations to the reasonable satisfaction of the Seller.
- 2.1.4 the Purchaser being satisfied (acting reasonably) that main services including without prejudice to the foregoing generality water, electricity, surface and foul water sewers, gas and telephone will be available, at a reasonable cost, to the Property as at the date of Completion;
- 2.1.5 the Purchaser obtaining from adjacent proprietors any necessary Consents for the proposed development in terms satisfactory to the Purchaser (acting reasonably);
- 2.1.6 the Purchaser obtaining full pedestrian and vehicular access to the Property and for any works associated therewith in terms satisfactory to the Purchaser (acting reasonably);
- 2.1.7 the Purchaser carrying out and completing a full environmental survey or audit in respect of the Property the results of which are in terms satisfactory to the Purchaser (acting reasonably);
- 2.1.8 the Purchaser or its nominees entering into a lease with Park Tower Holdings Limited in relation to adjacent subjects and that in terms satisfactory to the Purchaser (acting reasonably).

The foregoing suspensive conditions in this Agreement are declared to be for the sole benefit of the Purchaser and may, subject to Clause 2.3, be waived or deemed purified at any time by the Purchaser by written notice to the Seller.

2.2 The Purchaser undertakes:

2.2.1 to use all reasonable endeavours to progress the matters detailed in Clause 2.1 and purify the conditions precedent detailed therein; and

2.2.2 to provide to the Seller regular (being not less than monthly) reports in writing of its progress in respect of the matters detailed in Clause 2.1.

2.3 If the Purchaser has not intimated to the Seller in writing by the second anniversary of the Signing Date that the conditions precedent detailed in Clause 2.1 have been purified (or that the Purchaser has waived the requirement to purify such conditions precedent), either the Purchaser or the Seller may at any time thereafter by written notice to the other party elect to rescind this Agreement in which event neither party will have any claim against the other party in relation to this Agreement and the matters contemplated herein.

3 Assets to be Sold or Assigned

3.1 Subject to the terms and conditions contained in this Agreement with effect from the Time of Sale the Seller shall sell to the Purchaser and the Purchaser shall purchase from the Seller the Business and the following Assets and that in each case free from all liens, charges, securities, diligences and other encumbrances:-

3.1.1 the Plant and Machinery;

3.1.2 the Intellectual Property Rights;


3.1.3 the Records;

3.1.4 the Goodwill, including the Seller's whole right, title and interest in and to the Business and title in and to the Name and the Brand;

3.1.5 the Stocks;

3.1.6 the Third Party Rights; and

3.1.7 the Property.


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The Seller shall also, with effect from the Time of Sale, transfer to the Purchaser free of all charge all cased stocks of Tullibardine single malt Scotch Whisky and all dry goods including all labels, packages, cartons, stationery and advertising relating specifically thereto held by the Seller on the Property or elsewhere at the Time of Sale.

3.2 Conditionally on Completion, title to the Assets and the risk of loss of or damage to the Assets shall only pass to the Purchaser with effect from the Time of Sale.

3.3 Conditionally on Completion with effect from the Time of Sale the Seller hereby assigns to the Purchaser absolutely all rights of whatsoever nature it may have in and

to the Intellectual Property Rights.

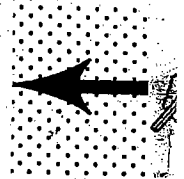
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21 Governing Law

This Agreement shall be governed by and construed in accordance with the law of Scotland and the parties hereby prorogate the exclusive jurisdiction of the Scottish Courts: IN WITNESS WHEREOF these presents typewritten on this and the seventeen preceding pages together with the Schedule annexed hereto are executed as follows:

Executed for and on behalf of the said JBB (GREATER EUROPE) PLC by BRIAN JOHN MEGSON Director at GLASGOW on the 19th day of JUNE 2001 Two thousand and One in the presence of

B. J. Megson



J. F. Hanlon Witness
JAMES F. HANLON Full Name

310 ST. VINCENT ST. Address
GLASGOW G2 5RG

Executed for and on behalf of the said TULLIBARDINE LIMITED by DOUGLAS ROSS Director at EDINBURGH on the 14th day of JUNE Two thousand and One in the presence of

D. Ross


A. J. Buchanan Witness
ALASDAIR JUNCAN BUCHANAN Full Name

32 Moray Place, Address
EDINBURGH

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[Signature]
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Part 5
Trade Marks

(See list annexed)

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15 May 2001

CLIENT / BRAND / ALL COUNTRIES SEARCH

CLIENT : JBB (Greater Europe) PLC

DIVISION : The Invergordon Distillers Ltd.

BRAND : TULLIBARDINE

Country : AUSTRALIA

| Description | Graphic | Class | Appln. no. | Regn. no. | Next fee due | Status | Proprietor | Designations |
|--------------|---------|-------|------------|-----------|--------------|---------|--------------------------|--------------|
| TULLIBARDINE | | 33 | 272827 | A272827 | 04/19/08 | Granted | JBB (Greater Europe) PLC | |

[Handwritten Signature]

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*Schedule Part 5:
 Trade Marks.*

Country : ITALY

| Description | Graphic | Class | Appln. no. | Regn. no. | Next fee due | Status | Proprietor | Designations |
|--------------|---------|-------|------------|-----------|--------------|---------|------------------------------|--------------|
| TULLIBARDINE | | 33 | 7820220 | 358021 | 30/08/1998 | Granted | The Whyte & Mackay Group PLC | |

Country : JAPAN

| Description | Graphic | Class | Appln. no. | Regn. no. | Next fee due | Status | Proprietor | Designations |
|--------------|---------|-------|---------------|-----------|--------------|---------|--------------------------|--------------|
| TULLIBARDINE | | 33 | 109260/8 7 | 2222809 | 23/04/10 | Granted | JBB (Greater Europe) PLC | |

TRADEMARK

15 May 2001


CLIENT / BRAND / ALL COUNTRIES SEARCH

CLIENT : JBB (Greater Europe) PLC

DIVISION : The Invergordon Distillers Ltd.

BRAND : TULLIBARDINE

Country : UNITED KINGDOM

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Page 2

| Description | Graphic | Class | Appl.n.no. | Regn.no. | Next fee due | Status | Proprietor | Designations |
|--------------|---------|-------|------------|----------|--------------|---------|--------------------------|--------------|
| TULLIBARDINE | | 33 | 1017505 | 1017505 | 13/09/08 | Granted | JBB (Greater Europe) PLC | |

Country : USA

| Description | Graphic | Class | Appl.n.no. | Regn.no. | Next fee due | Status | Proprietor | Designations |
|--------------|---------|-------|------------|----------|--------------|---------|------------------------------|--------------|
| TULLIBARDINE | | 33 | 548706 | 1414455 | 27/10/06 | Granted | The Whyte & Mackay Group PLC | |