

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Barossa Valley Estate Limited		06/19/2013	Proprietary Limited Company: AUSTRALIA
RECEIVING PARTY DATA			
Name:	A.C.N. 163 423 578 Pty Ltd		
Street Address:	Seppeltsfield Road		
City:	Marananga, South Australia 5355		
State/Country:	AUSTRALIA		
Entity Type:	Proprietary Limited Company: AUSTRALIA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3816215	EBENEZER	
CORRESPONDENCE DATA			
Fax Number:	4155760300		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Email:	vcordial@kilpatricktownsend.com		
Correspondent Name:	Margaret C. McHugh / Kilpatrick Townsend		
Address Line 1:	Two Embarcadero Center, 8th Floor		
Address Line 4:	San Francisco, CALIFORNIA 94111		
ATTORNEY DOCKET NUMBER:	86546-882836		
DOMESTIC REPRESENTATIVE			
Name:			
Address Line 1:			
Address Line 2:			
Address Line 3:			

OP \$40.00 3816215

Address Line 4:

NAME OF SUBMITTER:

Margaret C. McHugh

Signature:

/Margaret C. McHugh/

Date:

08/02/2013

Total Attachments: 11

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Trade Mark assignment deed

Barossa Valley Estate Limited (Receivers and Managers
Appointed) (**Assignor**)

Samuel Charles Davies and Robert Michael Kirman
(**Receivers**)

A.C.N. 163 423 578 Pty Ltd
(**Assignee**)

MinterEllison

L A W Y E R S

25 GRENFELL STREET, ADELAIDE SA 5000, DX 131 ADELAIDE
TEL: +61 8 8233 5555 FAX: +61 8 8233 5556
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Trade Mark assignment deed

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Details

Date

19 JUNE

2013

Parties

Name **Barossa Valley Estate Limited (Receivers and Managers Appointed)**
ABN 82 082 507 533
Short form name **Assignor**
Notice details c/- McGrathNicol, Level 26, 91 King William Street, Adelaide SA 5000
Facsimile: +61 8 8468 3799
Attention: Mr Sam Davies

Name **Samuel Charles Davies and Robert Michael Kirman** in their capacity as joint and several receivers and managers of the **Assignor**
Short form name **Receivers**
Notice details Level 26, 91 King William Street, Adelaide SA 5000
Facsimile: +61 8 8468 3799

Name A.C.N. 163 423 578 Pty Ltd
ACN 163 423 578
Short form name **Assignee**
Notice details c/- Delegat's Wine Estate Limited, Level 1, 10 Viaduct Harbour Avenue
Auckland 1010
New Zealand
Facsimile: +64 9 359 7359
Attention: Mr Graeme Lord

Background

- A The Assignor owns the trade marks specified in Schedule 1 (**Trade Marks**).
- B Under the Sale and Purchase Agreement, the Assignor has agreed to assign to the Assignee all the Assignor's right, title and interest in and to the Trade Marks.
- C On 15 January 2013, Commonwealth Bank of Australia appointed Samuel Charles Davies and Robert Michael Kirman as joint and several receivers and managers of the Assignor.
- D This deed formalises and sets out the terms and conditions of the assignment.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this deed:

Effective Date means the date on which completion occurs under the Sale and Purchase Agreement, in accordance with the terms of that agreement.

Sale and Purchase Agreement means the agreement entitled 'Sale and Purchase Agreement', dated 24 April 2013 between, inter alia, the Assignor as vendor and the Assignee as purchaser.

Trade Marks means the trade marks specified and described in Schedule 1.

1.2 Interpretation

The following rules of interpretation apply to this deed unless the context requires otherwise:

- (a) a reference to this deed includes a reference to this deed as amended, varied, novated or substituted from time to time;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person includes a body corporate, an unincorporated body or other entity;
- (e) a reference to a clause, paragraph or schedule is to a clause, paragraph or schedule of or to this deed;
- (f) a reference to any person includes that person's successors and permitted assigns;
- (g) a reference to a right or obligation of any two or more persons (including where two or more persons are included in the same defined term) confers that right or imposes that obligation as the case may be jointly and severally;
- (h) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (i) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (j) a reference to any legislation includes any amendment, consolidation, re-enactment or replacement of the legislation; and
- (k) headings are for convenience only and do not affect interpretation.

2. Assignment

2.1 Assignment of trade mark rights

The Assignor assigns to the Assignee all rights, title and interest in and to the Trade Marks, free from encumbrances.

2.2 Assignment of rights to take legal action

The assignment in clause 2.1 includes a transfer of all of the Assignor's rights to take legal action for trade mark infringement, passing off or a contravention of the *Competition and Consumer Act*

2010 (Cth) (or equivalent State or Territory legislation) against any person who has used or uses any of the Trade Marks without the Assignor's consent.

3. Indemnity

The Assignee indemnifies the Assignor and the Receivers against all expenses, losses, damages and costs (on a solicitor and own client basis and whether incurred or awarded against the Assignee) that the Assignor or the Receivers may sustain or incur as a result, whether directly or indirectly:

- (a) of any breach of this deed by the Assignee; and
- (b) of any claim by any person in relation to use by the Assignee of any of the Trade Marks in connection with any goods or services.

4. Further action

- (a) Each party must do all things necessary or desirable to give effect to this deed.
- (b) The Assignee is solely responsible for effecting the transfer of the Trade Marks in accordance with the requirements of the *Trade Marks Act 1995*, including by complying with any requirement of IP Australia to complete the transfer.

5. Receiver and Manager provisions

- (a) The Assignee acknowledges that it is aware that the Assignor is assigning the Trade Marks whilst in receivership under the administration of the Receivers.
- (b) The Assignee expressly acknowledge and covenant with the Receivers that the Receivers act as agents for the Assignor only for the purposes of this deed and that the Receivers have no personal liability to the Assignee in relation to any matter arising (whether directly or indirectly) out of or in relation to this deed or the events leading up to this deed and hereby release the Receivers from any claim in relation to same.

6. No warranties or reliance

- (a) The Assignee acknowledges, covenants and agrees that:
 - (i) it has conducted its own independent investigation and analysis of the Trade Marks and all other information (if any) provided by or on behalf of the Assignor, the Receivers or any other person in its evaluation of the Trade Marks and the assignment thereof by the Assignor and have formed its own opinion in respect of the said investigation and analysis;
 - (ii) the Assignee has not relied on, or used, any information provided by or on behalf of the Assignor or the Receivers in its evaluation of the Trade Marks as a promise or forecast; and
 - (iii) the Assignee is deemed to buy with full knowledge of the state and condition of the Trade Marks and that no warranty, condition, description or representation as to the state or quality of the Trade Marks or any of them or the fitness or the suitability of the Trade Marks or any of them for any purpose whatsoever is given or implied by or from this deed nor is it to be implied from anything said done or implied prior to this deed and all or any statutory or other warranties, conditions, descriptions or representations expressed or implied as to the state or quality of the Trade Marks or

any of them or of the fitness or suitability of the Trade Marks for any purpose whatsoever are hereby expressly excluded (to the extent permitted by law).

- (b) Without in any way limiting clause 6(a), the Assignee expressly acknowledges and agrees that the Assignor and the Receivers do not make any express or implied warranty in relation to the validity, enforceability, title to or non-infringement of the Trade Marks.

7. Costs

The parties shall bear their own costs of and in relation to the negotiation and preparation of this deed and any related documents required for the purposes of this deed provided that the Assignee shall pay all stamp duty, government registration fees and taxes payable hereon or on any related documents.




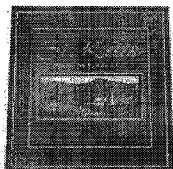
8. Counterparts




This deed may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and those counterparts shall together constitute one and the same instrument.

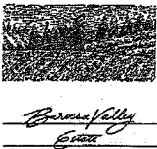
9. Governing Law

This deed shall be governed and construed in accordance with the laws of the State of South Australia and the parties will submit to the non-exclusive jurisdiction of the Court of South Australia.

Schedule 1 - Trade Marks

Registered Trade Marks				
Index	Number	Mark	Country	Class
1	419023		Australia	33 – Wine
2	428870	VALLEY ESTATES	Australia	33 – All goods in class 33
3	433846	EBENEZER	Australia	33 – All goods in class 33
4	665767		Australia	33 – Wine
5	665975	PARROTS HILL	Australia	33 – Wines, spirits and liqueurs
6	717657		Australia	33 – Wines in respect of which use of the names BAROSSA VALLEY and MOCULTA a) are permitted by law, and b) are not likely to cause confusion; spirits and liqueurs
7	738893	St Kitts	Australia	33 – Wines, fortified wines
8	747828		Australia	33 – Fortified wines in respect of which use of the name BAROSSA VALLEY a) is permitted by law, and b) is not likely to cause confusion; spirits and liqueurs
9	749824	SPIRES	Australia	33 – Wines, spirits and liqueurs
10	784535	BAROSSA VALLEY ESTATE	Australia	33 – Wines
11	948909	EPIPHANY	Australia	33 – Wines, spirits and liqueurs
12	1020942	GROWERS SYMPHONY	Australia	33 – Wines; spirits; liqueurs
13	1020954	PATCHWORK	Australia	33 - Wines; spirits; liqueurs
14	1020956	ARM AND A LEG	Australia	33 - Wines; spirits; liqueurs
15	1159719	ELAN	Australia	33 - Wines; spirits and liqueurs
16	1159722	EMISSARY	Australia	33 – Wines; spirits and liqueurs
17	1160571	EVERY STEP	Australia	33 – Alcoholic beverages (wine)
18	1172675	E Minor	Australia	33 – Alcoholic beverages (except beer)

Number	Mark	Country	Class
19	1178319 E BASS	Australia	33 – Alcoholic beverages (except beer)
20	1264936 ENTOURAGE	Australia	33 – Alcoholic beverages (except beer)
21	825454824 BAROSSA VALLEY ESTATE	Brazil	33 – Wines Spirits & Liqueurs
22	TMA536911 MOCULTA	Canada	1 – Wines, brandies and liqueurs
23	TMA730808 E MINOR	Canada	1 – Alcoholic beverages, namely wines
24	TMA536966 	Canada	1 – Wines, brandies and liqueurs
25	TMA536923 EBENEZER	Canada	1 – Wines, brandies and liqueurs
26	924567 E Minor	China Madrid Protocol	33 – Alcoholic beverages (except beer)
27	970866 St Kitts	China Madrid Protocol	33 – Wines, fortified wines
28	9945786 EBENEZER	China	33
29	31591 	European Union	33 – Wines, spirits and liqueurs
30	31609 MOCULTA	European Union	33 – Wines, spirits and liqueurs
31	721894 EBENEZER	European Union	33 – Wines, spirits and liqueurs
32	924567 E Minor	European Union Madrid Protocol	33 – Alcoholic beverages (except beer)
33	250978 MOCULTA	New Zealand	33 – Alcoholic beverages (except beers); wines, spirits and liqueurs
34	305386 EBENEZER	New Zealand	33 – Wines, spirits and liqueurs
35	305387 	New Zealand	33 – Wine, spirits and liqueurs
36	676517 EPIPHANY	New Zealand	33 – Wines, spirits and liqueurs
37	788816 E Bass	New Zealand	33 – Alcoholic beverages (except beer)
38	788818 E Minor	New Zealand	33 – Alcoholic beverages (except beer)
39	803184 ENTOURAGE	New Zealand	33 – Alcoholic beverages (except beers)

Number	Mark	Country	Class	
40	T1218334G	ENTOURAGE	Singapore	33 – Alcoholic beverages (except beer)
41	924567	E Minor	United Kingdom Madrid Protocol	33 – Alcoholic beverages (except beer)
42	970866	St Kitts	United Kingdom Madrid Protocol	33 – Wines, fortified wines
43	1313567		United Kingdom	33 – Wines and liqueurs included in Class 33
44	2026283	MOCULTA	United Kingdom	33 – Wines, spirits and liqueurs
45	924567 (US 3373361)	E Minor	United States Madrid Protocol	33 – Alcoholic beverages (except beers), namely wines, distilled spirits and liqueurs
46	942750 (US 3803250)	E Bass	United States Madrid Protocol	33 – Wines
47	3816215	EBENEZER	United States	33 - Wine

Pending Trade Mark Applications


Index	Number	Mark	Country	Class
48	9945834	E&E	China	33
49	10778457	MOCULTA	China	33
50	11010519	BAROSSA VALLEY ESTATE	China	33
51	11304742	ENTOURAGE	China	33
52	2013052438	ENTOURAGE	Malaysia	33 – Alcoholic beverages (except beer); All included in class 33
53	873485	ENTOURAGE	Thailand	33

Signing page

EXECUTED as a deed.

Assignor

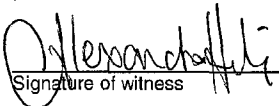
Executed for Barossa Valley Estate Limited
(Receivers and Managers Appointed) ACN
082 507 533 by



Samuel Charles Davies
Joint and Several Receiver and Manager
Barossa Valley Estate Limited (Receivers and Managers
Appointed)

Receivers

Executed by Samuel Charles Davies in the
presence of



Signature of witness



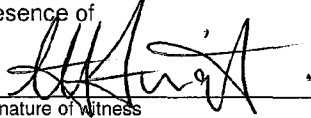
Samuel Charles Davies



Alexandra Helbig

Name of witness (print)

Executed by Robert Michael Kirman in the
presence of



Signature of witness



Robert Michael Kirman

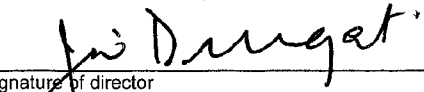


MARK KNIGHT

Name of witness (print)

Assignee


Executed by A.C.N. 163 423 578 Pty Ltd ACN
163 423 578 pursuant to section 127 of the
Corporations Act 2001



Signature of director

JAKOV NIKOLA DELEGAT

Name of director (print)

←  ←

Signature of director/company secretary
(Please delete as applicable)

ROBERT LAWRENCE WILTON

Name of director/company secretary (print)