

## Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

**155(6)b**

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\* HOPLITE LIMITED

are

~~XXXXXXXXXX~~ [all the directors]<sup>†</sup> of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

The business of this company is:

(a) XXXXX a person used bank, business credit card or in the trading of the banking as XXXX  
 (b) XXXXXXXXXXXXXXXXXXXXXXXXXX of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
 insurance businesses in the United Kingdom  
 (c) something other than the above

This company is [the] ☒ holding company of\* WYNSTRUMENTS LIMITED (COMPANY NO. 00489244) ("WYNSTRUMENTS") which is proposing to give financial assistance in connection with the acquisition of shares in [this company] [\_\_\_\_\_]

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COMPANIES HOUSE		24/06/04

The assistance is for the purpose of ~~that acquisition~~ [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: 251,322 ORDINARY SHARES OF £1.00 EACH AND 24,778 'A' ORDINARY SHARES OF £1.00 EACH

The assistance is to be given to: (note 2) B. HEPWORTH AND COMPANY LIMITED (COMPANY 01585495) WHOSE REGISTERED OFFICE IS AT HEPWORTH HOUSE, BROOK STREET, REDDITCH, B98 8NF ("HEPWORTH")

The assistance will take the form of:

- 1: THE GRANTING OF A DEBENTURE BY THE COMPANY IN FAVOUR OF THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND ("THE BANK") ("THE DEBENTURE");
- 2: THE ENTRY INTO OF A CROSS GUARANTEE IN FAVOUR OF THE BANK TO BE ENTERED INTO BY EACH OF THE COMPANY, THE BANK, HEPWORTH, DUDLEYS (REDDITCH) LIMITED ("DUDLEYS"), WYNSTRUMENTS AND WYNN RAIL LIMITED ("WRAIL") ("THE CROSS GUARANTEE");
- 3: THE ENTRY INTO OF A CONFIDENTIAL INVOICE DISCOUNTING FACILITY PURSUANT TO A CASHFLOW FINANCE AGREEMENT TO BE MADE BETWEEN THE COMPANY AND THE BANK ("THE CASHFLOW FINANCE AGREEMENT");
- 4: AN INTEREST FREE LOAN REPAYABLE ON DEMAND OF UP TO £320,000 ("THE LOAN");
- 5: THE ENTRY INTO A COUNTER INDEMNITY IN FAVOUR OF THE BANK IN RESPECT OF THE GUARANTEE GIVEN BY THE BANK TO HSBC BANK PLC ("THE COUNTER INDEMNITY");
- 6: THE ENTRY INTO OF A COMPROMISE AGREEMENT WITH DEREK POULTON ("THE COMPROMISE AGREEMENT"); AND
- 7: THE ENTRY INTO OF A CONSULTANCY AGREEMENT WITH DEREK POULTON ("THE CONSULTANCY AGREEMENT").

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

† delete as appropriate

B. HEPWORTH AND COMPANY LIMITED

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

- 1: PURSUANT TO THE DEBENTURE THE COMPANY GRANTED TO THE BANK AS CONTINUING SECURITY AND WITH FULL TITLE GUARANTEE FIXED AND FLOATING CHARGES OVER ALL OF ITS BUSINESS UNDERTAKING AND ASSETS AS SECURITY FOR ALL MONEY AND LIABILITIES DUE FROM THE COMPANY TO THE BANK;
- 2: PURSUANT TO THE CROSS GUARANTEE, THE COMPANY, HEPWORTH, DUDLEY, WYNSTRUMENTS AND WRAIL EACH GUARANTEE TO THE BANK THE PAYMENT OF ALL MONIES DUE TO THE BANK ON ANY ACCOUNT BY EACH OTHER (WHICH WILL INCLUDE LIABILITIES INCURRED IN CONNECTION WITH THE ACQUISITION);
- 3: PURSUANT TO THE CASHFLOW FINANCE AGREEMENT, WYNSTRUMENTS GRANTED TO THE BANK CERTAIN RIGHTS OF SET OFF, AND ALSO CERTAIN INDEMNITIES, WHICH INDEMNITIES AND RIGHTS OF SET OFF RELATE TO AMONG OTHER THINGS, LIABILITIES INCURRED FOR THE PURPOSE OF THE ACQUISITION AND FURTHER, THE COMPANY SECURED PREPAYMENT ADVANCES OF UP TO 85% OF THE VALUE OF INVOICES NOTIFIED TO THE BANK TO A MAXIMUM OF £1,500,000 WITH A DISCOUNT CHARGE LEVIED OF 2% OVER THE BANK'S BASE RATE FROM TIME TO TIME.
- 4: PURSUANT TO THE LOAN WYNSTRUMENTS GRANTED TO HEPWORTH A LOAN IN THE SUM OF UP TO £320,000 ON TERMS THAT SUCH LOAN BE UNSECURED, INTEREST FREE AND REPAYABLE ON DEMAND.
- 5: PURSUANT TO THE COUNTER INDEMNITY WYNSTRUMENTS INDEMNIFIED THE BANK IN RESPECT OF THE GUARANTEE GIVEN BY THE BANK TO HSBC BANK PLC.
- 6: PURSUANT TO THE COMPROMISE AGREEMENT DEREK POULTON, IN RETURN FOR A CASH PAYMENT MADE BY THE COMPANY, WAIVED ANY CLAIMS HE MAY HAVE AGAINST WYNSTRUMENTS WHETHER ARISING FROM THE CESSATION OF HIS EMPLOYMENT OR OTHERWISE.
- 7: PURSUANT TO THE CONSULTANCY AGREEMENT WYNSTRUMENTS RETAINED THE SERVICES OF DEREK POULTON AS A SELF EMPLOYED CONSULTANT.

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

The amount of cash to be transferred to the person assisted is £ UP TO £320,000

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

Please do not write in this margin

The date on which the assistance is to be given is

WITHIN 8 WEEKS OF THE DATE HEREOF

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

I/~~XXX~~ have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~I/we~~ have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]\* (note 3)

\* delete either (a) or (b) as appropriate

~~(b) I/we have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]\* (note 3)~~

And I/~~we~~ make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at 93 Leinster Road  
Cradle Heath  
Leeds LS16 7JL

Declarants to sign below

*[Signature]*

Day Month Year  
on 21 06 2004

before me *[Signature]*  
A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

## NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies  
Companies House  
Crown Way  
Cardiff  
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies  
Companies House  
37 Castle Terrace  
Edinburgh  
EH1 2EB

## Private and Confidential

The Directors  
Hoplite Limited  
Wynn House  
Lansdown Estate  
Cheltenham  
Gloucestershire  
GL51 8PL

Dear Sirs

## Independent auditors' report to the directors of Hoplite Limited pursuant to Section 156(4) of the Companies Act 1985

efg. We have examined the attached statutory declaration of the directors of Hoplite Limited ('the Company') dated 24<sup>th</sup> June 2004 in connection with the proposal that the Company's wholly owned subsidiary company, Wynn Rail Limited, should give financial assistance for the purchase of the whole of the Company's issued share capital.

## Basis of opinion

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

## Opinion


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

  
**HORWATH CLARK WHITEHILL LLP**  
Chartered Accountants and Registered Auditors

17 June 2004

**We hereby certify this to be  
a true copy of the original**



**George Green**

**Solicitors, Cradley Heath**

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Horwath Clark Whitehill LLP is an independent member of Horwath International, with offices and associated firms  
throughout the UK and Worldwide. A list of members' names is available at the above address.


Bank of Scotland  
2<sup>nd</sup> Floor  
Citymark  
150 Fountainbridge  
Edinburgh  
EH3 9PE

Dear Sirs

**Report by the Auditors of Hoplite Limited ("the Company") to the Bank of Scotland ("the Bank")**

This report is given in connection with the proposed arrangement whereby the Company and its wholly owned subsidiary companies, Wynstruments Limited and Wynn Rail Limited, will give financial assistance for the purchase of the Company's shares, particulars of which are given in the statutory declaration made this day by the directors pursuant to Section 155(6) of the Companies Act 1985 ("the Act").

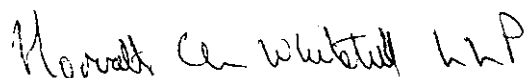
The purpose of this report is solely to assist the Bank in considering whether the proposed arrangement is permitted under Section 155(2) of the Act and it is not intended to be used, quoted or referred to for any other purpose.

 We have examined the Board Memorandum dated <sup>21<sup>st</sup></sup> June 2004 (a copy of which is attached, initialled by us for the purpose of identification) for which the directors are solely responsible and have enquired into the Company's state of affairs so far as necessary for us to review the bases for the Board Memorandum. We have not carried out an audit and, save as set out below, express no opinion on the state of the Company's affairs.

We confirm that as at the close of business on 31 March 2004 the aggregate of the Company's assets as stated in its accounting records exceeded the aggregate of its liabilities as so stated.

We are not aware of anything to indicate that the opinion expressed in paragraph 2 of the Board Memorandum is unreasonable in all the circumstances.

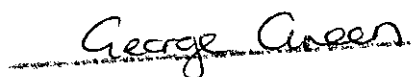
Yours faithfully



**HORWATH CLARK WHITEHILL LLP**  
**Chartered Accountants and Registered Auditors**

17 June 2004

**We hereby certify this to be  
a true copy of the original**



**George Green**  
**Solicitors, Cradley Heath**