

CHFP025

**COMPANIES FORM No. 155(6)a**

## Declaration in relation to assistance for the acquisition of shares

# 155(6)a

Please do not  
write in this  
margin

Pursuant to section 155(6) of the Companies Act 1985

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

To the Registrar of Companies  
(Address overleaf - Note 5)

For official use

Company number

03786161

**Note**  
Please read the notes  
on page 3 before  
completing this form.

Name of company

\* LOMBARDY COURT VCT LIMITED

\* insert full name  
of company

X/Weø SCHEDULE 1

ø insert name(s) and address(es) of all the directors

† delete as appropriate

~~XXXXXXXXXXXX~~ [the sole director] all the directors† of the above company do solemnly and sincerely declare that:

The business of the company is:

§ delete whichever  
is inappropriate

~~or that of a recognised bank, licensed institution or within the meaning of the Banking Act 1973.~~

~~Not that I am a person authorized under section 87(2)(b) of the Insurance Companies Act, 1906 to act~~

insurance business in the United Kingdom.

(c) something other than the above\$

The company is proposing to give financial assistance in connection with the acquisition of shares in the

[company] [XXXXXXXXXXXXXXXXXXXXXXXXXXXX]

The assistance is for the purpose of [that acquisition] ~~[reducing or discharging a liability incurred for the~~

XXXXXXXXXXXXXXXXXXXX

The number and class of the shares acquired or to be acquired is: 435,000

ORDINARY SHARES OF £0.01 EACH

Presentor's name address and  
reference (if any) :

DLA  
3 Noble Street  
London  
EC2V 7EE

**DX: 33866 Finsbury Square**  
g:Banking/LForms/AcFi/CTLOMB2-1556a(1)

For official Use  
General Section

Post room



**A04**  
**COMPANIES HOUSE**

0262  
07/05/04

The assistance is to be given to: (note 2) ACTIVE CARE PARTNERSHIPS (HOLDINGS) LIMITED

WHOSE REGISTERED OFFICE IS UNIT 2G, ENTERPRISE HOUSE, VALLEY STREET NORTH, DARLINGTON, COUNTY DURHAM, DL1 1GY (COMPANY NO: 04507687) AND SOUTHERN CROSS LOANCO LIMITED WHOSE REGISTERED OFFICE IS UNIT 2G, ENTERPRISE HOUSE, VALLEY STREET NORTH, DARLINGTON, COUNTY DURHAM, DL1 1GY (COMPANY NUMBER: 04379999)

Please do not  
write in this  
margin

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

The assistance will take the form of:

SCHEDULE 2

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

† delete as  
appropriate

ACTIVE CARE PARTNERSHIPS (HOLDINGS) LIMITED

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

SCHEDULE 3

The amount of cash to be transferred to the person assisted is £ NIL

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

The date on which the assistance is to be given is WITHIN 8 WEEKS OF THE DATE HEREOF

Please do not  
write in this  
margin

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

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

~~X~~We have formed the opinion, as regards the 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) ~~X~~We have formed the opinion that the company will be able to pay its debts as they fall due during the year immediately following that date]\* (note 3)

(b) ~~It is intended to commence the winding up of the company within 12 months of that date, and the~~  
~~have formed the opinion that the company will be able to pay its debts in full within 12 months of the~~  
~~commencement of the winding up.)\* (note 3)~~

And ~~X~~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

Declarants to sign below

Enterprise House, Parkington

Day Month Year  
on 

30	04	2004
----	----	------

before me Neil Hillman (NEIL HILLMAN)

A Commissioner for Oaths or Notary Public or Justice of  
the Peace or a Solicitor having the powers conferred on  
a Commissioner for Oaths.

*[Handwritten signatures]*  
Philip Smith  
[Signature]

## 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  
37 Castle Terrace  
Edinburgh  
EH1 2EB

## SCHEDULES

### Form 155(6)a Lombardy Court VCT Limited

This is "Schedule 1" referred to in the attached statutory declaration.

#### SCHEDULE 1

##### Directors

Graham Sizer of      Old Salutation Barn  
                             Low Street  
                             Little Fencote  
                             Northallerton  
                             North Yorkshire  
                             DL7 9LR

Philip Scott of      The Old Vicarage  
                             Newgate  
                             Bishop Auckland  
                             County Durham  
                             DL12 8NW

Christopher Rutter of      15 The Dell  
                             Bishop Auckland  
                             County Durham  
                             DL14 7HJ

This is "Schedule 2" referred to in the attached statutory declaration.

#### SCHEDULE 2

##### Form of financial assistance

##### Background:

50% of the issued share capital of the Company was acquired by Active Care Partnerships (Holdings) Limited (the "**Purchaser**") (the "**VCT Acquisition**"), to be funded in part by:

- (a) Barclays Leveraged Finance and The Royal Bank of Scotland plc (as Mandated Lead Arrangers), the Original Lenders (as defined therein) and Barclays Bank PLC (as Issuing Bank, Agent, LNG Bank, NHP Guarantee Bank and Security Agent) (the parties from time to time acting in such capacities being the "**Senior Finance Parties**") under a facilities agreement dated 16 August 2002 and as amended by an amendment and restatement agreement dated 28 April 2004 (the "**Senior Facilities Agreement**") for the provision of

term facilities of £63,000,000, a bridge facility of £5,200,000 and a working capital facility of £3,000,000 (the "**Revolving Facility**"); and

- (b) Barclays Leveraged Finance (as Mandated Lead Arranger), the Original Lenders (as defined therein) and Barclays Bank PLC (as Agent and Security Agent) (the parties from time to time acting in such capacities being the "**Mezzanine Finance Parties**") under a loan agreement dated 16 August 2002 and as amended by an amendment and restatement agreement dated <sup>28</sup> April 2004 (the "**Mezzanine Loan Agreement**") for the provision of a term facility of £10,000,000.

The form of financial assistance to be given by the Company is as follows:

1. The accession to the Senior Facilities Agreement by the Company as a Guarantor pursuant to an accession agreement to be entered into with the Agent (as defined in the Senior Facilities Agreement), the Purchaser and others.
2. The accession to the Mezzanine Loan Agreement by the Company as a Guarantor pursuant to an accession agreement to be entered into with the Agent (as defined in the Mezzanine Loan Agreement), the Purchaser and others.
3. The accession to an intercreditor deed dated 16 August 2002 entered into with the Senior Finance Parties, the Mezzanine Finance Parties and the Hedging Banks (as defined therein) by the Company as an Obligor pursuant to an accession deed to be entered into with the Security Agent (as defined therein), the Company and others.
4. The entry by the Company as a Chargor into a debenture (the "**Debenture**") to secure all its present and future obligations and liabilities (whether actual or contingent and whether jointly or severally or in any other capacity) in favour of Barclays Bank PLC (the "**Security Agent**") as security agent and trustee for the Senior Finance Parties, the Mezzanine Finance Parties and the Hedging Banks (together the "**Beneficiaries**").
5. The entry by the Company into an intra group loan agreement (the "**Intra Group Loan Agreement**") to be made between Southern Cross Loanco Limited ("**Loanco**") (as borrower) (1) and the Company and others (as lenders) (2) pursuant to which (inter alia) the Company amongst others will agree to lend money to the Purchaser and/or Loanco to enable it to service financial obligations under the Senior Facilities Agreement and the Mezzanine Loan Agreement and to fund the payment of other costs and/or expenses incurred in connection with the VCT Acquisition.

This is "Schedule 3" referred to in the attached statutory declaration.

### SCHEDULE 3

#### The principal terms on which the financial assistance will be given

1. Pursuant to the Senior Facilities Agreement, the Company will:
  - (a) as an Obligor (as defined in the Senior Facilities Agreement) give various representations and warranties, undertakings, covenants and indemnities to the Senior Finance Parties including undertaking (inter alia) that it will at all times indemnify the Senior Finance Parties from and against all actions, suits, proceedings, claims, demands, liabilities, damages, costs, expenses, losses and charges whatsoever in

relation to or arising out of the Senior Finance Parties' provision of the facilities under the Senior Facilities Agreement; and

- (b) as a Guarantor (as defined in the Senior Facilities Agreement) under clause 21 (*Guarantee and Indemnity*) of the Senior Facilities Agreement irrevocably and unconditionally jointly and severally with the other Guarantors:
  - (i) guarantee to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
  - (ii) undertake with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that it shall immediately on demand pay that amount as if it was the principal obligor; and
  - (iii) indemnify each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party for any reason if any obligation guaranteed by it is or becomes enforceable, invalid or illegal (whether or not such cost, loss or liability arises as a direct or indirect result of such unenforceability, invalidity or illegality) where the amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover,

(each term above as defined in the Senior Facilities Agreement).

2. Pursuant to the Intercreditor Deed, the Company will as an Obligor:

- (a) acknowledge the arrangements made between the Senior Finance Parties, the Mezzanine Finance Parties and the Hedging Banks, Investors and Obligors named therein which regulate (inter alia) the ability of the Company to make certain payments to certain of the other parties; and
- (b) under clause 5.6 (*Guarantee*) of the Intercreditor Deed with the other Obligors irrevocably and unconditionally guarantee to each Hedging Bank payment in full of the Hedging Debt owed to it by any other Obligor on the same terms as set out in Clause 21 (*Guarantee and Indemnity*) of the Senior Facilities Agreement

(each term above as defined in the Intercreditor Deed).

3. Pursuant to the Mezzanine Loan Agreement, the Company will:

- (a) as an Obligor (as defined in the Mezzanine Loan Agreement) give various representations and warranties, undertakings, covenants and indemnities to the Mezzanine Finance Parties including undertaking (inter alia) that it will at all times indemnify the Mezzanine Finance Parties from and against all actions, suits, proceedings, claims, demands, liabilities, damages, costs, expenses, losses and charges whatsoever in relation to or arising out of the Mezzanine Finance Parties' provision of the facilities under the Mezzanine Loan Agreement; and

(b) as a Guarantor (as defined in the Mezzanine Loan Agreement) under clause 17 (*Guarantee and Indemnity*) of the Mezzanine Loan Agreement irrevocably and unconditionally jointly and severally with the other Guarantors:

- (i) guarantee to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents (as defined in the Mezzanine Loan Agreement);
- (ii) undertake with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance document, that it shall immediately on demand pay that amount as if it was the principal obligor; and
- (iii) indemnify each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party for any reason if any obligation guaranteed by it is or becomes enforceable, invalid or illegal (whether or not such cost, loss or liability arises as a direct or indirect result of such unenforceability, invalidity or illegality) where the amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover,

(each term above as defined in the Mezzanine Loan Agreement).

4. Pursuant to the Debenture, the Company will:

- (i) covenant, on the Security Agent's written demand, to pay or discharge to the Security Agent all indebtedness now or in the future due, owing or incurred by it to the Beneficiaries, under or pursuant to the Senior Facilities Agreement, the Mezzanine Loan Agreement, the Intercreditor Deed and the other Finance Documents (as defined in the Debenture), whether on or after such demand (the "**Secured Sums**"); and
- (ii) secure its obligations thereunder by way of first fixed and floating charges over all its undertaking, property and assets present and future; and
- (iii) covenant under Clause 7 (*Further Assurance*) of the Debenture on the Security Agent's written demand to execute and deliver to the Security Agent such other documents as the Security Agent may in its discretion think fit further to secure the payment of the Secured Sums, or to perfect the charges created under the Debenture, or to vest title to any Asset (as defined in the Debenture) in itself or its nominee or any purchaser.

5. Pursuant to the Intra Group Loan Agreement, the Company undertakes to Loanco that it will provide to Loanco a loan facility in a maximum aggregate principal amount detailed therein. Sums drawn down by Loanco under the Intra Group Loan Agreement may be used (inter alia) to make payments due under the Senior Facilities Agreement and the Mezzanine Loan Agreement. Outstandings under Intra Group Loan Agreement will be repayable on the Company's first demand and will bear interest at the rate of 1% per annum above the base rate from time to time of Barclays Bank PLC or such other fair market value as may be agreed from time to time between the Borrower and the Lenders (such terms defined therein).

PricewaterhouseCoopers LLP  
89 Sandysford Road  
Newcastle upon Tyne NE99 1PL  
Telephone +44 (0) 191 232 8493  
Facsimile +44 (0) 191 269 3289

The Directors  
Lombardy Court VCT Limited  
Unit 2G, First Floor  
Enterprise House  
Valley Street North  
Darlington  
County Durham  
DL1 1GY

30 April 2004

Dear Sirs

**Auditors' report to the directors of Lombardy Court VCT Limited pursuant to Section 156(4) of the Companies Act 1985**

We have examined the attached statutory declaration of the directors of Lombardy Court VCT Limited (the "Company") dated 30 April 2004 in connection with the proposal that the Company should give financial assistance for the purchase of 435,000 of the ordinary shares of the Company. This report, including the opinion, has been prepared for and only for the Company and the Company's directors in accordance with Section 156 of the Companies Act 1985 and for no other purpose. We do not, in giving the opinion set out below, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come save where expressly agreed by our prior consent in writing.

**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

*PricewaterhouseCoopers LLP*

PricewaterhouseCoopers LLP  
Chartered Accountants and Registered Auditors



PricewaterhouseCoopers LLP  
89 Sandyford Road  
Newcastle upon Tyne NE99 1PL  
Telephone +44 (0) 191 232 8493  
Facsimile +44 (0) 191 269 3289

Royal Bank of Scotland plc  
9<sup>th</sup> Floor  
280 Bishopsgate  
London  
EC2M 4RB

Barclays Bank PLC  
54 Lombard Street  
London  
EC3P 3AH

30 April 2004

Dear Sirs

## **Report by the auditors of Lombardy Court VCT Limited**

This report has been prepared as an additional service under the terms of the contract dated 4 March 2004 between Southern Cross Healthcare Holdings Limited and PricewaterhouseCoopers LLP ("the Contract"), as set out in our supplementary engagement letter dated 22 April 2004.

We report in connection with the proposed arrangement whereby Lombardy Court VCT Limited ("the Company") will give financial assistance for the purchase of its own shares, particulars of which are given in the attached copy of the statutory declaration dated today by the directors of the Company pursuant to Section 155(6) of the Companies Act 1985 ("the Act").

The purpose of this report is to assist Royal Bank of Scotland plc and Barclays Bank PLC as Lead Banks 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 30 April 2004 (a copy of which is attached, initialled by us for the purpose of identification) for which the directors of the Company are solely responsible and have enquired into the Company's state of affairs as far as necessary for us to review the bases for the Board Memorandum. Our enquiry did not constitute an audit under the provisions of the Act.



We confirm that as at the close of business on 29 February 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.

This report has been prepared for Royal Bank of Scotland plc and Barclays Bank PLC as Lead Banks. We accept no liability or responsibility to any third party who may gain access to this report. This report must not be made available or copied in whole or in part to any other person without our express written permission.

Yours faithfully

*PricewaterhouseCoopers LLP*

PricewaterhouseCoopers LLP

**LOMBARDY COURT VCT LIMITED**

(Registered Number: 03786161)

**BOARD MEMORANDUM**

**BOARD MEMORANDUM RELATING TO THE REPORT BY PRICEWATERHOUSECOOPERS LLP (THE "AUDITORS") OF LOMBARDY COURT VCT LIMITED (THE "COMPANY") RELATING TO THE NET ASSETS OF THE COMPANY**

This memorandum is given in connection with the proposed arrangement whereby the Company will give financial assistance for the purpose of the acquisition of its own shares, particulars of which are given in the statutory declarations made by the directors on the same date as this board memorandum pursuant to section 155(6) of the Companies Act 1985.

1. As at the close of business on <sup>29</sup> ~~3~~ February 2004 the aggregate of the Company's assets as stated in its accounting records exceeded the aggregate of its liabilities as so stated.
2. From our knowledge of events since that date and of the likely course of the Company's business, the directors have formed the opinion that the aggregate of the Company's assets will exceed the aggregate of its liabilities immediately before the proposed financial assistance is given and that the giving of such financial assistance will not reduce the net assets of the Company.

  
\_\_\_\_\_  
SIGNED ON BEHALF OF THE BOARD

Dated 30 April 2004