

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

155(6)b

* Whyte and Mackay Limited

LD4
COMPANIES HOUSE

The assistance is for the purpose of ~~£200,000,000~~ [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: 178,973,000 ordinary shares
of £1 each.

The assistance is to be given to: (note 2) Whyte and Mackay Group Limited
(co no SC221954) the registered office of which is at Dalmore House, 310 St.
Vincent Street, Glasgow, G2 5RG and the Governor and Company of the Bank of
Scotland of the Mound, Edinburgh EH2 2EL.

The assistance will take the form of:

See Annexure A attached hereto.

The person who [has acquired] ~~£200,000,000~~ † the shares is:
Whyte and Mackay Group Limited (Co. no. SC221954)

† delete as
appropriate

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

See Annexure B attached hereto.

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 £200,000,000.00

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

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

~~X~~We 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) ~~We~~ 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)

[illegible]

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.

Declarants to sign below

Declared at GLASGOW

on

Day	Month	Year
31	01	2005

before me

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

Key Public, WA
Alagon of Hamon.

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

STRICTLY PRIVATE AND CONFIDENTIAL

The Directors
Whyte & Mackay Limited
Dalmore House
310 St Vincent Street
GLASGOW
G2 5RG

31 January 2005

Dear Sirs

Auditors' report to the directors of Whyte and Mackay Limited pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors of Whyte and Mackay Limited (the "Company") dated 31 January 2005 ^{GREY ROGERS & COMPANY LIMITED} ~~that the Company is proposing~~ SM to give financial assistance in connection with the refinancing of debt incurred for the purpose of the acquisition of shares of the Company and for reducing or discharging liabilities incurred for the purposes of that acquisition. 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
Chartered Accountants and Registered Auditors

Grey Rogers & Company Limited

Company number: SC49866

(the "Company")

Annexure A to Form 155(6)b OF WHYTE AND MACKAY
LIMITED

Definitions

In this statutory declaration (including each Annexure) the following expressions shall have the following meanings:

"Ancillary Rights" means the benefit of all covenants, leases, tenancies, agreements, licences, rights, conditions or encumbrances relating to the Mortgaged Properties and all monies paid or payable thereunder;

"Bank" means The Governor and The Bank of Scotland as agent, arranger and security trustee for the Finance Parties;

"Borrowers" means Whyte and Mackay Group Limited and Whyte and Mackay Limited and **"Borrower"** means any one of them;

"Finance Documents" means the Senior Facilities Agreement, the Intercreditor and Security Trust Deed, the Debentures, the Floating Charges, the Fixed Charges and Assignments, the Standard Securities, the Invoice Discounting Documents, the Asset Finance Documents, the Stock Pledge, the Hedging Agreement, the Working Capital Agreement and any other document designated as a "Finance Document" by the Bank acting as agent for the Finance Parties and the Company;

"Finance Party" means the Agent, the Arranger, the Security Trustee, a Lender, the Hedge Counterparty, the Working Capital Bank, the Invoice Discounting Facility Provider or the Asset Finance Facility Provider (each such term as defined in the Senior Facilities Agreement);

"Fixed Charge and Assignment" means the fixed charge and assignment in respect of assets situated in jurisdictions other than Scotland to be granted by the Company in favour of the Bank;

"Floating Charge" means the floating charge in respect of all of the assets and undertaking of the Company to be granted by the Company to the Bank;

"Hedge Counterparty" means HBOS Treasury Services plc (company number 02692890);

"Insurances" means all policies or contracts of insurance or assurance now or hereafter effected by the Company or on its behalf or in which it may have an interest;

"Intellectual Property Rights" means all know-how, patents (including supplementary protection certificates), patent applications, trade marks, immunity trade marks, service marks, trade names, brand names, business names, registered and unregistered designs, database rights, copyright, trade secrets, confidential information and knowhow and all other industrial and intellectual property rights and any interests (including by way of licence) in any of the foregoing (in each case wheresoever situated and whether registered or not) and including all applications for the same and all rights and causes of action in respect of infringement, past, present and future, of any of the foregoing;

"Intercreditor and Security Trust Deed" means the intercreditor and security trust deed in the agreed form made between (among others) the Borrowers, the Company and the Bank;

"Inter-Group Loan Agreement" means an intercompany loan agreement to be made between, amongst others, the Company and the Borrowers.

"Investments" means all shares, stocks, bonds, debentures or other securities and investments of any kind.

"Mortgaged Properties" means all freehold or leasehold properties from time to time forming part of the Security Assets and includes the Specified Properties.

"Receivables" means all book and other debt and monetary claims now or hereafter due or owing to the Company.

"Related Rights" means in relation to any shares, stocks, bonds, debentures or other securities or investments of any kind:

- (a) all dividends;
- (b) all rights, property and distributions of a capital nature paid, payable, offered, issued or otherwise accruing by way of bonus, rights, redemption, substitution, preference, warrant, option or otherwise in respect thereof.

"Security Assets" means all or any part of or interest in the undertaking, property, rights and assets of the Company which now or at any time after the date of the Debenture are or are expressed to be the subject of any Security Interest created or purported to be created by or pursuant to the Fixed Charge and Assignment;

"Security Interest" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

"Security Trustee" means the Bank acting in its capacity as security trustee to the Finance Parties;

"Secured Obligations" means all or any monies, liabilities and obligations, whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, surety or otherwise, which are now or may be at any time hereafter (whether before or at any time after demand) be or become due in any manner by the company to the Finance Parties under the Facilities Agreement and the other Finance Documents (as defined therein);

"Senior Facilities Agreement" means a senior facilities agreement to be made between (amongst others) the Borrowers, certain of the subsidiaries of Whyte & Mackay Group Limited (including the Company) listed therein as obligors, the Bank as Lender, Arranger, Agent, Working Capital Bank, Security Trustee and Account Bank (all as defined therein), the financial institutions listed therein, the Bank using the trading name Bank of Scotland Cashflow Finance, the Bank using the trading name Bank of Scotland Asset Finance and the Hedge Counterparty;

"Specified Insurances" means the Insurances specified in Part 1 of Schedule 2 of the Fixed Charge and Assignment;

"Specified Intellectual Property Rights" means the Intellectual Property Rights specified in Schedule 3 of the Fixed Charge and Assignment;

"Specified Properties" means the freehold or leasehold properties specified in Schedule 1 of the Fixed Charge and Assignment;

"Working Capital Limit" means £25,000,000;

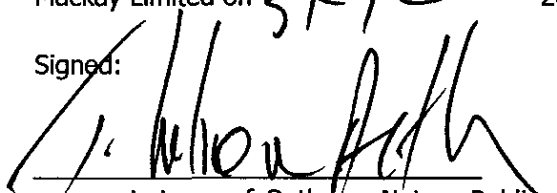
"Working Capital Sub-Limit" means £10,000,000.

The assistance will take the form of the Company entering into the following documents:

- 1 the Fixed Charge and Assignment;
- 2 the Floating Charge;
- 3 the Intercreditor and Security Trust Deed;
- 4 the Intra-Group Loan Agreement; and
- 5 the Senior Facilities Agreement.

This is Annexure A referred to in Form 155(6)b declared by the directors of Whyte and Mackay Limited on 31-1-2005

Signed:



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

Grey Rogers & Company Limited

Company number: SC49866

(the "Company")

Annexure B to Form 155(6)b *OF WHITE AND BLACKHILL LIMITED*

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

- 6 The Fixed Charge and Assignment under which as security for the payment and discharge of the Secured Obligations, the Company, with full title guarantee, and in favour of the Security Trustee:
 - 6.1 (a) charges by way of first legal mortgage, all estates and interests in the Specified Properties and all other freehold or leasehold properties now or hereafter belonging to it together with the premises and the fixtures on and in them, and the Ancillary Rights pertaining to them;
(b) charges by way of first legal charge (to the extent not effectively mortgaged under 1.1(a) above, or any other present or future mortgage in favour of the Security Trustee), all estates and interests in all freehold or leasehold properties now or hereafter belonging to it together with the premises and the fixtures and fittings on and in them and the Ancillary Rights pertaining to them;
 - 6.2 charges by way of first fixed charge, all plant, machinery and other chattels now or hereafter owned by it, and its interest in all plant, machinery and other chattels held by it under any lease, licence, hire or rental contract or other arrangement (excluding any forming part of its stock in trade or work in progress) together with the benefit of all hiring, leasing or rental contracts in respect of any such plant, machinery or chattels hired, leased or rented by it to any other person, and any guarantees, indemnities and Security Interests for the performance of such person's obligations now or hereafter held or enjoyed by it in relation thereto;
 - 6.3 charges by way of first fixed charge all rental income together with the benefit of all guarantees, indemnities, Security Interests and other rights of any nature now or at any future date held or enjoyed by it in relation thereto;
 - 6.4 charges by way of first fixed charge, the Specified Intellectual Property Rights, and all other Intellectual Property Rights now or at any future date owned by it (solely or with others), and its interest in all Intellectual Property Rights now or hereafter held or used by it (solely or with others) under licence, sub licence, franchise or otherwise in any way together with the benefit of all licences, sub licences, franchises and other agreements or arrangements of any nature entered into by it in relation to the use by it or third parties of such Intellectual Property Rights;
 - 6.5 charges by way of first fixed charge all Investments hereafter owned by it or held by any nominee on its behalf, and the Related Rights pertaining to them;
 - 6.6 charges by way of first fixed charge, all monies, whether principal or interest, accrued or accruing, now or at any time hereafter deposited in or otherwise standing to the credit of each bank account of the Company and any other present or future account of the Company with the Security Trustee or any other bank, financial institution or other person, the debts thereby represented, and all other rights and benefits in connection therewith;
 - 6.7 charges by way of first fixed charge (except to the extent the subject of a valid fixed Security Interest under any other provision of the Fixed Charge and

Assignment), all Receivables together with the benefit of all guarantees, indemnities, Security Interests and other rights of any nature now or hereafter held or enjoyed by it in relation thereto;

- 6.8 charges by way of first fixed charge, all loan capital indebtedness now or hereafter due or owing to it by any company which is now or may at any time hereafter be or become a member of the group of companies of which the Company forms part;
- 6.9 charges by way of first fixed charge:
- (a) any beneficial interest, claim or entitlement it may have in any pension fund;
 - (b) the benefit of all statutory or regulatory licences, permissions, consents or authorisations held by it in connection with its business or the use of any Security Asset and any right to payment of compensation thereunder;
 - (c) all sums, realised or recovered by any liquidator or administrator of the Company pursuant to Part VI of the Insolvency Act 1986;
 - (d) its goodwill; and
 - (e) its uncalled capital;
- 6.10 assigns absolutely by way of security, the benefit of and its whole present and future rights and claims under or in respect of, the Specified Insurances and all other Insurances including without limitation, all rights to submit, negotiate and settle claims, and all monies now or hereafter payable thereunder, including return of premiums [Provided that the Company may exercise such rights up until the occurrence of a Senior Enforcement Event (as defined therein) or Mezzanine Enforcement Event (as defined therein) (in each case which is continuing)]; and

the Company shall, promptly after being requested to do so by the Security Trustee, do all such acts and things, give such instructions (in material or dematerialised form) and sign, seal, execute and deliver all such deeds and other documents as the Security Trustee may require (and in such form as the Security Trustee may reasonably require) for perfecting or protecting the Security in respect of the Security Assets or its priority, vesting title to any Security Asset in the Security Trustee or its nominee or any purchaser, or for facilitating the realisation or application of the Security Assets and the exercise of the rights, powers and discretions conferred on the Security Trustee or any receiver under the Fixed Charge and Assignment and in particular, without limiting the foregoing generality:

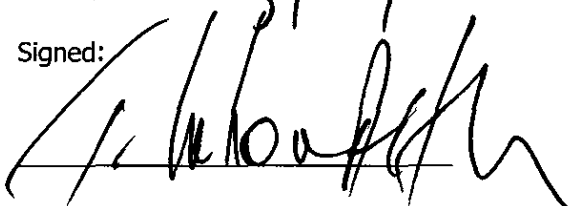
- (a) a mortgage of any freehold or leasehold property now or hereafter owned by it;
- (b) a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any freehold or leasehold property now or hereafter owned by it;
- (c) a chattel mortgage over all or any of its plant, machinery and other chattels; and
- (d) in respect of any of its assets situated outside England and Wales, or governed by any foreign law, such fixed Security Interest under the law of the place where any such asset is situated or such governing foreign law as the Security Trustee may require, in such form as the Security Trustee may require.

- 7 The Floating Charge under which the Company undertakes to the Security Trustee that it will pay and discharge the Secured Obligations in accordance with the Facilities Agreement and the other Finance Documents and:-
- 7.1 in security for the payment and discharge of the Secured Obligations, the Company grants a floating charge in favour of the Security Trustee over the whole of the property (including uncalled capital) which is or may from time to time, while the Floating Charge is in force, be comprised in the property and undertaking of the Company (the "**Secured Assets**"); and
- 7.2 the Company agrees that it shall promptly after being requested to do so by the Security Trustee do all such acts and things and execute and deliver all such documents as the Security Trustee may require for perfecting or protecting the Floating Charge or its priority or for creating such fixed security or charge over any of the Secured Assets as the Security Trustee may request or for facilitating the realisation or application of the Secured Assets and the exercise of the rights, powers and discretions conferred on the Security Trustee or the receiver under the Floating Charge.
- 8 The Intercreditor and Security Trust Deed pursuant to which the Company will:
- (a) acknowledge the arrangements made between the Borrowers (1), certain of the subsidiaries of Whyte and Mackay Group Limited (including the Company) listed therein as Obligors (2), the Bank as Agent, Senior Lender, Account Bank, Arranger and Working Capital Bank and Security Trustee (all as defined therein) (3), the Hedge Counterparty (4), the Bank through the trading name Bank of Scotland Cashflow Finance as Invoice Discounting Facility Provider (as defined therein) (5), the Bank through the trading name Bank of Scotland Asset Finance as Asset Finance Facility Provider (6) and Investec Bank (Channel Islands) Limited as Mezzanine Lender (as defined therein) (7) which regulate (inter alia) the ability of the Company to make payments to certain secured and unsecured lenders;
 - (b) give certain undertakings in relation to the debt owed to it by other Obligors (as defined therein) and in relation to the debt owed by it to the Mezzanine Lender (as defined therein) in order to subordinate the rights relating to such debt to the rights of the Senior Lenders and Working Capital Bank (both as defined therein);
 - (c) waive all and any rights it has to require the Security Interests or any part thereof to be enforced in a particular order or manner or to require the proceeds from enforcement thereof to be applied in a particular order or manner.
- 9 The Intra-Group Loan Agreement whereby the Company, as a lender, may make loans available to the Borrowers. The proceeds of any advance made pursuant to the Intra-Group Loan Agreement are to be used by the Borrowers, amongst other things, to meet their payment obligations under the Finance Documents;
- 10 The Senior Facilities Agreement under which the Company as a guarantor irrevocably and unconditionally jointly and severally:-

- 10.1 guarantees to each Finance Party punctual performance by each Borrower of all that Borrower's obligations under the Finance Documents;
- 10.2 undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, to immediately on demand pay that amount as if it was the principal obligor; and
- 10.3 indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. 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.

This is Annexure B referred to in Form 155(6)b declared by the directors of Whyte and Mackay Limited on 31-1-2005

Signed:



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