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**SHARE PURCHASE AGREEMENT
relating to the acquisition of
WALLACES OF AYR LIMITED**

between

**DAVID STEPHEN COSH
ELIZABETH ANDREW YOUILL COSH
and
BRIAN JAMES CALDER and SUSAN MARY CALDER
AS TRUSTEES OF THE D S COSH TRUST**

and

WALLACES EXPRESS LIMITED

DUNDAS & WILSON CS

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Ref: GAB/GMB/WAL136.0001

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SHARE PURCHASE AGREEMENT

*Certified a true copy
Shudarl Chatter*

BETWEEN:

- (1) **THE PERSONS** whose names and addresses are set out in Part 1 of the Schedule (collectively the "Vendors" and individually a "Vendor"); and
- (2) **WALLACES EXPRESS LIMITED** a company incorporated in Scotland (registered number SC247082) whose registered office is at Crompton Way, North Newmoor Industrial Estate, Irvine, KA11 4HU (the "Purchaser").

RECITALS:

- (A) **WALLACES OF AYR LIMITED** is a private limited company incorporated in Scotland (registered number SC81527) (the "Company") details of which are set out in Part 2A of the Schedule.
- (B) The Vendors are the legal and beneficial owners of, with full right to transfer the legal and beneficial title to, the whole of the issued share capital of the Company in the numbers shown opposite their respective names in column 2 of Part 1 of the Schedule.
- (C) The Vendors have agreed to sell and the Purchaser has agreed to purchase the whole of the issued share capital of the Company on the terms and subject to the conditions of this Agreement.
- (D) The principal executive directors of the Purchaser include two directors, Brian Calder and Christopher Cosh, who are also executive directors of the Company.

THE PARTIES AGREE as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise requires, the following words and phrases have the meanings stated:

Accounts

the audited balance sheet of the Company as at, and the audited profit and loss account and cash flow statement of the Company for the financial period ended on, the Accounts Date, together with the notes to, and the auditors' report on, those accounts, the directors' report and all other documents or statements annexed to or incorporated in those accounts

Accounts Date

31st March 2003

Act

Companies Act 1985

| | |
|-----------------------------|---|
| "A" Shares | the 487,500 "A" ordinary shares of £1 each in the capital of the Company |
| "Ayr Property" | the property at 5 Old Bridge Road, Heathfield, Ayr, KA8 9SX |
| "B" Shares | the 25,658 "B" ordinary shares of £1 each in the capital of the Company |
| Business Day | 9am to 5pm on any day (other than a Saturday or Sunday) on which clearing banks are open for the transaction of normal banking business in Scotland |
| Completion | completion of the sale and purchase of the Shares in accordance with Clause 5 |
| Consideration | the consideration payable for the Shares set out in Clause 4 |
| Consideration Shares | the new "A" ordinary shares of £1 each, "B" ordinary shares of £1 each and "C" ordinary shares of £1 each in the capital of the Purchaser to be allotted and issued credited as fully paid to the Vendors in accordance with Clause 4 |
| Deferred Amount | the sum of £350,000 payable in terms of Clause 4.2 |
| Disclosure Letter | the disclosure letter (together with all the documents attached to it) in the agreed form from the Vendors to the Purchaser signed and delivered immediately prior to the execution of this Agreement |
| Employees | directors or officers of, whether or not employed by the Company, and the employees of the Company |
| Encumbrance | any encumbrance or security interest whatsoever including (without limitation) any charge, mortgage, standard security, floating charge, pledge, hypothec, assignation in security, lien, right of pre-emption, option, right to acquire, conversion right, third party right, interest and claim, right of set-off, right of counterclaim, title retention, conditional sale arrangement, trust arrangement and any other preferential right, agreement or arrangement having similar effect |
| Event | the meaning given in the Tax Covenant |
| Gallaher Guarantee | the guarantee granted by David Cosh, Elizabeth Cosh and Brian Calder in favour of Gallaher Limited in relation to the supply of goods on credit by Gallaher Limited to the Company |
| Imperial Guarantee | the guarantee by David Cosh, Elizabeth Cosh and Brian Calder in favour of Imperial Group plc in relation to the supply of goods on credit by Imperial Group plc to the Company |
| Irvine Property | the meaning given in Part 6 of the Schedule |
| Licence | any licence, consent, permit, certificate, exemption, |

| | |
|--|---|
| | permission or other approval, filing of notification or return, report and assessment, registration or authorisation required for, or in connection with, any part of the business of the Company or its ownership, use, possession or occupation of any asset or the Properties |
| Loan Note Instruments | an instrument in one of the forms set out in Part 7 of the Schedule to be executed by the Purchaser at Completion constituting Unsecured Loan Notes of the Purchaser |
| Loan Notes | loan notes credited as fully paid and constituted by the Loan Note Instruments |
| Pension Scheme | the stakeholder pension scheme provided by Standard Life under scheme reference number J71504 |
| Properties | the properties referred to in Part 6 of the Schedule and references to a Property include a reference to each of the individual Properties |
| Registered Intellectual Property Rights | the following types of property and/or rights as granted in any jurisdiction: (i) patents, (ii) petty patents and utility model rights, (iii) registered trade marks, (iv) registered design rights, and (v) applications for the property/rights listed in items (i) to (iv) (inclusive) above |
| Service Agreements | new Service Agreements between the Company and respectively Brian Calder and Christopher Cosh in the agreed form |
| Shares | the "A" Shares and the "B" Shares in the capital of the Company comprising the whole of the issued share capital of the Company |
| Subsidiary | the subsidiary of the Company details of which are set out in Part 2B of the Schedule |
| Tax | the meaning given in the Tax Covenant |
| Tax Covenant | the tax covenant contained in Part 5 of the Schedule |
| Tax Liability | the meaning given in the Tax Covenant |
| Taxation Authority | the meaning given in the Tax Covenant |
| Taxes Act | Income and Corporation Taxes Act 1988 |
| TCGA | Taxation of Chargeable Gains Act 1992 |
| Trustees | Brian James Calder and Susan Mary Calder as trustees of the D S Cosh Trust |
| VAT | value added tax |
| VATA | Value Added Tax Act 1994 |
| Warranties | the representations, warranties and undertakings contained in Part 4 of the Schedule and references to a Warranty are to be construed accordingly. |

- 1.2 In this Agreement, unless the context otherwise requires:
- 1.2.1 references to any document being in the **"agreed form"** mean that document in the form agreed and, for the purposes of identification only, signed or initialled by or on behalf of the Vendors and the Purchaser;
 - 1.2.2 references to any statute or statutory provision include a reference to:
 - (a) subordinate legislation made from time to time pursuant to that statute or statutory provision (whether before or after the date of this Agreement); and
 - (b) that statute or statutory provision as amended, extended, consolidated and/or re-enacted from time to time (whether before or after the date of this Agreement);
 - 1.2.3 words denoting one gender include all other genders and words denoting the singular include the plural and vice versa;
 - 1.2.4 references to a person include individuals, bodies corporate, unincorporated associations, partnerships, joint ventures, trusts and government departments or agencies, and references to any of the same include the others;
 - 1.2.5 the words **"company"**, **"body corporate"**, **"subsidiary"**, **"holding company"**, **"subsidiary undertaking"**, **"parent undertaking"**, **"group undertaking"** and **"group"** have the meanings set out in sections 735, 740, 736 and 736A, 258, 259 and 262 (as appropriate) of the Act;
 - 1.2.6 references to a company include any company or other body corporate, wherever incorporated or established;
 - 1.2.7 subject to Clause 13 (Assignment), references to the parties include their respective successors and assignees or transferees; and
 - 1.2.8 a person is deemed to be connected with another if that person is so connected within the meaning of section 839 of the Taxes Act.
- 1.3 References to Clauses or the Schedule and the Parts of the Schedule are to clauses of, or the schedule and parts of the schedule to, this Agreement.
- 1.4 The Schedule forms an integral part of this Agreement and references to this Agreement include the Schedule to this Agreement.
- 1.5 The headings to the Clauses are for convenience only and do not affect the construction or interpretation of this Agreement.

- 1.6 Any statement which refers to the knowledge, information, belief or awareness of the Vendors or any similar expression is deemed to include an additional statement that it has been made after due and careful consideration and after having made full and diligent enquiry of all persons having knowledge of the relevant matters including, where appropriate, professional advisers and experts.
- 1.7 The ejusdem generis rule of construction does not apply to this Agreement and accordingly the meaning of general words is not to be restricted by any particular examples preceding or following those general words.
- 1.8 All warranties, representations, undertakings, indemnities, covenants, agreements and obligations given or made by two or more persons in, and/or pursuant to, this Agreement shall, except where the contrary is expressly stated, be deemed to be given or made by such persons severally.
- 1.9 References to any Scottish legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than Scotland be deemed to include what most nearly approximates in that jurisdiction to the Scottish legal term.

2 SALE AND PURCHASE OF SHARES

- 2.1 Each Vendor agrees to sell as beneficial owner (in the case of the Trustees as trustees) the number of Shares shown opposite his name in column 2 of Part 1 of the Schedule and the Purchaser agrees to purchase the Shares and each right attaching to the Shares at or after the date of this Agreement free of all Encumbrances.
- 2.2 The Purchaser shall not be obliged to complete the purchase of any of the Shares unless the purchase of all the Shares is completed simultaneously.
- 2.3 Each Vendor irrevocably waives and undertakes to procure the waiver of all rights of pre-emption and all other restrictions whatsoever on transfer over or in respect of the Shares or any of them to which he, she or any other person may be entitled under the articles of association of the Company or otherwise.

3 CONDITION

- 3.1 Completion is conditional upon and subject to the Purchaser having sufficient authorised share capital to issue the Consideration Shares on or before the date set for Completion in Clause 5.1 (Completion).

4 **CONSIDERATION**

4.1 The consideration for the purchase of the Shares payable by the Purchaser to the Vendors is to be satisfied by:

4.1.1 £17,520,000 in cash (the "**Cash Consideration**") (which for the avoidance of doubt includes the Deferred Amount) to be apportioned and divided between the Vendors, the amount to be paid to each Vendor and the number of Shares to which this part of the Consideration relates being shown opposite the name of such Vendor in column 3 of Part 1 of the Schedule;

4.1.2 the allotment and issue of the Consideration Shares, the number of such Consideration Shares to be issued to each Vendor and the number of Shares to which this part of the consideration relates being shown opposite the name of such Vendor in column 4 of Part 1 of the Schedule; and

4.1.3 the allotment and issue of Loan Notes having an aggregate amount at Completion of £7,330,000, the amount of such Loan Notes to be issued at Completion to each Vendor and the number of Shares to which this part of the consideration relates being shown opposite the name of such Vendor in column 5 of Part 1 of the Schedule.

4.2 The Irvine Property will be valued after Completion ("**the New Valuation**") and the following provisions shall have effect:-

4.2.1 if the New Valuation is less than £1.28 million, the difference ("**the Difference**") between the New Valuation and £1.28 million shall be deducted from the Deferred Amount and the balance of the Deferred Amount will be available to be paid in cash to David Cosh, which balance will be paid on demand to David Cosh (or in the absence of such demand, by the date occurring 18 months after the date of Completion). The Difference will be deemed to be added on to the amount of Loan Notes due by the Purchaser to David Cosh and will be repayable on the same terms as the other Loan Notes issued to David Cosh;

4.2.2 if the New Valuation is equal to or more than £1.28 million, the Deferred Amount shall be available to be paid in cash to David Cosh, which shall be paid, on demand, to David Cosh (or in the absence of such demand, by the date occurring 18 months after the date of Completion).

The Deferred Amount, until paid or converted into Loan Notes as set out above shall attract interest at the rate of 1% above the base lending rate of Clydesdale Bank plc from time to time from the date of Completion until the date of payment. Such interest will be paid quarterly in arrears on the Interest Payment Dates as specified in the Loan Note Instruments and on the other terms specified in Condition 2 of the Loan Note Instruments. For the avoidance of doubt, the provisions of this Clause 4.2 shall not prevent the transfer to the Purchaser of the Shares shown

opposite the name of such Vendor in column 2 of Part 1 of the Schedule at Completion in accordance with Clause 5.

- 4.3 The Consideration Shares shall rank *pari passu* in all respects with the shares in the capital of the Purchaser of the same class then in issue.

5. COMPLETION

- 5.1 Completion shall take place at such place as the parties may agree immediately after signing of this Agreement when all of the business referred to in Clauses 5.2 to 5.4 (inclusive) shall take place.

- 5.2 At Completion the Vendors shall deliver or make available to the Purchaser each of the items set out in Part 3 of the Schedule (Completion Documents).

- 5.3 At Completion the Vendors shall procure that a board meeting of the Company is held at which the directors:

5.3.1 approve for registration the transfers of the Shares to the Purchaser or its nominee(s) and the entry of the transferee(s) in the register of members of the Company (subject only to the transfers being subsequently presented duly stamped);

5.3.2 revoke the existing mandate for the operation of the bank accounts of the Company in favour of David Stephen Cosh and issue new mandates giving authority to those persons nominated by the Purchaser;

5.3.3 accept the resignations referred to in paragraph 4 of Part 3 of the Schedule (Completion Documents) and appoint Iain Meikle as the secretary of the Company with effect from the end of the meeting; and

5.3.4 approve and execute on behalf of the Company the Service Agreements in the agreed form,

and at which the chairman of such meeting signs the board minutes of that meeting in the agreed form.

- 5.4 At Completion the Vendors shall procure that a board meeting of the Subsidiary is held at which the directors:-

5.4.1 approve for registration the transfers of any shares in the Subsidiary referred to in paragraph 2 of Part 3 of the Schedule (subject only to the transfers being subsequently presented duly stamped); and

- 5.4.2 accept the resignations referred to in paragraph 4 of Part 3 of the Schedule in respect of the Subsidiary and appoint the persons nominated by the Purchaser as directors and the secretary of the Subsidiary with effect from the end of the meeting.
- 5.5 Upon completion of the matters referred to in Clauses 5.2 to 5.4 (inclusive) the Purchaser shall:
- 5.5.1 deliver a copy, certified to be a true copy by a director or secretary of the Purchaser, of a resolution of the Purchaser's board of directors (or an authorised committee of that board) authorising the execution and completion of this Agreement;
- 5.5.2 pay the Cash Consideration less the Deferred Amount to Dundas & Wilson who shall receive the same on behalf of the Vendors and whose receipt shall be an absolute discharge to the Purchaser of its obligations to pay such amount;
- 5.5.3 allot and issue the Consideration Shares; and
- 5.5.4 issue the Loan Notes and deliver duly executed Loan Note Instruments to the Vendors.

6. WARRANTIES

- 6.1 Each of the Vendors (with the exception of the Trustees) jointly and severally represents, warrants and undertakes to the Purchaser that:
- 6.1.1 they are the sole legal and beneficial owner of the number of Shares shown opposite their respective names in column 2 of Part 1 of the Schedule and have the full power, right and authority to enter into and perform this Agreement and to transfer as beneficial owner the legal and beneficial ownership of such number of Shares to the Purchaser on the terms of this Agreement without the consent of any third party; and
- 6.1.2 there is no Encumbrance on, over or relating to any of the Shares held by such Vendor specified in Clause 6.1.1 and, other than this Agreement, there is no agreement or arrangement to give or create any such Encumbrance and no person has or has claimed the right to an Encumbrance on, over or relating to any of such Shares;
- 6.2 The Trustees hereby jointly and severally represent, warrant and undertake to the Purchaser that:-
- 6.2.1 they are the sole legal and Brian Calder is the sole beneficial owner of the number of Shares shown opposite their names in column 2 of Part 1 of the Schedule and have the full power, right and authority to enter into and perform this Agreement and to transfer the legal and beneficial ownership of such number of Shares to the Purchaser on the terms of this Agreement without the consent of any third party;

- 6.2.2 there is no Encumbrance on, over or relating to the Shares held by such Trustees and, other than this Agreement there is no agreement or arrangement to give or create any such Encumbrance and no person has or has claimed the right to an Encumbrance on, over or relating to any of the Shares held by them.
- 6.3 Each of the Vendors jointly and severally represents, warrants and undertakes that:-
- 6.3.1 the Shares constitute the whole of the allotted and issued share capital of the Company and are fully paid or credited as fully paid;
- 6.3.2 there is no Encumbrance on, over or relating to any of the unissued shares, debentures, loan capital or other securities of the Company and there is no agreement or arrangement to give or create any such Encumbrance and no person has or has claimed the right to an Encumbrance on, over or relating to any of the unissued shares, debentures, loan capital or other securities of the Company or otherwise has or has claimed the right to call for the allotment, issue or transfer of any shares, debentures or other securities in the capital of the Company whether exercisable now or in the future and whether or not contingent;
- 6.3.3 the information contained in Part 2A and Part 2B of the Schedule is true and accurate and not misleading;
- 6.3.4 save as fairly disclosed in the Disclosure Letter, each Warranty is true, complete and accurate in all respects and not misleading in any respect at the date of this Agreement.
- 6.4 David Cosh hereby represents, warrants and undertakes to the Purchaser that:-
- 6.4.1 he is not aware of any person who is or who has during the preceding 12 months been a substantial customer of or supplier of goods or services to the Company, who has threatened to or indicated an intention to cease trading with or supplying the Company or who has reduced or has threatened to or indicated an intention to reduce substantially its trading with or supply to the Company;
- 6.4.2 he has not received any indication from any third parties that the actions or prices of customers, suppliers and employees with regard to the Company will be prejudicially affected by the execution or completion of this Agreement; and
- 6.4.3 he has intimated to either or both of Brian Calder and Christopher Cosh any information material to the business of the Company (including, without limitation, any claims

threatened or made against the Company) which has come to his attention in the preceding 6 months.

- 6.5 Each Vendor acknowledges that the Purchaser is entering into this Agreement in reliance upon the Warranties and (to the extent they are potentially liable thereunder) the provisions of Clauses 6.1 to 6.4 (inclusive).
- 6.6 Each of the Warranties and each of the provisions of Clauses 6.1 to 6.4 (inclusive) shall be construed as a separate and independent representation, warranty and undertaking such that the Purchaser shall have a separate claim and right of action for every breach of each such representation, warranty and undertaking.
- 6.7 To the extent that any Warranty Claim arises under paragraph 1.5 of Part 4 of the Schedule in relation to any taxation payable by the Subsidiary then this claim shall be treated for the purposes of Clause 7, as if it were a Tax Claim.

7. LIMITATIONS ON LIABILITY

- 7.1 Subject to Clause 7.2, the Vendors' liability under Clauses 6.1 to 6.4 (inclusive), the Warranties and under the Tax Covenant shall be limited as follows:

7.1.1 no claim for breach of any Warranty or provision of Clause 6.4 may be made unless and until the aggregate liability for all claims under this Agreement (including all previous claims, whether or not satisfied, and costs) equals or exceeds £175,500 although once such limit is reached or exceeded the full amount of all such claims and any other claims shall be recoverable;

7.1.2 notwithstanding any other provision of this Agreement, the maximum aggregate liability of each of the Vendors under Clauses 6.1 to 6.4 (inclusive) (to the extent only that any of the Vendors are liable thereunder), the Warranties and the Tax Covenant (excluding costs and interest) shall be limited to the figure set opposite his, her or its name below:-

| Name of Vendor | Limit |
|---|--------------|
| David Stephen Cosh | £9,950,850 |
| Elizabeth Andrew Youill Cosh | £7,042,815 |
| Brian James Calder and Susan Mary Calder as Trustees of the D S Cosh Trust | £556,335 |

- 7.1.3 no claim for breach of the Warranties (a "Warranty Claim") or under the Tax Covenant (a "Tax Claim"):
- (a) in the case of a Warranty Claim (otherwise than in relation to Tax) shall be made unless the Warranty Claim has been notified in writing to the Vendors within 18 months of Completion; and
 - (b) in the case of a Warranty Claim in relation to Tax or a Tax Claim shall be made unless such Warranty Claim or Tax Claim (as the case may be) has been notified in writing to the Vendors on or before the seventh anniversary of Completion; and
 - (c) shall be made unless legal proceedings in connection with the Warranty Claim or Tax Claim under Clauses 7.1.3(a) and (b) are commenced respectively within 12 months after the expiry of the respective periods in Clauses 7.1.3(a) and (b);
- 7.1.4 the Vendors shall not be liable for any Warranty Claim if and to the extent that the Warranty Claim has previously been satisfied pursuant to the Tax Covenant or any other provision of this Agreement;
- 7.1.5 the Vendors shall not be liable for any Warranty Claim if and to the extent that the subject matter of the Warranty Claim was known to Brian Calder or Christopher Cosh prior to Completion; and
- 7.1.6 the Vendors shall not be liable in respect of a Warranty Claim or a Tax Claim if:
- (a) it would not have arisen but for some act or transaction done or omitted to be done after Completion by the Purchaser or the Company or their respective directors, employees or agents or successors in title which is outside the normal course of business of the Company, save where such act or transaction is a result of a legally binding obligation entered into before Completion or is done or omitted to be done with the prior written approval of the Vendors;
 - (b) it arises or is increased as a result only of (i) an increase or change in rates, or incidence, of Tax after Completion; or (ii) the passing of any legislation, or the making of any subordinate legislation, after Completion; or (iii) any change in accounting or Tax policy or practice of the Purchaser or the Company introduced or having effect after Completion except in so far as such charge is to comply with generally accepted accounting principles prevailing at the end of the relevant accounting period where such accounts do not already so comply;
 - (c) except in relation to a Tax Claim, the loss to which it relates is actually recovered under any policy of insurance effected by the Company;

- (d) it is based upon a liability which is contingent (unless and until such contingent liability becomes an actual liability and is due and payable); and
- (e) except in relation to a Tax Claim, to the extent that it relates to any matter specifically provided for or for which a specific reserve was made or included as a liability in the Accounts;

7.2 If the Vendors pay to the Purchaser an amount in respect of any Warranty Claim and the Purchaser or the Company subsequently recovers or becomes entitled to recover from a third party a sum which is referable to that Warranty Claim, the Purchaser shall (or, as the case may be, shall procure that the Company shall) promptly repay (or take all reasonable steps to recover and subsequently repay) to the Vendors any sums paid by the Vendors in respect of that Warranty Claim (net of the costs of recovery paid by the Purchaser and/or the Company or their agents or successors in title) up to a maximum of the total amount paid by the Vendors in respect of that Warranty Claim.

7.3 The Purchaser will (and shall procure that the Company will):

7.3.1 take all reasonable steps and give all reasonable assistance to avoid or mitigate any loss or liability which gives or might give rise to a Warranty Claim;

7.3.2 as soon as reasonably practicable notify the Vendors in writing of any claim or matter which gives or may give rise to a Warranty Claim or a Tax Claim;

7.3.3 disclose in writing to the Vendors all information and documents in its possession, custody or power relating to any Warranty Claim or Tax Claim or to any claim or matter which may give rise to a Warranty Claim or Tax Claim and which may reasonably be requested by the Vendors; and

7.3.4 if any such Warranty Claim or Tax Claim or claim or matter is connected with a claim by, or a liability to, a third party, take all such action as the Vendors may reasonably require to avoid, resist, contest or compromise any relevant claim or any claim or matter which may give rise to a Warranty Claim or Tax Claim, subject to being indemnified by the Vendors against all costs, charges and liabilities which the Purchaser or the Company may incur in so doing.

7.4 The Purchaser shall not be entitled to recover damages or otherwise obtain reimbursement or restitution under or in connection with this Agreement to the extent that it has already recovered such sum from any or all of the Vendors in respect of the same circumstances.

7.5 None of the limitations contained in Clause 7.1 applies to:

7.5.1 any Warranty Claim where any of the Vendors or the Company has acted fraudulently;
or

- 7.5.2 any Warranty Claim or a Tax Claim where any Taxation Authority alleges fraud or conduct involving dishonesty on the part of any of the Vendors or the Company or any person acting on behalf of any of them in relation to the matter giving rise to the claim.
- 7.6 Any payments made pursuant to a Warranty Claim or Tax Claim shall as far as possible be treated as an adjustment to the Consideration paid by the Purchaser for the Shares under the terms of this Agreement.
- 7.7 Where the Vendors (or any of them) are jointly and severally liable in respect of any claim made under this Agreement (including, without limitation, the Tax Covenant) (in this Clause 7.7, a **"Relevant Claim"**) each of the Vendors hereby undertakes to each of the other Vendors and agrees that:-
- 7.7.1 he will comply in all respects with the provisions of this Clause 7.7 and will not make any admission of liability or take any other action with regard to any Relevant Claim, except strictly in accordance with the provisions of this Clause 7.7;
- 7.7.2 as soon as he becomes aware of a Relevant Claim he shall as soon as reasonably practicable advise any other Vendor with whom he is jointly and severally liable as to the existence of such Relevant Claim and provide to them all such details and information relating to that Relevant Claim as may be in his possession or within his knowledge. Once appraised of the existence of any Relevant Claim each of the Vendors potentially liable in respect of the Relevant Claim (the **"Relevant Vendors"**) shall ensure to the furthest practicable extent that each of the other Vendors obtains all relevant information pertaining thereto, and is briefed as to all relevant facts;
- 7.7.3 the Relevant Vendors shall, as soon as reasonably practicable after they have received information regarding the existence of any Relevant Claim, meet (or otherwise contact and communicate with one another) to discuss and resolve whether the Relevant Claim should be settled, defended, resisted or compromised;
- 7.7.4 any decision taken by David Cosh (or his successors or assignees) (whether at a meeting or otherwise) with regard to the handling of a Relevant Claim including the settlement, defence, resistance or compromise thereof shall be binding on all of the Relevant Vendors. Such decision shall be sufficiently evidenced and recorded by a written minute duly signed by David Cosh (or his successors or assignees). The costs incurred in connection with the handling of the Relevant Claim and any liability for any Relevant Claim and costs in connection therewith shall be met by the Relevant Vendors in accordance with Clause 7.7.6 of this Agreement;
- 7.7.5 in the event of a Relevant Claim being made, the Vendor or Vendors against whom such Relevant Claim is made shall enjoy rights of relief against the other Relevant Vendors to

the intent that the liability *inter se* of the Relevant Vendors in relation to the Relevant Claim shall be in accordance with Clause 7.7.6 of this Agreement;

- 7.7.6 each of the Relevant Vendors undertakes as principal obligant to each other to contribute towards any liability for any Relevant Claim and the costs related thereto in such proportions as each Relevant Vendor's individual maximum liability (referred to at Clause 7.1.2) bears to the aggregate maximum liability (referred to at Clause 7.1.2) of the Relevant Vendors;
- 7.7.7 each of the Relevant Vendors shall be liable to pay their respective contributions agreed in terms of this Clause 7.7 within five Business Days of the date upon which the liability for such Relevant Claim is agreed in accordance with this Agreement. Interest shall accrue on any sums not contributed on the relevant due date at the rate of 2.5% per annum above the base rate from time to time of Clydesdale Bank plc;
- 7.7.8 any sums subsequently reimbursed by the Purchaser, the Company or any subsidiary thereof of any of them to any of the Relevant Vendors in respect of a Relevant Claim shall be shared in the same proportions specified in Clause 7.7.6 within 5 Business Days of receipt. The costs incurred in connection with the obtaining of any such reimbursement shall be met by the Relevant Vendors in accordance with Clause 7.7.6 of this Agreement. Interest shall accrue on any sums not reimbursed on the relevant due date at the rate of 2.5% per annum above the base rate from time to time of Clydesdale Bank plc;
- 7.7.9 the rights and obligations of the Vendors under this Clause 7.7 shall transmit to and be binding upon their respective heirs, successors and executors.

8. TAX COVENANT AND INDEMNITY

- 8.1 The provisions of Part 5 of the Schedule (Tax Covenant) apply in relation to Tax.
- 8.2 The Purchaser hereby undertakes (a) forthwith following Completion to procure that David Cosh and Elizabeth Cosh are released from any liability under the Imperial Guarantee and the Gallaher Guarantee and (b) to indemnify and keep indemnified David Cosh and Elizabeth Cosh in respect of any amount, expense, costs, loss, claim, demand or other liability whatsoever reasonably incurred by the said David Cosh and/or the said Elizabeth Cosh or on their respective behalf (including all legal fees and expenses on a solicitor and own client basis) (in each case) arising in connection with the Imperial Guarantee or the Gallaher Guarantee.

9. **DECLARATION OF TRUST**

Each of the Vendors declares that so long as he or she remains the registered holder of any of the Shares he or she shall with effect from Completion:

- 9.1 hold such Shares and the dividends and other distributions (if any) and all rights arising out of or in connection with such Shares in trust for the Purchaser;
- 9.2 at all times deal with and dispose of such Shares, dividends, distributions and rights as the Purchaser shall direct; and
- 9.3 at the request of the Purchaser attend and vote at all meetings which he or she is or becomes entitled to attend as the registered holder of the Shares in such manner as the Purchaser shall have previously determined and, if requested by the Purchaser, execute all instruments of proxy or other documents which may be necessary or proper to enable the Purchaser or its nominees to attend and vote at any such meeting and to this extent each of the Vendors hereby appoints any director of the Purchaser as his or her attorney with full power to execute the aforesaid instruments of proxy or such other documents.

10. **FURTHER ASSURANCE**

At all times (whether before or after Completion) each Vendor shall (at his or her own cost and expense) do or procure to be done all acts and things and/or execute or procure the execution of all documents required of him or her by the Purchaser to vest in the Purchaser or its nominee(s) the Shares and to give the Purchaser the full benefit of the provisions of this Agreement.

11. **TIME OF THE ESSENCE**

Time is of the essence of this Agreement both as regards any time, date or period specified in this Agreement and as regards any time, date or period which may be substituted for them in accordance with this Agreement or by agreement in writing between the Vendors and the Purchaser.

12. **NOTICES**

- 12.1 Any notice or other communication (a "notice") given under, or in connection with, this Agreement shall be in writing, signed by a person duly authorised by the sending party and shall be addressed to the party to which the notice is to be sent, as set out below:

- 12.1.1 for notices to a Vendor, to the address given for that Vendor in Part 1 of the Schedule or at such other address as he or she may from time to time have notified to the other parties in accordance with this Clause; and

12.1.2 for notices to the Purchaser:

| | |
|---------------------|---|
| Title of recipient: | Company secretary |
| Address: | the Purchaser's registered office from time to time |

12.2 Notices may be delivered personally or sent by first class pre-paid recorded delivery or registered post (or by air mail to an address outside the United Kingdom) to the party to be served at its address set out in this Agreement or at such other address notified from time to time by that party by written notice to the other parties.

12.3 In the absence of evidence of earlier receipt, and subject to Clause 12.4, a notice shall be deemed to have been served:

12.3.1 if delivered personally, when left at the address of the relevant party; and

12.3.2 if sent by first class post, two Business Days after posting it or, if sent by air mail, five Business Days after posting it.

12.4 If a notice or communication is given or deemed to have been given on a non-Business Day it shall be deemed to have been served on the next Business Day.

13. **ASSIGNATION**

Neither the Vendors nor the Purchaser shall assign or transfer, or purport to assign or transfer, any of their rights or obligations arising under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

14. **COSTS**

The Purchaser shall pay each party's costs, charges and expenses in relation to the negotiation, preparation, execution and implementation of this Agreement, save that PricewaterhouseCoopers' costs, charges and expenses in relation to its advice to the Vendors shall be paid by the Vendors.

15. **ENTIRE AGREEMENT**

This Agreement (together with the documents referred to in it or executed at Completion) constitutes the entire agreement and understanding between the parties with respect to its subject matter and replaces and supersedes all prior oral and written agreements, understandings, representations and correspondence regarding such subject matter.

16. VARIATION

No variation of this Agreement or any of the documents in the agreed form shall be effective unless made in writing and signed by or on behalf of each of the Vendors and the Purchaser.

17. SURVIVAL OF PROVISIONS

Notwithstanding Completion, the provisions of this Agreement (and in particular, without limitation, the Warranties and the Tax Covenant) shall, to the extent that they remain to be performed or are capable of subsisting, remain in full force and effect and shall be binding on, and enforceable by, each of the Vendors and the Purchaser or their respective successors or assignees.

18. INVALIDITY

18.1 If a provision of this Agreement is held to be illegal, invalid or unenforceable such provision shall, to that extent, be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

18.2 If a liability of one or some but not all of the Vendors is or becomes illegal, invalid or unenforceable in any respect that shall not affect the liabilities of the other Vendors under or pursuant to this Agreement.

19. WAIVERS

19.1 No failure to exercise, and no delay in exercising, any right or remedy in connection with this Agreement shall operate as a waiver of that right or remedy. No single or partial exercise of any right or remedy under this Agreement shall preclude any other or further exercise of that right or remedy or the exercise of any other right or remedy. A waiver of any breach of this Agreement shall not be deemed to be a waiver of any subsequent breach.

19.2 Notwithstanding any rule of law or equity to the contrary, a release, waiver or compromise or other arrangement or indulgence which the Purchaser agrees to or effects in relation to one of the Vendors under or in connection with this Agreement shall not affect the Purchaser's rights or remedies as regards any of the other Vendors.

19.3 The Purchaser's rights and remedies under this Agreement are cumulative and are not exclusive of any other rights or remedies provided by law.

20. **GOVERNING LAW AND JURISDICTION**

20.1 This Agreement shall be governed by and construed in accordance with the law of Scotland.

20.2 Each of the Vendors and the Purchaser irrevocably agree that the courts of Scotland shall have jurisdiction in relation to any matters arising out of, or in connection with, this Agreement and, for those purposes, irrevocably prorogate the exclusive jurisdiction of those courts.

IN WITNESS WHEREOF this Agreement typewritten on this and the preceding 17 pages, together with the Schedule in 7 parts annexed, is executed in duplicate as follows:

SUBSCRIBED by **DAVID STEPHEN COSH**

at **GLASGOW** on **5 DECEMBER 2003**

in the presence of:

Signature of Witness: 

Full name: **GRAEME MURRAY BRUCE**

Address: **191 WEST GEORGE STREET**

GLASGOW G2 2LD

SUBSCRIBED by **ELIZABETH ANDREW**

YOUILL COSH at **GLASGOW**

on **5 DECEMBER 2003**

in the presence of:

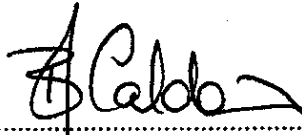
Signature of Witness: 

Full name: **GRAEME MURRAY BRUCE**

Address: **191 WEST GEORGE STREET**

GLASGOW G2 2LD

SUBSCRIBED by BRIAN JAMES CALDER and
SUSAN MARY CALDER as TRUSTEES of the
D S COSH TRUST
at GLASGOW on 5 DECEMBER 2003
in the presence of:


Susan M. Calder

Signature of Witness: 

Full name: GRAEME MURRAY BRUCE

Address: 191 WEST GEORGE STREET
GLASGOW G2 2LD

SUBSCRIBED for and on behalf of WALLACES EXPRESS LIMITED
at GLASGOW on 5 DECEMBER 2003
by:

Director: 

Full Name: BRIAN JAMES CALDER

Director/Secretary: 

Full Name: CHRISTOPHER COSH

THE SCHEDULE
PART 1
THE VENDORS

This is the Schedule in 7 parts referred to
in the Share Purchase Agreement
between David Stephen Cosh and Others
and Wallaces Express Limited dated
2003

| (1) | (2) | (3) | (4) | (5) |
|---|-----------------------------------|------------------------------|--------------------------------|----------------------|
| Vendor's Name and Address | Numbers of Shares | Amount of Cash Consideration | Number of Consideration Shares | Amount of Loan Notes |
| David Stephen Cosh Fenwick Lodge 18 Ewenfield Road Ayr KA7 2QB | 145,790 "A" Shares | £7,386,656 | | |
| | 4,934 "A" Shares | | 250,000 | |
| | 136,776 "A" Shares | | | £6,930,000 |
| | (in aggregate 287,500 "A" Shares) | | | |
| Elizabeth Andrew Youill Cosh Fenwick Lodge 18 Ewenfield Road Ayr KA7 2QB | 200,000 "A" Shares | £10,133,344 | NIL | NIL |
| Brian James Calder and Susan Mary Calder as Trustees of the D S Cosh Trust (the beneficial holder of the "B" Shares being Brian James Calder) 3 Shalloch Park Ayr KA7 4HL | | NIL | | |
| | 14,254 "B" Shares | | 500,000 | |
| | 11,404 "B" Shares | | | £400,000 |
| | (in aggregate 25,658 "B" Shares) | | | |

PART 2A
THE COMPANY
WALLACES OF AYR LIMITED

| | |
|--|--|
| 1. Registered number | SC81527 |
| 2. Date and place of incorporation | 26 January 1983, Scotland |
| 3. Previous company names | MILZ Limited |
| 4. Principal trading business | Wholesale alcoholic and other drinks |
| 5. Authorised share capital | £513,158 divided into 487,500 "A" Ordinary Shares of £1 each and 25,658 "B" Ordinary Shares of £1 each |
| 6. Issued share capital | £513,158 divided into 487,500 "A" Ordinary Shares of £1 each and 25,658 "B" Ordinary Shares of £1 each |
| 7. Shareholders' names and holdings | David Stephen Cosh – 287,500 "A" Ordinary Shares of £1 each Elizabeth Andrew Youill Cosh – 200,000 "A" Ordinary Shares of £1 each Brian James Calder and Susan Mary Calder as Trustees of the D S Cosh Trust – 25,658 "B" Ordinary Shares of £1 each |
| 8. Directors' names and addresses | Brian James Calder, 3 Shalloch Park, Ayr, KA7 4HL Christopher Cosh, 15 Doonview Gardens, Doonfoot, Ayr, KA7 4HZ David Stephen Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB Elizabeth Andrew Youill Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB |
| 9. Secretary's name and address | Elizabeth Andrew Youill Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB |
| 10. Accounting reference date | 31 March |
| 11. Auditors | Robert J. Hart & Co, Chartered Accountants and Registered Auditors, Riversleigh, 9 Kilwinning Road, Irvine, Ayrshire, KA12 8RR |
| 12. Bank account details | Clydesdale Bank plc, 43 Alloway Street, Ayr |
| 13. Charges | Floating Charge in favour of Clydesdale Bank Public Limited Company dated 25 July 1989 and registered 2 August 1989 |

PART 2B
THE SUBSIDIARY
WATERFOX LIMITED

| | |
|--|--|
| 1. Registered number | SC163124 |
| 2. Date and place of incorporation | 5 February 1996, Scotland |
| 3. Previous company names | None |
| 4. Principal trading business | Non-trading company |
| 5. Authorised share capital | £100 divided into 100 Ordinary Shares of £1 each |
| 6. Issued share capital | £100 divided into 100 Ordinary Shares of £1 each |
| 7. Shareholders' names and holdings | Wallaces of Ayr Limited – 99 Ordinary Shares of £1 each Elizabeth Andrew Youill Cosh – 1 Ordinary Share of £1 |
| 8. Directors' names and addresses | David Stephen Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB Elizabeth Andrew Youill Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB |
| 9. Secretary's name and address | Elizabeth Andrew Youill Cosh, Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB |
| 10. Accounting reference date | 31 March |
| 11. Auditors | Robert J. Hart & Co, Chartered Accountants and Registered Auditors, Riversleigh, 9 Kilwinning Road, Irvine, Ayrshire, KA12 8RR |
| 12. Bank account details | Clydesdale Bank plc, 43 Alloway Street, Ayr |
| 13. Charges | None |

PART 3
COMPLETION DOCUMENTS (Clause 5.2)

- 1 Duly executed transfers of the Shares in favour of the Purchaser or its nominee(s) together with the relevant share certificates (or an indemnity in a form satisfactory to the Purchaser in the case of any missing certificates).
- 2 Duly executed transfers of all shares in the capital of the Subsidiary not registered in the name of the Company in favour of the Purchaser or its nominee(s) together with the relevant share certificates (or an indemnity in a form satisfactory to the Purchaser in the case of any missing certificates).
- 3 Duly executed powers of attorney conferring authority on each person signing this Agreement and the documents referred to in this Agreement on behalf of each Vendor.
- 4 The resignations in the agreed form of David Stephen Cosh and Elizabeth Andrew Youill Cosh as directors and Elizabeth Andrew Youill Cosh as secretary from their respective offices and employment in the Company and the Subsidiary.
- 5 The statutory books of the Company duly written up to date as at immediately prior to Completion, its certificate of incorporation and certificates of incorporation on change of name (if any) and its common seal.
- 6 All financial and accounting books and documents of record of the Company.
- 7 Copies of all bank mandates given by the Company and all current cheque books of the Company.
- 8 A letter from Clydesdale Bank plc in a form satisfactory to the Purchaser confirming that none of the floating charges created in its favour by the Company has crystallised and that none will crystallise as a result of Completion.
- 10 All documents of title relating to investments owned by the Company.

PART 4
WARRANTIES (Clause 6)

1 CORPORATE MATTERS

- 1.1 The Company is a limited company incorporated under the law of Scotland and has been in continuous existence since incorporation.
- 1.2 There has been due compliance with the provisions of the Act and all other legal requirements in connection with the formation of the Company and the conduct of its business and with the allotment and issue of shares, debentures and other securities and the payment of distributions and no notice or allegation has been received that any of the foregoing is incorrect or should be rectified.

Share and loan capital

- 1.3 The Company has never reduced its share capital or redeemed, repaid or purchased any of its share capital or agreed to do so.
- 1.4 The Company has no outstanding loan capital and there is no agreement, arrangement or option under which any person may now or at any time call for the creation, allotment, issue, sale or transfer of any loan or share capital of the Company or require any loan or share capital of the Company to be put under option.

Subsidiaries

- 1.5 Save for and in respect of its interest in the Subsidiary, the Company does not have any subsidiary undertakings and is not part of a group for any Taxation purpose. The Subsidiary is a non-trading company and is and has since incorporation been dormant (within the meaning of Section 249AA of the Companies Act 1985). The Subsidiary has no assets and does not have any liabilities of any sort, contingent or otherwise.
- 1.6 The Company has never been a subsidiary undertaking of any person.

Branch

- 1.7 The Company does not have any branch, agency, place of business or permanent establishment outside the United Kingdom and does not use or have on its business stationery, books, vehicles or advertisements, or otherwise conduct its business under, any name other than its corporate name and Wallaces Express.
- 1.8 The Company does not carry on business in partnership with any other person and has not agreed to acquire an interest in, or to become a member of, any other person, joint venture,

consortium, technical assistance agreement, trade association or society, European Economic Interest Group or other profit or income sharing agreement or arrangement.

Authority to bind

- 1.9 No person other than the directors of the Company acting as a board of directors of the Company is authorised to act as agent for the Company or to bind the Company.
- 1.10 The Company has not given any person any power of attorney or any other authority (express, implied or ostensible) which remains effective to enter into any commitment on its behalf (other than to Employees to enter into routine trading contracts in the usual course of their duties).
- 1.11 No person is or has been a shadow director of the Company within the meaning of section 741(2) of the Act and the Company does not control or take part (nor has it agreed to do so) in the management of any other person.

2 CAPACITY

- 2.1 This Agreement (and the other documents to be executed in accordance with it) constitute, or will when executed constitute, binding obligations of the Vendors in accordance with their terms.
- 2.2 Each Vendor and the Company has the requisite power, right and authority to enter into and perform the obligations to be assumed or performed by it in accordance with this Agreement and the other documents to be executed in accordance with it.
- 2.3 Neither the execution nor the delivery nor the performance of this Agreement (or any document to be executed in accordance with it) will result in:
 - 2.3.1 a breach of any provision of the memorandum or articles of association of the Company; or
 - 2.3.2 a breach of, or constitute a default under, or require the consent of a person under, any agreement or arrangement to which the Company is bound; or
 - 2.3.3 any party to an agreement or arrangement with the Company being relieved of any of its obligations or entitled to terminate any such agreement or arrangement; or
 - 2.3.4 a breach of the terms of any Licence, judgment, order or declaration of, or undertaking to, any court or governmental agency or regulatory body by which any Vendor or the Company is bound; or

- 2.3.5 any Licence being revoked, cancelled, suspended, varied or not renewed or the Company losing the benefit of any asset, grant, subsidy, right or benefit which it enjoys at the date of this Agreement; or
- 2.3.6 the creation or imposition of an Encumbrance on, over or relating to any of the Shares or any of the assets or undertaking of the Company.

3 INFORMATION AND DOCUMENTS

Statutory books

- 3.1 The statutory books of the Company, including all registers and other books, have been written up to date in all material respects and no notice or allegation that any of them is untrue, incomplete or inaccurate, or should be rectified, has been received.

Filing

- 3.2 All material returns, resolutions, forms, particulars and other documents required to be filed with or delivered to the Registrar of Companies or to any other governmental agency or regulatory body by or on behalf of the Company have been properly prepared and filed or delivered.

Possession and storage of records and documents

- 3.3 An executed copy of all agreements to which the Company is a party and all documents of title relating to the Heritable Properties are in the possession of or under the control of the Company. All such documents of title are (if appropriate) duly stamped with the correct amount of stamp duty.

4 ACCOUNTS

General

- 4.1 The Accounts have been prepared on a proper basis in accordance with all applicable laws and with United Kingdom generally accepted accounting principles and show a true and fair view of the state of affairs of the Company as at, and of the profits and losses of the Company for the financial period ended on, the Accounts Date.

Accounting records

- 4.2 All proper and necessary books of account, ledgers, registers and records have been, in all material respects, fully, properly and accurately kept and completed by the Company and accurately record and reflect (in accordance with all applicable laws) all the assets and liabilities (actual and contingent) of the Company and all transactions to which it has been a party and the

Company has operated adequate systems of internal financial control in relation to its book keeping.

- 4.3 All of the books of account, ledgers, registers, records, data, systems, controls and other information of the Company (recorded, stored, maintained operated or held in whatever form or by whatever means) (and including all means of access to all such information) are owned exclusively by, and are in the possession of or under the direct control of the Company.

5. SINCE THE ACCOUNTS DATE

- 5.1 Since the Accounts Date the Company has carried on its business in the ordinary and usual course and in the same manner (as to nature, scope and method) as in the past so as to maintain it as a going concern.

Accounting reference date

- 5.2 The accounting reference date of the Company is as set out in Part 2A of the Schedule.

6 FINANCIAL COMMITMENTS AND BORROWINGS

Indebtedness

- 6.1 Except as disclosed in the Accounts the Company does not have outstanding and has not agreed to create or incur loan capital, borrowing or indebtedness in the nature of borrowing including (without limitation) a bank overdraft and an acceptance credit.
- 6.2 The total amount of loan capital, borrowing or indebtedness in the nature of borrowing of the Company does not exceed:
- 6.2.1 its financial facilities; or
 - 6.2.2 any borrowing limit imposed upon it by its bankers or other lenders; or
 - 6.2.3 any limitation on its borrowing or other powers contained in its articles of association or any debenture or other document binding upon it.

Guarantees

- 6.3 The Company is not a party to or liable (including, without limitation, contingently) under any guarantee, indemnity, suretyship, letter of offset or other similar commitment and there is not outstanding any such guarantee, indemnity, suretyship, letter of offset or other similar commitment given by or for the benefit of the Company.

Encumbrances

- 6.4 The Company has not created, or agreed to create, any Encumbrance over all or any of its property, assets, undertaking, goodwill, reserves or share capital nor has any person made any claim to be entitled to any such Encumbrance, save for any charge in favour of Clydesdale Bank plc, reservation or retention of titles or other similar claims arising in the ordinary course of business.

7 INSURANCE

- 7.1 The Company is covered by valid insurance against all risks normally insured against (including acts of terrorism) having regard to the type of business carried on and the assets and Properties owned or used by it (the "**Policies**").
- 7.2 All of the Policies are valid and enforceable and all premiums due have been duly and punctually paid and nothing has been done, or omitted to be done, which makes or might make any of the insurance policies void or voidable.

8 CONNECTED PERSONS

- 8.1 There is not, and has not been during the five year period ending on the date of this Agreement, any agreement or arrangement (whether legally enforceable or not) to which the Company is or was a party and:
- 8.1.1 in which any Vendor or any person connected with any of them is or was directly or indirectly interested; or
 - 8.1.2 which is or was not of an entirely arm's length nature; or
 - 8.1.3 which involved the acquisition of any asset or the benefit of any right for a consideration otherwise than for full market value at the date of such acquisition.
- 8.2 Neither the Vendors nor any person connected with any of them is directly or indirectly interested in any person (other than the Company) or any intellectual property which is or is likely to be or become competitive with the business of the Company (save as the beneficial owner of any class of securities of any company listed on a recognised investment exchange (as defined in the Financial Services and Markets Act 2000) and in respect of which such Vendor or such connected person is beneficially interested in less than three per cent. of all the issued securities of that class).
- 8.3 There are no debts outstanding or contingent liabilities or any other unfulfilled obligations (present or future, actual or contingent) owing by or to the Company to or by the Vendors or any

shareholder or director of the Company or any connected person of any of them (other than in connection with their employment by the Company).

9 LICENCES

- 9.1 The Company has all Licences required for or in connection with carrying on its business in the place and in the manner in which such business is now carried on by the Company.
- 9.2 Each Licence is valid, enforceable and unconditional (or subject only to a condition which has been fulfilled and under which no further action is required) and no unusual expenditure or work is or will be required to comply with, maintain or obtain a Licence.

10 LITIGATION AND INVESTIGATION

- 10.1 Neither the Company nor any Employee for whose acts or defaults the Company may be vicariously liable is involved, or has during the two year period ending on the date of this Agreement been involved, in any civil, criminal, administrative, arbitration, regulatory, competition or antitrust or other proceedings, claims, investigations, inquiries, actions (including disciplinary) or prosecutions in any jurisdiction (each a "**Proceeding**").
- 10.2 No Proceedings are pending or threatened by or against the Company or any Employee for whose acts or defaults the Company may be vicariously liable, or in respect of which the Company is or may be liable to indemnify or compensate any person or pay a penalty or a fine, and to the best of the Vendors' knowledge, information and belief, no matters or circumstances exist which might give rise to the same.
- 10.3 There is no outstanding judgment, order, decree, injunction, arbitral award or decision of a court, tribunal, arbiter, governmental agency or other regulatory body in any jurisdiction against the Company or any person for whose acts or defaults the Company may be vicariously liable and the Company has not given any undertaking to any court, tribunal, arbiter, governmental agency, regulatory body or other third party arising out of or in connection with any Proceeding.
- 10.4 There is no claim outstanding between the Company and any of the Vendors or any director (present or former) of the Company or any person connected with any of them and to the best of the Vendors' knowledge, information and belief, no matters or circumstances exist which could give rise to any such claim.

11 INSOLVENCY

- 11.1 In relation to the Company:

- 11.1.1 no resolution has been proposed or passed (and no meeting has been convened and no written resolution has been circulated with a view to passing any resolution) for winding up or administration or for the presentation of a petition for winding up or an administration order or for a compromise or composition or arrangement with creditors or any class of them;
- 11.1.2 no petition has been presented nor has an order been made for winding up or an administration order or interim order nor has any application been made or order made for the appointment of a provisional liquidator;
- 11.1.3 no application or order has been made for the appointment of a receiver or an administrative receiver or a manager or a trustee or other similar officer;
- 11.1.4 no receiver, administrative receiver or manager has been appointed over the Company or any of its property or assets or income or undertaking and no request for any such appointment has been made;
- 11.1.5 no Encumbrance has been enforced and no floating charge has crystallised, on or over, any of its property or assets or income or undertaking and no event has occurred or will occur by virtue of the execution and performance of this Agreement and the documents referred to in it which would cause, or entitle any person to cause, any of these things to happen;
- 11.1.6 no statutory demand has been served on the Company;
- 11.1.7 no procedure has been commenced by the Registrar of Companies or any other person with a view to dissolution or striking off under section 652 of the Act;
- 11.1.8 it has not stopped paying its debts as they fall due, is not insolvent and is not unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 11.1.9 no attachment, sequestration, distress, execution, arrestment, poinding, diligence or other process has been used, levied or put in force against any of its property, assets (including leased assets and assets on hire purchase), rights, income or undertaking;
- 11.1.10 there is no unfulfilled or unsatisfied judgment or decree or order of any court or tribunal, or award of any arbiter, outstanding against it;
- 11.1.11 no meeting of its creditors or any class of them has been held or summoned and no proposal has been made for a moratorium, composition or arrangement in relation to any of its debts, or for a voluntary arrangement under Part 1 of the Insolvency Act 1986; and
- 11.1.12 no event analogous to any of the foregoing has occurred in any jurisdiction.

11.2 In relation to each Vendor:

- 11.2.1 no petition has been presented nor has an order been made for his or her bankruptcy or for the appointment of a receiver over any of his or her property or assets or income or undertaking, including his or her Shares, and no request for any such appointment has been made;
- 11.2.2 no Encumbrance has been enforced and no floating charge has crystallised, on or over, any of his or her property or assets or income or undertaking, including his or her Shares, and no event has occurred or will occur by virtue of the execution and performance of this Agreement (and the documents referred to in it) which would cause, or entitle any person to cause, any of these things to happen;
- 11.2.3 no attachment, sequestration, distress, execution, arrestment, poinding, diligence or other process or has been used, levied or put in force against any of his or her property, assets (including leased assets and assets on hire purchase), rights, income or undertaking, including his or her Shares;
- 11.2.4 there is no unfulfilled or unsatisfied judgment or decree or order of any court or tribunal, or award of any arbiter, outstanding against him or her; and
- 11.2.5 no event analogous to any of the foregoing has occurred in any jurisdiction.

12 COMPETITION

So far as the Vendors are aware, neither the Company nor any of its past employees (in respect of any Company matter), present employees, officers, agents or any other person acting or purporting to act on behalf of the Company (the "Employees") has been or is a party to an agreement, concerted practice or arrangement neither the Company nor any of its Employees has been or is carrying on any practice which in whole or in part contravenes or is invalidated by any past or present competition, antitrust, fair trading or similar legislation in the United Kingdom, the European Union, the European Economic Area or in any other jurisdiction in which the Company carries on business or in respect of which any filing, registration or notification was or is required or was or is advisable pursuant to such legislation (whether or not the same has in fact been made).

13 INTELLECTUAL PROPERTY

The Company does not own any Registered Intellectual Property Rights other than the following domain names:-

www.wallacesexpress.com

www.wallacesexpress.co.uk

www.wallacesofayr.com

www.wallacesofayr.co.uk

www.wallacesofayr.biz

www.wallacesofayr.net

14 PENSIONS

- 14.1 Except under the Pension Scheme, the Company (1) does not contribute to any arrangement (nor as at Completion may become liable to contribute to any arrangement) for the payment of, and (2) is not under any obligation to pay, provide, procure the provision of, or contribute towards:-

14.1.1 any relevant benefits within the meaning of Section 612 of the Income and Corporation Taxes Act 1988 for or in respect of the Employees; or

14.1.2 benefits of any kind payable to or in respect of any of the Employees on retirement, death, disability, sickness or other similar circumstances.

- 14.2 The Company does not contribute to the Pension Scheme in respect of any Employee other than S Reid, C Capaldi and D Brown and as at Completion all Employee contributions which are payable by or through the Company to the Pension Scheme are not in arrears.

- 14.3 All retirement benefits payable under the Pension Scheme are of a "defined contribution" nature, that is to say that the contributions paid to them are not dependent upon the performance of investments held under the Pensions Scheme but rather are set either in accordance with the Employees' contracts of employment or at the discretion of the Company and the benefits which they secure are not guaranteed in any way by means of a final salary promise or otherwise.

- 14.4 The Company has complied with all legal and administrative requirements relating to Stakeholder Pension Schemes (as defined in Section 1(1) of the Welfare Reform and Pensions Act 1999) and no claim (including for this purpose an unresolved complaint or reference to the Pensions Ombudsman or to any other Ombudsman, Tribunal or conciliation service) has been made or threatened against the Company and so far as the Company is aware the provider of the Pension Scheme (other than routine claims for benefits).

15 TAXATION

- 15.1 All relevant returns, computations, payments, notices and information which are or have been required to be made or given to any Taxation Authority or for any Tax purpose have been made or given on a proper basis, are up-to-date and complete and accurate and none of them is, or so far as the Vendors are aware is likely to be, the subject of any dispute with any Taxation Authority.

- 15.2 The Company has fully complied with the requirements of the Corporation Tax (Instalment Payments) Regulations 1998 and has duly and punctually made all payments required to be made under said Regulations and the Vendors are not aware of any circumstances which would render any instalment payment an underpayment.

Distributions

- 15.3 No dividend has been declared, made or paid and no distribution (as set out in sections 209 and 210 Taxes Act) has been made by the Company except as disclosed in the audited accounts of the Company save for the pre-completion dividend paid and bonus issue made early in 2003.

16 PROPERTY

Title

The Properties shown in Part 6 of the Schedule comprise all of the premises and land owned or occupied by, or used in connection with the businesses of, the Company or in respect of which the Company has an interest, right or title.

PART 5
TAX COVENANT (Clause 8)

1. DEFINITIONS AND INTERPRETATION

1.1 In this Part of the Schedule:

1.1.1 Clauses 1.2.5 and 1.2.6 of this Agreement shall not apply to the interpretation or construction of this Part of the Schedule;

1.1.2 the following words and expressions shall, unless the context otherwise requires, have the following meanings:

"Claim for Tax" means:

- (a) any notice, demand, assessment, letter, determination or other document issued or action taken by or on behalf of any Tax Authority or any other person from which it appears that a Tax Liability is or will or may come to be validly imposed on the Company (whether or not such Tax Liability is primarily imposed upon or payable by the Company and whether or not the Company has or may have any right to relief or reimbursement); and/or
- (b) any self assessment made by the Company in respect of any Tax Liability which it considers that it is or may become liable to pay

"Completion Relief" means any Relief to the extent that it has either been treated as an asset in preparing the Accounts or been taken into account in computing and so reducing or extinguishing any provision for Tax which appears, or would otherwise have appeared, in the Accounts

"Event" means every event, act, omission, default, occurrence, circumstance, transaction, dealing or arrangement of any kind whatsoever, including Completion

"Instalment" means any payment which is or becomes due and payable by the Company in accordance with the Regulations

"Purchasers Relief" means:

- (a) any Completion Relief; and/or
- (b) any Relief to the extent that it arises in respect of periods (or part of any period) after Completion and / or in respect of any Event occurring after Completion; and / or
- (c) any Relief to the extent that it arises in respect of periods (or part of any period) after the Accounts Date and / or in respect of any Event occurring after the Accounts Date other than a

Relief arising as a result of transactions outside the ordinary course of business of the Company as carried on after the Accounts Date and prior to Completion (and the provisions of paragraph 3.2 shall apply for the purposes of determining transactions in the ordinary course of business);

"Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 SI 1998/3175

"Relief" means any relief, allowance, exemption, credit, deduction or set off from, in computing, against or in respect of Tax or in respect of profits, income or gains for the purpose of any Taxation or any right to the repayment of Tax

"Tax" or **"Taxation"** means all forms of taxation, and any duty, contribution, impost, levy or charge in the nature of tax, whether domestic or foreign, including without prejudice to the generality of the foregoing:

- (a) corporation tax, advance corporation tax, income tax (including tax falling to be deducted or withheld from or accounted for in respect of any payment), national insurance and social security contributions, capital gains tax, inheritance tax, value added tax, customs excise and import duties, stamp duty, stamp duty reserve tax and any other payment whatsoever which the Company is or may be or become bound to make to any person and which is or purports to be in the nature of taxation or otherwise by reason of any taxation statutes; and
- (b) all interest, fines or penalties in respect of and relating to any of the foregoing;

"Taxation Authority" means the Inland Revenue, HM Customs & Excise and any other local, municipal, governmental, state, federal or fiscal, revenue, customs or excise authority, body, agency or person anywhere in the world competent to impose, administer or collect Tax

"Tax Liability" includes:

- (a) any liability of the Company to make an actual payment of Tax (including an Instalment) or in respect of Tax, in which case the amount of the Tax Liability is the amount of the payment; and
- (b) the loss, non-availability or reduction in the amount of any Completion Relief, in which case the amount of the Tax Liability shall be
 - (i) where such Relief is a right to the repayment of Tax, the amount of the repayment which has been lost, or
 - (ii) in any other case, the amount of Tax which would otherwise have been saved by the Completion Relief concerned assuming such Taxation to be payable at the average rate appropriate to the earliest period in respect of which Taxation becomes payable which would not have been payable if the Completion Relief had not been lost, unavailable or reduced; and

- (c) the utilisation or set-off against income, profits or gains or against any Tax (in either case in respect of which, but for such utilisation or set-off, the Purchaser would have been entitled to make a claim under this Part of the Schedule) of any Purchasers Relief in which case the amount of the Tax Liability shall be equal to the amount of Tax which would have been payable but for such utilisation or set-off of that Purchasers Relief.

1.2 References to "income, profits or gains" include any other measure by reference to which Tax is computed.

1.3 References to income, profits or gains earned, accrued, arising or received on or before a particular date or in respect of a particular period shall include income, profits or gains deemed to be or treated as earned, accrued or received on or before that date or in respect of that period.

1.4 References to an Event occurring on or before a particular date or in respect of a particular period shall include an Event which is deemed to have or is treated as having occurred on or before that date or in respect of that period.

2. COVENANT

2.1 Subject as hereinafter provided, the Vendors hereby jointly and severally covenant with the Purchaser to pay to the Purchaser an amount equal to:

2.1.1 any Tax Liability which arises

- (a) in respect of or by reference to any income, profits or gains earned, accrued or received on or before Completion; or
- (b) in connection with or as a consequence of any Event occurring or entered into on or before Completion; and

2.1.2 any inheritance tax which

- (a) gives, or has given, rise at Completion to a charge on any of the shares or assets of the Company or gives rise to a power to sell, mortgage or charge any of the shares or assets of the Company; or
- (b) after Completion gives rise to a charge on or a power to sell, mortgage or charge any of the shares or assets of the Company, being a liability in respect of additional inheritance tax payable on the death of any person within seven years after a transfer of value if a charge on or power to sell, mortgage or charge any such shares or assets could, if the death had occurred immediately before

Completion and the inheritance tax payable as a result thereof had not been paid, have existed at Completion; and

- 2.1.3 the amount of any liability of the Company to make a payment pursuant to a contract, agreement, indemnity, guarantee or covenant entered into by the Company before Completion under which the Company has agreed to pay an amount in respect of any Tax Liability of any other person; and
 - 2.1.4 all costs and expenses reasonably and properly incurred by the Purchaser and/or the Company in connection with any such Tax Liability or Claim for Tax, or in taking or defending any action under this Part of the Schedule.
- 2.2 In determining for the purposes of paragraph 2.1.2 whether a charge on or power to sell, mortgage or charge any of the shares or assets of the Company exists at any time, the fact that the inheritance tax is not yet payable or may be paid by instalments, shall be disregarded, and such tax shall be treated as becoming due and a charge or power to sell, mortgage or charge as arising on the date or event on or in respect of which it becomes payable or arises, and the provisions of section 213 Inheritance Act 1984 shall not apply thereto.

3. EXCLUSIONS

- 3.1 The Vendors shall have no obligation to make any payment under paragraph 2.1 in respect of any Tax Liability:-
- 3.1.1 to the extent that specific provision or reserve was made in the Accounts in respect of such Tax Liability; or
 - 3.1.2 which is a Tax Liability arising as a result of transactions in the ordinary course of the business of the Company after the Accounts Date and prior to Completion; or
 - 3.1.3 to the extent that such Tax Liability arises or is increased as a result of any increase in rates of Tax or any change in law or any change in the published practice of or withdrawal of any published extra statutory concession by a Taxation Authority being an increase, withdrawal or change made in any such case after Completion with retrospective effect; or
 - 3.1.4 to the extent that any Relief (other than a Purchaser's Relief) is available to reduce or extinguish the Tax Liability; or
 - 3.1.5 to the extent that it arises in respect of the disposal prior to Completion of 5 Old Bridge Road, Heathfield, Ayr KA8 9SX; or

3.1.6 to the extent that it arises in respect of the disposal prior to Completion of "Millers",
17 Miller Road, Ayr.

3.2 For the purposes of this tax covenant, the following shall not, *inter alia*, be regarded as arising as a result of transactions in the ordinary course of business:

3.2.1 any Tax arising under Part XVII Taxes Act;

3.2.2 any Tax arising in respect of any distribution or deemed distribution;

3.2.3 any Tax arising in respect of the acquisition, disposal or supply or deemed acquisition, disposal or supply of any assets, goods or service or business facility of any kind for a consideration deemed for Tax purposes to be different from that (if any) actually received; but only insofar as such Tax is attributable to the difference between the consideration (if any) actually received and the consideration deemed for Tax purposes to have been received;

3.2.4 any Tax arising in respect of an Event which may result in the Company becoming liable to pay or bear Tax chargeable directly or primarily against or attributable directly or primarily to another person;

3.2.5 any Tax arising as a result of a failure by the Company to deduct, charge, recover or account for Tax;

3.2.6 any Tax arising as a result of the acquisition or disposal of any capital asset.

3.2.7 any amount payable to the Commissioners of Customs & Excise under Part XV of the Value Added Tax Regulations 1995 or for which the Company is liable to account to the Commissioners of Customs & Excise under Regulation 105 to 110 (both inclusive) of the said Regulations; or

3.2.8 the Company ceasing for Tax purposes, to be a member of any group of companies.

4. CONDUCT OF CLAIMS

4.1 If the Purchaser or the Company becomes aware of any Claim for Tax in respect of which the Purchaser or the Company considers that the Vendors are or may become liable to make a payment to the Purchaser under this Part of the Schedule, the Purchaser shall give notice to the Vendors of that Claim for Tax as soon as reasonably practicable.

4.2 Neither the Purchaser nor the Company shall be obliged to take any action pursuant to this paragraph 4 which it reasonably considers will be materially prejudicial or unduly onerous to it

or will affect the future liability of the Company to Taxation, or where fraudulent or dishonest conduct is alleged in relation to the Claim for Tax in question.

5. DUE DATE FOR PAYMENT

- 5.1 Where the Vendors become liable to make any payment pursuant to paragraph 2, the due date for the making of that payment shall be:
- 5.1.1 insofar as the Tax Liability involves the payment of one or more Instalments, in the case of each Instalment, the date which is the later of the date falling five Business Days after the date of demand therefor by the Purchaser and the date falling five Business Days before the date on which that Instalment becomes due and payable in accordance with the Regulations;
 - 5.1.2 insofar as the Company requires to make a payment to discharge a Tax Liability (other than in respect of an Instalment) the date which is the later of the date falling five Business Days after the date of demand therefor by the Purchaser and the date falling five Business Days before the date on which that payment becomes due and payable to the relevant Taxation Authority;
 - 5.1.3 insofar as the Tax Liability relates to the loss, non-availability or reduction in the amount of a repayment of Tax, the date which is the later of the date falling five Business Days after the date of demand therefor by the Purchaser and the date on which the repayment of Tax would otherwise have been received (assuming for this purpose that the repayment would have been received at the earliest possible date);
 - 5.1.4 insofar as the Tax Liability relates to the loss, non-availability, reduction in the amount of any Completion Relief other than a repayment of Tax, the date which is the later of the date falling five Business Days after the date of demand therefor by the Purchaser and the date falling five Business Days before the date on which the Company becomes due to pay any Tax which it would not otherwise have had to pay but for such loss, non-availability or reduction;
 - 5.1.5 in any other case, the date falling five Business Days after demand is made therefor by the Purchaser.
- 5.2 If any payment due to be made by the Vendors under this Part of the Schedule is not made on the due date for payment, it shall carry interest from the due date for payment until actual payment in full has been made at the rate of 2.5 per cent above the base rate from time to time of Clydesdale Bank plc.

6. WITHHOLDINGS, TAXATION

- 6.1 All amounts payable by the Vendors under this Part of the Schedule shall be paid free of any rights of counterclaim or set off and without any deduction or withholding whatsoever except as required by law. If any deduction or withholding is required by law to be made from any such payment the Vendors shall pay to the Purchaser such additional amount or amounts as will in aggregate be sufficient to ensure that after all required deductions and withholdings have been made from the amounts paid there shall be left in the hands of the Purchaser the amount which the Purchaser would have been entitled to receive from the Vendors in the absence of any requirement to make a deduction or withholding.
- 6.2 If any amount payable by the Vendors to the Purchaser under this Part of the Schedule shall itself be subject to Tax then the amount which the Vendors shall pay to the Purchaser shall be increased to such larger amount as will ensure that after payment of all Tax payable in respect of such larger amount there shall be left in the hands of the Purchaser the amount which the Purchaser would have been entitled to receive from the Vendors if such amount was not subject to any Tax.

7. OVERPROVISIONS

- 7.1 The Vendors may, at their request and expense, require the auditors for the time being of the Company to certify applying the accounting policies, principles and practices adopted in relation to the preparation of the Accounts that any provision for Tax in the Accounts excluding any provision for deferred tax) has proved to be an over-provision ("Overprovision"). For the avoidance of doubt there shall be ignored for the purposes of this paragraph the effect of any change in law made or action taken by the Purchaser or the Company after Completion or any Relief arising after Completion.
- 7.2 Subject to paragraph 7.4 below:
- 7.2.1 any Overprovision shall first be set off against any payment then due from the Vendors under this Part of the Schedule; and
- 7.2.2 to the extent there is an excess, a refund shall be made to the Vendors of any previous payment or payments made by the Vendors under this Part of the Schedule (and not previously refunded under this Part of the Schedule) up to the amount of the excess; and
- 7.2.3 to the extent that the excess referred to in paragraph 7.2.2 is not exhausted under that paragraph the remainder of that excess shall be carried forward and set off against any future payment or payments which become due from the Vendors under this Part of the Schedule.

- 7.3 Either the Vendor or the Purchaser may, at its expense, require any certificate produced in accordance with paragraph 7.1 above to be reviewed by the auditors for the time being of the Company in the event that there are relevant circumstances or facts of which it was not aware, and which were not taken into account, at the time such certificate was produced, and to certify whether the certificate remains correct or whether it should be amended.
- 7.4 If following a request under paragraph 7.3 the certificate is amended, the revised amount of the Overprovision shall be substituted for the purposes of paragraph 7.2, and any adjusting payment that is required shall be made forthwith.

8. RECOVERY FROM THIRD PARTIES

- 8.1 If payment is made by the Vendors under this Part of the Schedule in respect of a Tax Liability and the Purchaser or the Company either receives, or is entitled or may be entitled to recover or obtain, from any person (other than the Purchaser) a payment or Relief in respect of the Tax Liability in question, then:

8.1.1 the Purchaser shall notify the Vendors of that fact as soon as reasonably practicable and shall, if so required by the Vendors, at the cost of the Vendors and upon the Vendors indemnifying and securing the Purchaser against all losses, liabilities, costs, damages and expenses which may thereby be incurred, take (or shall procure that the Company shall take) such action as the Vendors may reasonably in writing request to enforce such recovery or to obtain such payment or Relief; and

8.1.2 if the Purchaser or the Company receives or obtains a payment or Relief in respect of the Tax Liability in question, the Purchaser shall pay to the Vendors an amount equal to the lesser of:

- (a) the amount received or the amount that the Purchaser has actually saved by virtue of the payment or the Relief (less the amount of all reasonable costs of recovering or obtaining such payment or Relief and net of any Tax payable thereon) (the "Benefit"), and
- (b) the amount of any payment or payments previously made by the Vendors under this Part of the Schedule and not previously refunded under this Part of the Schedule,

and the amount of any Benefit not so paid to the Vendors shall be carried forward and set off against future payments due by the Vendors under this Part of the Schedule.

- 8.2 Any payment required to be made by the Purchaser pursuant to paragraph 8.1 shall be made:

- 8.2.1 in a case where the Purchaser or Company receives a payment, within five Business Days of the receipt thereof;
- 8.2.2 in a case where the Purchaser or Company obtains a Relief, on the date on which Tax would have been payable to the relevant Taxation Authority but for the use of such Relief.

PART 6

THE PROPERTIES

1. 130 Hyndford Road, Lanark, ML11 9AU (Title Number LAN128935)
2. South Caldeen Road, Coatbridge, ML5 4EG (Title Number LAN114553)
3. Newton Road, Lochside Industrial Estate, Dumfries, DG2 0EG (Title Number DMF3208)
4. Crompton Way, North Newmoor Industrial Estate, Irvine, KA11 4HU ("Irvine Property")
5. 17-19/33 Burns Statue Square, Ayr (including first floor office and plot of ground)

WALLACES EXPRESS LIMITED

Loan Note Instrument constituting £6,930,000 subordinated variable unsecured loan notes of Wallaces Express Limited

This Loan Note Instrument is subject in all respects to the provisions of a Subordination Agreement dated on or about today's date between Wallaces Express Limited, Wallaces of Ayr Limited, Brian Calder and Susan Calder (as Trustees of the DS Cosh Trust), David Cosh, Christopher Cosh and Clydesdale Bank plc.

DUNDAS & WILSON CS

191 West George Street
Glasgow G2 2LD

Tel 0141 222 2200
Fax 0141 222 2201
Legal Post: LP1 Glasgow 8

Ref: GAB/GMB/WAL136.0001

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1. Form of Certificate
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INSTRUMENT

BY

WALLACES EXPRESS LIMITED a company incorporated in Scotland (registered number SC247082) whose registered office is at 10 Crompton Way, Irvine, KA11 4HU (the "**Company**")

In favour of

DAVID STEPHEN COSH residing at Fenwick Lodge, 18 Ewenfield Road, Ayr, KA7 2QB (the "**Noteholder**").

RECITALS:

The Company has, pursuant to its memorandum and articles of association, agreed to issue, subject to Clause 3 (Terms of Issue), a principal amount of £6,930,000 of subordinated variable rate unsecured loan notes to be constituted under the terms and subject to the conditions of this Instrument.

1 DEFINITIONS

1.1 In this Instrument, including the Recitals, unless the context otherwise requires, the following words have the meanings stated:

| | |
|---------------------------|--|
| Bank | Clydesdale Bank PLC |
| Business Day | 9.00 am to 5.00 pm on any day (other than a Saturday or Sunday) on which clearing banks are open for the transaction of normal banking business in Scotland |
| Cash Sweep Amount | an amount equal to the Excess Cash Amount divided by 4, to the extent that the same is a positive number |
| Certificate | a certificate for Notes in the form or substantially in the form set out in Part 1 of the Schedule issued by the Company |
| Conditions | the conditions set out in Part 2 of the Schedule or as modified from time to time in accordance with this Instrument |
| Directors | the board of directors for the time being of the Company |
| Excess Cash Amount | means, in respect of any quarter, an amount equal to 50% of: (a) (i) EBITA (as that term is defined in the Facility Letter) in respect of such quarter as |

| | |
|--------------------------------|---|
| | <p>shown in the most recent management accounts delivered to the Bank in accordance with Part 8 of the Schedule to the Facility Letter; plus</p> <p>(ii) EBITA (as that term is defined in the Facility Letter) projected for the following three quarters as shown in the then latest Cash Flow Model (as that term is defined in the Facility Letter); less</p> <p>(b) £3,250,000</p> |
| Facility Letter | the facility letter between the Bank and the Company dated 5 December 2003, notwithstanding that the facilities made available thereunder may have been repaid |
| Initial Redemption Date | <p>the later of:</p> <p>(a) the date occurring five years after the date of the first drawdown of the Term Loan made by the Company in accordance with the Facility Letter; and</p> <p>(b) the date on which the amount of the Term Loan outstanding and due by the Company is £4,500,000 or less</p> |
| Interest Payment Date | in each year 1 st January, 1 st April, 1 st July and 1 st September |
| Interest Period | a period beginning on the day following an Interest Payment Date and ending on the next following Interest Payment Date save that the first Interest Period shall begin on the date of issue of the Notes and end on the next following Interest Payment Date |
| Interest Rate | the rate determined in accordance with Condition 2.5 or 2.6 |
| Notes | £6,930,000 Subordinated Variable Rate Unsecured Loan Notes of the Company constituted under this Instrument |
| Redemption Date | the Initial Redemption Date and the last Business Day of each month thereafter |
| Register | the register of holders of loan notes kept by or on behalf of the Company pursuant to Clause 8 (Register of Noteholders) |

| | |
|--|---|
| Subordination Agreement | the subordination agreement dated on or about today's date between Wallaces of Ayr Limited, the Company, the Trustees, David Cosh, Christopher Cosh and Clydesdale Bank plc; |
| Term Loan | the £9,020,000 term loan facility offered by the Bank to the Company in terms of the Facility Letter |
| Term Loan Repayment Date | the date by which the Term Loan is fully repaid by the Company |
| Total Loan Notes | the Notes plus the Trustees Loan Notes |
| Trustees | Brian James Calder and Susan Mary Calder as trustees of the D S Cosh Trust |
| Trustees Loan Notes | the loan notes issued by the Company to the Trustees as constituted by loan note instrument of even date herewith between the Company and the Trustees (as the same may be transferred (in whole or in part) from time to time in accordance with the Conditions) |
| Wallaces of Ayr Facility Letter | the facility letter between the Bank and Wallaces of Ayr Limited dated on or about today's date, notwithstanding that the facilities made available thereunder may have been repaid. |

1.2 In this Instrument, unless the context otherwise requires, references to:

1.2.1 any statute or statutory provision include a reference to:

- (a) subordinate legislation made from time to time pursuant to that statute or statutory provision (whether before or after the date of this Instrument); and
- (b) that statute or statutory provision as amended, modified, replaced, consolidated and/or re-enacted from time to time (whether before or after the date of this Instrument);

1.2.2 words denoting one gender include all other genders and words denoting the singular include the plural and vice versa;

1.2.3 a person include individuals, bodies corporate, unincorporated associations, partnerships, joint ventures and government departments or agencies, and references to any of the same include the others;

1.2.4 any reference to any person shall include a reference to that person's successors and permitted assignees and transferees;

- 1.2.5 any words and expressions defined in the Companies Act 1985 shall bear the same respective meanings in this Instrument;
- 1.2.6 redemption includes payment and repayment and vice versa and the words "redeem" or "redeemed" shall be construed accordingly;
- 1.2.7 paid up includes credited as paid up;
- 1.2.8 the Company and the Noteholder shall be construed so as to include their respective successors and assignees or transferees from time to time;
- 1.2.9 Clauses or the Schedule and the Parts of the Schedule are to clauses of, or the schedule and parts of the schedule to, this Instrument;
- 1.2.10 a quarter shall have the meaning attributed to that term in the Facility Letter.
- 1.3 The Schedule forms an integral part of this Instrument and references to this Instrument include the Schedule (as modified from time to time in accordance with this Instrument).
- 1.4 The headings to the Clauses are for convenience only and do not affect the construction or interpretation of this Instrument.

2 AMOUNT OF NOTES

- 2.1 The Notes shall be known as Subordinated Variable Rate Unsecured Loan Notes.
- 2.2 *The principal amount of the Notes constituted under this Instrument is limited to £6,930,000.*

3 TERMS OF ISSUE

- 3.1 The Company hereby issues the Notes to the Noteholder.
- 3.2 The Notes shall, subject to the terms of the Subordination Agreement, constitute direct, general and unconditional obligations of the Company which shall rank equally and rateably amongst themselves without discrimination or preference and as unsecured debt obligations of the Company.
- 3.3 No application has been made or shall be made to any stock exchange or any other equivalent or similar share market for permission to deal in or for an official or other listing or quotation in respect of the Notes.
- 3.4 Subject to the terms of the Subordination Agreement, the Notes are transferable in accordance with the Conditions.
- 3.5 Subject to the terms of the Subordination Agreement, this Instrument and the Conditions, the Noteholder and the Trustees shall each rank as ordinary creditors of the Company and the Notes

and the Trustees Loan Notes shall rank as regards interest and repayment pro rata to the amounts respectively outstanding.

4 REDEMPTION OF NOTES

- 4.1 Subject to the terms of the Subordination Agreement, the Notes shall be redeemed in accordance with the terms of this Instrument and the Conditions.
- 4.2 Subject as provided in this Instrument or the Conditions, the Notes shall become immediately repayable at par together with accrued interest upon the occurrence of any of the events specified in Condition 4 (Events of Default).
- 4.3 As and when a Note is redeemed the Company shall pay to the Noteholder the full principal amount of the Note at par together with all interest accrued but not paid on such Note up to and including the date of actual repayment in accordance with the terms of this Instrument and the Conditions.

5 INTEREST ON NOTES

Until a Note is redeemed or purchased by the Company the Company shall pay to the Noteholder interest on the Note in accordance with the terms of this Instrument and the Conditions.

6 CERTIFICATES

- 6.1 The Noteholder shall be entitled, without charge, to a Certificate for the total amount of Notes registered in his name.
- 6.2 Such Certificate shall be issued as duly executed in accordance with the Company's articles of association for the time being and shall have attached a copy of the Conditions which shall be deemed to form part of the Certificate.

7 INCORPORATION OF CONDITIONS

The Notes shall be held subject to and with the benefit of the Conditions and the other provisions set out in the Schedule. The Conditions and the other provisions set out in the Schedule shall be binding on the Company, the Noteholder and all persons claiming through or under them respectively and shall have effect as if the Conditions and other provisions were set out in this Instrument.

8 REGISTER

- 8.1 The Register will be maintained and kept by the Company at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder).
- 8.2 The Register shall contain the information specified in Condition 7 (Register).
- 8.3 The Noteholder shall notify the Company of any change of his name or address and the Company shall alter the Register accordingly.
- 8.4 The Noteholder may at all reasonable times during business hours inspect the Register, except during such period(s), not exceeding 30 days in total in any year, when the Register is closed by the Company.

9 VARIATION

The provisions of this Instrument, the Conditions and the rights of the Noteholder may from time to time be modified or varied by the Company with the written agreement of the Noteholder, provided that the Company has obtained the prior written consent of the Bank and the Trustees to any such modification or variation.

10 BENEFIT OF INSTRUMENT

- 10.1 Subject to Clause 12 below, the Company covenants with the Noteholder that so long as any Notes are outstanding or any accrued interest is unpaid, it will duly perform and observe its obligations contained in this Instrument.
- 10.2 Subject to Clause 12 below, this Instrument will enure for the benefit of the Noteholder, who may sue for the performance or observance of the provisions of this Instrument so far as its holding of Notes is concerned.

11. FEES

The Company shall pay all stamp duty, issue, registration, documentary and other fees, duties and taxes, including interest and penalties, payable on or in connection with the issue of the Notes under this Instrument.

12. SUBORDINATION AGREEMENT

Any payment to be made in terms of this Instrument, whether of interest or principal, is subject to the terms of the Subordination Agreement and no payments shall be made by the Company in contravention of the Subordination Agreement. For the purposes of all payment obligations of the Company under this Instrument, this Instrument and the Subordination Agreement shall be read in conjunction. Any failure to make any payment of interest or principal which would otherwise result in the contravention of the terms of the Subordination Agreement, shall not

constitute a breach of the obligations of the Company under the terms of this Instrument. Any such payment shall however remain due (but not then payable) by the Company to the Noteholder.

13. GOVERNING LAW AND JURISDICTION

13.1 This Instrument and the Notes shall be governed by and construed in accordance with the law of Scotland.

13.2 The Company and the Noteholder irrevocably agree that the courts of Scotland shall have jurisdiction in relation to any matters arising out of, or in connection with, this Instrument or the Notes and, for those purposes, irrevocably prorogate the exclusive jurisdiction of those courts.

IN WITNESS WHEREOF this Instrument typewritten on this and the preceding 6 pages, together with the Schedule in 2 parts annexed, is executed in duplicate as follows:

SUBSCRIBED for and on behalf of **WALLACES EXPRESS LIMITED**

at _____ on _____

by:

Director:

Full Name:

Director/Secretary:

Full Name:

THE SCHEDULE
PART 1
FORM OF LOAN NOTE
CERTIFICATE

This is the Schedule in 2 parts referred to
in the Loan Note Instrument made by
WALLACES EXPRESS LIMITED
dated 5 December 2003

Certificate No.●

Amount £●

WALLACES EXPRESS LIMITED
(incorporated in Scotland with registered number SC[])
(the "Company")

SUBORDINATED VARIABLE RATE UNSECURED LOAN NOTES

Created and issued pursuant to the memorandum and articles of association of the Company and a resolution of the Directors of the Company passed on ●.

THIS IS TO CERTIFY that < > of < > is the registered holder of £● in principal amount of the Subordinated Variable Rate Unsecured Loan Notes constituted by an instrument dated ● and made by the Company (the "**Instrument**") and issued with the benefit of and subject to the provisions contained in the Instrument and the Conditions attached to this Certificate.

Interest is payable on the Notes on the Interest Payment Dates and at the Interest Rate determined in accordance with the Conditions attached to this Certificate.

DATED ●

SUBSCRIBED for and on behalf of **WALLACES EXPRESS LIMITED**

at _____ on _____

by:

Director:

Full Name:

Director/Secretary:

Full Name:

Note:

- 1 Subject to the terms of the Subordination Agreement, the Notes are redeemable in accordance with the Instrument and the Conditions.
- 2 Subject to the terms of the Subordination Agreement, the Notes are transferable in minimum amounts or integral multiples of £50,000 or, if less, the balance of Notes outstanding held by the Noteholder.
- 3 This Certificate must be lodged with the Company secretary at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) before any redemption or transfer, whether of the whole or any part of the Notes comprised in it, can be made or a new Certificate issued in exchange.
- 4 A copy of the Instrument constituting the Notes is available for inspection by the Noteholder at the Company's registered office address (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) at all reasonable times during business hours.

PART 2
CONDITIONS OF ISSUE

1 INTERPRETATION

Words and expressions defined in the Instrument shall have the same meaning in this Part of the Schedule.

2 INTEREST ON NOTES

- 2.1 Until such time as the Notes are redeemed or purchased in accordance with the Instrument and these Conditions the Company shall pay to the Noteholder interest on the principal amount of the Notes for the time being outstanding at the Interest Rate.
- 2.2 Interest is payable to the Noteholder on the basis of the Register as at the close of business on the fifth Business Day preceding the relevant Interest Payment Date (the "**Record Date**") and the Noteholder shall be deemed to be the holder of the Notes held by him on the Record Date on such Interest Payment Date notwithstanding any intermediate transfer or transmission of any of those Notes.
- 2.3 Interest accrues daily and is calculated on the basis of a 365 day year and on the actual number of days elapsed in the relevant Interest Period counting the first and the last day of such period.
- 2.4 Interest is payable in arrears on each Interest Payment Date in respect of an Interest Period.
- 2.5 Subject to Condition 2.9, the Interest Rate on the Notes is the rate per annum which is one per cent above the base rate of the Bank from time to time. A certificate signed by an authorised official of such bank shall be final and conclusive evidence of such base rate from time to time, save in the case of manifest error.
- 2.6 If no rate referred to in Condition 2.5 is published by the Bank at any time, then the Interest Rate on the Notes for such Interest Period shall be calculated on the basis of the rate which is one per cent above the base rate offered by The Governor and Company of the Bank of Scotland. A certificate signed by an authorised official of such bank shall be final and conclusive evidence of such base rate from time to time, save in the case of manifest error.
- 2.7 On the redemption or purchase of all or any part of the Notes the Company shall pay all interest accrued (but remaining unpaid) on such Notes up to and including the date of actual repayment or cancellation.
- 2.8 Interest at the Interest Rate ceases to accrue on a Note after the due date for redemption or purchase of the Note. However, if upon surrender of this Certificate in accordance with Condition 5 (Procedure on Redemption) the Company does not pay any amount of principal on the Note when it is due, interest will continue to accrue on the said amount of principal which is due from and including the date following the date of such default until the date of

actual payment (both before as well as after any judgement) at a default rate of four per cent above the Interest Rate.

- 2.9 Interest shall accrue on any amount of unpaid interest from (but excluding) the due date for payment up to (and including) the actual date of payment at a default rate of four per cent above the Interest Rate at which interest on principal is payable in respect of the relevant Interest Period (and shall be deemed to be due and payable on the date on which such unpaid interest is actually paid).
- 2.10 To the extent that the Company has insufficient funds to make the interest payments due under this Condition 2 to the Noteholder and under the Trustees Loan Notes and to the extent that there are Trustees Loan Notes outstanding, the amount available to be applied in payment of such interest will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by the available amount.

3 REDEMPTION AND REPAYMENT

- 3.1 The Company shall redeem £100,000 of the Notes outstanding on the Initial Redemption Date and £100,000 of the Notes outstanding on each subsequent Redemption Date until the Term Loan Repayment Date, following which the Company shall redeem £200,000 of the Notes on each Redemption Date until the Notes have been redeemed in full. To the extent that the Company has insufficient funds to make the redemption payments due under this Condition 3 or under Condition 4 and under the Trustees Loan Notes and to the extent that there are Trustees Loan Notes outstanding, the amount available to be applied in such redemption will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by such available amount.
- 3.2 Following the Initial Redemption Date, in addition to the payments referred to in Condition 3.1, the Company shall make payment to the Noteholder within 35 Business Days after the end of each quarter of the following amounts in respect of such quarter:-
- 3.2.1 in respect of the period up to and including the Term Loan Repayment Date, the amount of Notes to be redeemed at par will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by one half of the Cash Sweep Amount; or
- 3.2.2 in respect of the period after the Term Loan Repayment Date, the amount of Notes to be redeemed at par will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by the Cash Sweep Amount until the Trustees Loan Notes have been redeemed in full by the Company, after which time the amount of Notes to be so redeemed shall be the whole of the Cash Sweep Amount.

- 3.3 In addition to the payments referred to in Condition 3.1 and 3.2, but subject as hereinafter provided at any time after the Term Loan Repayment Date, the Company may, on giving to the Noteholder not less than seven days notice at any time, redeem all or any of the outstanding Notes by payment of the principal amount together with accrued interest up to (and including) the date of redemption; Provided that the redemption of the Noteholder's Notes shall be pro rata to the redemption of Trustees Loan Notes outstanding.

4 **EVENTS OF DEFAULT**

- 4.1 Notwithstanding any other provision of the Instrument, upon receipt of a notice from the Noteholder in accordance with Condition 4.2, the Company shall immediately redeem the Noteholder's Notes at par (together with accrued interest up to (and including) the date of redemption) on the occurrence of any of the following events:

- 4.1.1 the Company fails to pay any principal or interest payable on any Notes within 5 Business Days after the due date for payment of such moneys in accordance with these Conditions; or
- 4.1.2 the Company breaches any of its obligations under the Instrument (other than its obligations in respect of the payment of principal and/or accrued interest) and such breach has not been remedied within 10 Business Days after service of notice on the Company by the Noteholder requiring its remedy; or
- 4.1.3 any obligation (whether present or future, actual or contingent) of the Company to pay or repay money which has been borrowed or raised:
 - (a) is not paid when due or (as the case may be) within any originally applicable grace periods; or
 - (b) becomes (or becomes capable of being declared) due and payable before its stated maturity otherwise than at the option of either the Company or (if no event of default has occurred) a person entitled to that indebtedness; or
- 4.1.4 a disposal is made of the majority of the issued share capital of the Company or of any other undertaking representing the whole or a substantial part of the assets or undertaking of the Company (otherwise than in the course of a re-organisation, reconstruction, amalgamation or merger on terms previously approved by the Noteholder in writing); or
- 4.1.5 an order is made or an effective resolution is passed for the winding up or dissolution of the Company or a liquidator or interim or provisional liquidator is appointed in respect of the whole or any substantial part of the assets or undertaking of the Company (otherwise than in the course of a re-organisation, reconstruction,

amalgamation or merger on terms previously approved by the Noteholder holding at least a majority in principal value of the Notes for the time being outstanding); or

- 4.1.6 an encumbrancer takes possession of, or a trustee, receiver, administrative receiver, manager or similar officer is appointed, or an administration order is made in respect of the Company or in respect of the whole or any substantial part of the assets or undertaking of the Company; or
 - 4.1.7 the Company makes an arrangement or composition with its creditors generally or the Company makes an application to a court of competent jurisdiction for protection of its creditors generally; or
 - 4.1.8 attachment, sequestration, distress, execution, arrestment, poinding, diligence or other legal process is used, levied or put in force against the whole or any substantial part of the assets, rights or revenues of the Company; or
 - 4.1.9 the Company (otherwise than in the course of a re-organisation, reconstruction, amalgamation or merger as referred to in Condition 4.1.5) stops payment of its debts generally or ceases to carry on its business; or
 - 4.1.10 the Company is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - 4.1.11 any event equivalent or similar to the above occurs in relation to the Company in any applicable jurisdiction other than Scotland.
- 4.2 The Noteholder shall give notice to the Company at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) identifying which event(s) referred to in Condition 4.1 he is relying on and shall surrender the Certificate for the Notes to be redeemed in accordance with Condition 5.1.
- 4.3 The Company shall forthwith give notice to the Noteholder of the happening of any event specified in Condition 4.1 upon becoming aware of such event.

5 PROCEDURE ON REDEMPTION

- 5.1 The Noteholder, any part of whose Notes is to be redeemed under these Conditions shall, not later than the due date for redemption, deliver to the Company secretary at the Company's registered office (or such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) the Certificate(s) for his Notes which are to be redeemed. Upon such delivery and against a receipt (if the Company so requires) for the principal moneys payable in respect of the Notes to be redeemed, the Company shall pay to the Noteholder the amount payable to him in respect of such redemption.

- 5.2 If any Certificate(s) so delivered to the Company includes any Notes which are not at that time to be redeemed, the Company shall cancel the old Certificate and issue a new Certificate for the balance of such Notes to the Noteholder without charge.
- 5.3 If the Noteholder, any part of whose Notes is to be redeemed under these Conditions, fails to comply with Condition 5.1:
- 5.3.1 the Company may pay all amounts payable in respect of the Notes into a separate bank account held by the Company;
 - 5.3.2 the payment of an amount into a bank account shall not constitute the Company a trustee for such Noteholder and such payment shall be deemed for all purposes to be a payment to the Noteholder and the Company shall be discharged from all obligations in connection with such Notes;
 - 5.3.3 the Company shall be entitled to the interest accrued on the amount;
 - 5.3.4 the Company shall not be responsible for the safe custody of such moneys or for interest as may accrue on such moneys; and
 - 5.3.5 if any such amount so paid or deposited remains unclaimed after a period of 12 years from the date on which the relevant principal first became due it shall revert to the Company and the Noteholder shall cease to be entitled to such amount.

6 CANCELLATION

The Company shall cancel each Note redeemed or purchased by the Company and shall not reissue or resell such Note.

7 THE REGISTER

The Register shall contain inter alia the following information:

- 7.1 the names and addresses of the Noteholders of the Notes;
- 7.2 the amount of the Notes held by each Noteholder from time to time;
- 7.3 the date on which the name of each Noteholder is entered in the Register in respect of such Notes;
- 7.4 the serial number of each Certificate issued and its date of issue; and
- 7.5 all transfers and changes of ownership of the Notes.

8 TRUSTS AND TRANSMISSION

- 8.1 It is hereby acknowledged that the Trustees Loan Notes are held in trust by the Trustees.
- 8.2 Subject to Condition 8.1, the Company shall:

- 8.2.1 recognise the Noteholder as the only person(s) having any right, title, interest or claim to or in such Notes;
 - 8.2.2 not (except where required by law or a court of competent jurisdiction) be bound to take notice of, or to see to the execution of, any trust (whether express, implied or constructive) to which any Notes may be subject and shall not be affected by any notice it may have (whether express, implied or constructive) of the right, title, interest or claim of any other person to or in such Notes or moneys; and
 - 8.2.3 not (except where required by law or a court of competent jurisdiction) be bound to enter in the Register any notice of any subsequent trust whether express, implied or constructive in respect of any Notes.
- 8.3 A person becoming entitled to Notes by reason of the bankruptcy of the Noteholder or otherwise by operation of law may be registered as the holder of such Notes upon producing evidence of his title as the Directors (acting reasonably) may require. The Company may in its sole discretion retain any payments due on such Notes until the person entitled under this Condition to be registered in respect of such Notes has been duly registered.
- 9 TRANSFER**
- 9.1 Notes are transferable in nominal amounts and/or integral multiples of £50,000 (or, if less, the balance outstanding held by the Noteholder) by an instrument in writing in the usual common form or in any other form approved by the Directors.
 - 9.2 Every instrument of transfer of Notes shall be signed by or on behalf of the transferor who will be deemed to remain the owner of the Note until the name of the transferee is entered in the Register in respect of the Note, provided that in the case of a partly paid Note the instrument shall also be signed by or on behalf of the transferee.
 - 9.3 Every instrument of transfer shall be delivered to the Company secretary at the Company's registered office (or such other address in the United Kingdom as the Company may from time to time notify to the Noteholders) for registration, accompanied by the Certificate(s) for the Notes to be transferred and/or such other evidence as the Directors may require to prove the title of the transferor or his right to transfer the Notes and if the instrument is executed by some other person on his behalf the authority of that person to do so. If such transfer is in respect of some of the Notes comprised in the Certificate, a new Certificate shall be issued free of charge to the transferor in respect of the balance of the Notes not transferred. The Company may retain all instruments of transfer which are registered.
 - 9.4 An instrument of transfer shall not include any loan notes not constituted by the Instrument.
 - 9.5 The Company shall not register a transfer of Notes:

- 9.5.1 in respect of which the Company has served notice on a Noteholder pursuant to Condition 3.3; or
 - 9.5.2 in respect of which the Noteholder has served notice on the Company pursuant to Condition 4 (Events of Default); or
 - 9.5.3 during the 10 Business Days immediately preceding an Interest Payment Date.
- 9.6 The Company shall:
- 9.6.1 not charge a fee for the registration of any transfer or for the registration of any probate, letters of administration, certificates of marriage or death, power of attorney or other document relating to or affecting the title to any Notes; and
 - 9.6.2 issue to the transferee free of charge a Certificate endorsed with his name as Noteholder upon registration of a transfer of the Notes or a part of the Note and, where the transfer is of part only of a Note, the Company shall cancel the old Certificate and issue free of charge a new Certificate in respect of the balance of the Note retained by the Noteholder.

10 PROCEDURE FOR PAYMENT

- 10.1 All payments to be made by the Company under these Conditions or the Instrument (whether of principal or interest) shall be made after withholding or deduction for or on account of any tax, levy, impost, charge, fee or duty of whatsoever nature (present or future) imposed or levied by any authority having power to tax such payment which the Company shall for the time being be required by any applicable law to withhold or deduct.
- 10.2 Where any withholding or deduction is made pursuant to Condition 10.1 the Company shall provide to the Noteholder a certificate showing any such withholding or deduction from any payment made to the Noteholder during the preceding calendar year and the Company shall not be obliged to pay any additional amount to the Noteholder in respect of the amount so withheld or deducted.
- 10.3 Subject to Condition 10.5, any principal, interest or other moneys payable on or in respect of any Notes may be paid by cheque or warrant made payable to or to the order of, and sent to the registered address of, the Noteholder in respect of such Notes or to such person and to such address as the Noteholder may in writing direct.
- 10.4 Subject to payment of the relevant cheque or warrant by the bank on which it is drawn, the Company shall be deemed to have complied with any obligation to make payment on a particular date (the "due date") if a cheque or warrant is duly posted in accordance with Condition 10.3 on or before the second Business Day preceding the due date. If any such cheque or warrant has (or shall be alleged to have) been lost, stolen or destroyed, the Company may, at the request of the Noteholder entitled, issue a replacement cheque or

warrant subject to compliance with such conditions as to evidence and indemnity and the payment of out-of-pocket expenses of the Company in connection with the request as the Company may think fit.

- 10.5 If the Noteholder gives written notice to the Company (a "**transfer authority**") providing the Company with details (including bank name and address and account name, account number and sort code) of a United Kingdom bank account to which payments of principal and/or interest in respect of the Notes may be made, the Company shall pay principal and/or interest by CHAPS funds transfer or such other direct funds transfer to such account providing the Noteholder with cleared funds for credit on the due date for payment to the order of the Noteholder or, in the case of joint Noteholders, to the order of the person who is first named in the Register). The Noteholder shall give the Company not less than 10 days prior notice in order to vary or revoke any such transfer authority.
- 10.6 The receipt of the Noteholder or his executors or administrators for any moneys due in respect of his holding of Notes shall be a good discharge to the Company notwithstanding any notice it may have (whether express, implied or constructive) of the right, title, interest or claim of any other person to or in such Notes or moneys.
- 10.7 All Certificates and other documents and all cheques, warrants and other remittances sent through the post shall be sent at the risk of the Noteholder entitled to the same. If payment is made by a bank or other funds transfer the Company shall not be responsible for amounts lost or delayed in the course of the transfer.
- 10.8 If any day on which a payment is to be made by the Company in respect of the Notes is a non-Business Day such payment shall instead be made on the next Business Day.

11 REPLACEMENT CERTIFICATES

If a Certificate is lost, defaced or destroyed the Company shall renew it on such terms as to evidence and indemnity as the Directors may require. In the case of defacement the relevant Noteholder shall surrender the defaced Certificate before the Company will issue a new Certificate.

12 NO LIEN

Subject to Condition 10.1, all amounts due under the Instrument and the Conditions (including both principal and interest) to be paid by the Company to the Noteholder shall be paid without regard to any lien, right of set-off, counterclaim or other equivalent or analogous right on the part of the Company against the Noteholder.

13 INSPECTION OF THE INSTRUMENT

The Company shall keep at its registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) a copy of the

Instrument, which shall be available at all reasonable times during business hours for inspection by the Noteholder or in the case of a corporation by any person authorised in writing by the Noteholder.

14 NOTICES

14.1 Any notice or other document (including, without limitation, a Certificate) given under or in connection with the Instrument or these Conditions shall be in writing and shall be delivered personally or sent by first class pre-paid post:

14.1.1 in the case of the Company, to the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) or by facsimile to the Company's facsimile number at such address;

14.1.2 in the case of the Noteholder, to the Noteholder at his registered address; and

14.1.3 in the case of a person entitled to any Notes in consequence of the bankruptcy of the Noteholder or of any other event giving rise to transmission by operation of law, to him by name or by title of the representatives or trustees of such Noteholder at the address (if any) in the United Kingdom supplied for the purpose of such person or (until such address is supplied) by giving notice in the manner in which it would have been given if the death, bankruptcy or other event had not occurred.

14.2 In the absence of earlier receipt, and subject to Condition 14.3, a notice or other document shall be deemed to have been served:

14.2.1 if delivered personally, when left at the address of the relevant party; and

14.2.2 if sent by first class post, two Business Days after posting it.

14.3 If a notice or other document is given or deemed to have been given on a non-Business Day it shall be deemed to have been served on the next Business Day.

15 GOVERNING LAW AND JURISDICTION

15.1 These Conditions shall be governed by and construed in accordance with the law of Scotland.

15.2 The Company and the Noteholder irrevocably agree that the courts of Scotland shall have jurisdiction in relation to any matters arising out of, or in connection with, the Conditions and for those purposes irrevocably prorogate the exclusive jurisdiction of those courts.

WALLACES EXPRESS LIMITED

Loan Note Instrument constituting £400,000 subordinated variable unsecured loan notes of Wallaces Express Limited

This Loan Note Instrument is subject in all respects to the provisions of a Subordination Agreement dated on or about today's date between Wallaces Express Limited, Wallaces of Ayr Limited, Brian Calder and Susan Calder (as Trustees of the DS Cosh Trust), David Cosh, Christopher Cosh and Clydesdale Bank plc.

DUNDAS & WILSON CS

191 West George Street
Glasgow G2 2LD

Tel 0141 222 2200
Fax 0141 222 2201
Legal Post: LP1 Glasgow 8

Ref: GAB/GMB/WAL136.0001

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Parts of the Schedule

1. Form of Certificate
2. Conditions of Issue

INSTRUMENT

BY

WALLACES EXPRESS LIMITED a company incorporated in Scotland (registered number SC247082) whose registered office is at 10 Crompton Way, Irvine, KA11 4HU (the "**Company**")

In favour of

BRIAN JAMES CALDER AND SUSAN MARY CALDER AS TRUSTEES OF THE D S COSH TRUST residing at 3 Shalloch Park, Ayr, KA7 4HL (the "**Noteholder**").

RECITALS:

The Company has, pursuant to its memorandum and articles of association, agreed to issue, subject to Clause 3 (Terms of Issue), a principal amount of £400,000 of subordinated variable rate unsecured loan notes to be constituted under the terms and subject to the conditions of this Instrument.

1 DEFINITIONS

1.1 In this Instrument, including the Recitals, unless the context otherwise requires, the following words have the meanings stated:

| | |
|--------------------------|---|
| Bank | Clydesdale Bank PLC |
| Business Day | 9.00 am to 5.00 pm on any day (other than a Saturday or Sunday) on which clearing banks are open for the transaction of normal banking business in Scotland |
| Cash Sweep Amount | an amount equal to the Excess Cash Amount divided by 4, to the extent that the same is a positive number |
| Certificate | a certificate for Notes in the form or substantially in the form set out in Part 1 of the Schedule issued by the Company |
| Conditions | the conditions set out in Part 2 of the Schedule or as modified from time to time in accordance with this Instrument |
| Cosh Loan Notes | the loan notes issued by the Company to David Cosh as constituted by loan note instrument of even date herewith between the Company and David Cosh (as the same may be transferred (in whole or in part) from time to time in accordance with the Conditions) |
| Directors | the board of directors for the time being of the |

| | |
|--------------------------------|--|
| | Company |
| Excess Cash Amount | <p>means, in respect of any quarter, an amount equal to 50% of:</p> <p>(a) (i) EBITA (as that term is defined in the Facility Letter) in respect of such quarter as shown in the most recent management accounts delivered to the Bank in accordance with Part 8 of the Schedule to the Facility Letter; plus</p> <p>(ii) EBITA (as that term is defined in the Facility Letter) projected for the following three quarters as shown in the then latest Cash Flow Model (as that term is defined in the Facility Letter); less</p> <p>(b) £3,250,000</p> |
| Facility Letter | the facility letter between the Bank and the Company dated 5 December 2003, notwithstanding that the facilities made available thereunder may have been repaid |
| Initial Redemption Date | <p>the later of:</p> <p>(a) the date occurring five years after the date of the first drawdown of the Term Loan made by the Company in accordance with the Facility Letter; and</p> <p>(b) the date on which the amount of the Term Loan outstanding and due by the Company is £4,500,000 or less</p> |
| Interest Payment Date | in each year 1 st January, 1 st April, 1 st July and 1 st September |
| Interest Period | a period beginning on the day following an Interest Payment Date and ending on the next following Interest Payment Date save that the first Interest Period shall begin on the date of issue of the Notes and end on the next following Interest Payment Date |
| Interest Rate | the rate determined in accordance with Condition 2.5 or 2.6 |
| Notes | £400,000 Subordinated Variable Rate Unsecured Loan Notes of the Company |

| | |
|--|--|
| | constituted under this Instrument |
| Redemption Date | the Initial Redemption Date and the last Business Day of each month thereafter |
| Register | the register of holders of loan notes kept by or on behalf of the Company pursuant to Clause 8 (Register of Noteholders) |
| Subordination Agreement | the subordination agreement dated on or about today's date between Wallaces of Ayr Limited, the Company, the Noteholder, David Cosh, Christopher Cosh and Clydesdale Bank plc; |
| Term Loan | the £9,020,000 term loan facility offered by the Bank to the Company in terms of the Facility Letter |
| Term Loan Repayment Date | the date by which the Term Loan is fully repaid by the Company |
| Total Loan Notes | the Notes plus the Cosh Loan Notes |
| Wallaces of Ayr Facility Letter | the facility letter between the Bank and Wallaces of Ayr Limited dated on or about today's date, notwithstanding that the facilities made available thereunder may have been repaid. |

1.2 In this Instrument, unless the context otherwise requires, references to:

1.2.1 any statute or statutory provision include a reference to:

- (a) subordinate legislation made from time to time pursuant to that statute or statutory provision (whether before or after the date of this Instrument); and
- (b) that statute or statutory provision as amended, modified, replaced, consolidated and/or re-enacted from time to time (whether before or after the date of this Instrument);

1.2.2 words denoting one gender include all other genders and words denoting the singular include the plural and vice versa;

1.2.3 a person include individuals, bodies corporate, unincorporated associations, partnerships, joint ventures and government departments or agencies, and references to any of the same include the others;

1.2.4 any reference to any person shall include a reference to that person's successors and permitted assignees and transferees;

- 1.2.5 any words and expressions defined in the Companies Act 1985 shall bear the same respective meanings in this Instrument;
- 1.2.6 redemption includes payment and repayment and vice versa and the words "redeem" or "redeemed" shall be construed accordingly;
- 1.2.7 paid up includes credited as paid up;
- 1.2.8 the Company and the Noteholder shall be construed so as to include their respective successors and assignees or transferees from time to time;
- 1.2.9 *Clauses or the Schedule and the Parts of the Schedule are to clauses of, or the schedule and parts of the schedule to, this Instrument;*
- 1.2.10 a quarter shall have the meaning attributed to that term in the Facility Letter.
- 1.3 The Schedule forms an integral part of this Instrument and references to this Instrument include the Schedule (as modified from time to time in accordance with this Instrument).
- 1.4 The headings to the Clauses are for convenience only and do not affect the construction or interpretation of this Instrument.

2 AMOUNT OF NOTES

- 2.1 The Notes shall be known as Subordinated Variable Rate Unsecured Loan Notes.
- 2.2 The principal amount of the Notes constituted under this Instrument is limited to £400,000 .

3 TERMS OF ISSUE

- 3.1 The Company hereby issues the Notes to the Noteholder.
- 3.2 The Notes shall, subject to the terms of the Subordination Agreement, constitute direct, general and unconditional obligations of the Company which shall rank equally and rateably amongst themselves without discrimination or preference and as unsecured debt obligations of the Company.
- 3.3 No application has been made or shall be made to any stock exchange or any other equivalent or similar share market for permission to deal in or for an official or other listing or quotation in respect of the Notes.
- 3.4 Subject to the terms of the Subordination Agreement, the Notes are transferable in accordance with the Conditions.
- 3.5 Subject to the terms of the Subordination Agreement, this Instrument and the Conditions, the Noteholder and David Cosh shall each rank as ordinary creditors of the Company and the Notes

and the Cosh Loan Notes shall rank as regards interest and repayment pro rata to the amounts respectively outstanding.

4 REDEMPTION OF NOTES

- 4.1 Subject to the terms of the Subordination Agreement, the Notes shall be redeemed in accordance with the terms of this Instrument and the Conditions.
- 4.2 Subject as provided in this Instrument or the Conditions, the Notes shall become immediately repayable at par together with accrued interest upon the occurrence of any of the events specified in Condition 4 (Events of Default).
- 4.3 As and when a Note is redeemed the Company shall pay to the Noteholder the full principal amount of the Note at par together with all interest accrued but not paid on such Note up to and including the date of actual repayment in accordance with the terms of this Instrument and the Conditions.

5 INTEREST ON NOTES

Until a Note is redeemed or purchased by the Company the Company shall pay to the Noteholder interest on the Note in accordance with the terms of this Instrument and the Conditions.

6 CERTIFICATES

- 6.1 The Noteholder shall be entitled, without charge, to a Certificate for the total amount of Notes registered in his name.
- 6.2 Such Certificate shall be issued as duly executed in accordance with the Company's articles of association for the time being and shall have attached a copy of the Conditions which shall be deemed to form part of the Certificate.

7 INCORPORATION OF CONDITIONS

The Notes shall be held subject to and with the benefit of the Conditions and the other provisions set out in the Schedule. The Conditions and the other provisions set out in the Schedule shall be binding on the Company, the Noteholder and all persons claiming through or under them respectively and shall have effect as if the Conditions and other provisions were set out in this Instrument.

8 REGISTER

- 8.1 The Register will be maintained and kept by the Company at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder).
- 8.2 The Register shall contain the information specified in Condition 7 (Register).
- 8.3 The Noteholder shall notify the Company of any change of his name or address and the Company shall alter the Register accordingly.
- 8.4 The Noteholder may at all reasonable times during business hours inspect the Register, except during such period(s), not exceeding 30 days in total in any year, when the Register is closed by the Company.

9 VARIATION

The provisions of this Instrument, the Conditions and the rights of the Noteholder may from time to time be modified or varied by the Company with the written agreement of the Noteholder, provided that the Company has obtained the prior written consent of the Bank and David Cosh to any such modification or variation.

10 BENEFIT OF INSTRUMENT

- 10.1 Subject to Clause 12 below, the Company covenants with the Noteholder that so long as any Notes are outstanding or any accrued interest is unpaid, it will duly perform and observe its obligations contained in this Instrument.
- 10.2 Subject to Clause 12 below, this Instrument will enure for the benefit of the Noteholder, who may sue for the performance or observance of the provisions of this Instrument so far as its holding of Notes is concerned.

11 FEES

The Company shall pay all stamp duty, issue, registration, documentary and other fees, duties and taxes, including interest and penalties, payable on or in connection with the issue of the Notes under this Instrument.

12 SUBORDINATION AGREEMENT

Any payment to be made in terms of this Instrument, whether of interest or principal, is subject to the terms of the Subordination Agreement and no payments shall be made by the Company in contravention of the Subordination Agreement. For the purposes of all payment obligations of the Company under this Instrument, this Instrument and the Subordination Agreement shall be read in conjunction. Any failure to make any payment of interest or principal which would otherwise result in the contravention of the terms of the Subordination Agreement, shall not

constitute a breach of the obligations of the Company under the terms of this Instrument. Any such payment shall however remain due (but not then payable) by the Company to the Noteholder.

13. GOVERNING LAW AND JURISDICTION

13.1 This Instrument and the Notes shall be governed by and construed in accordance with the law of Scotland.

13.2 The Company and the Noteholder irrevocably agree that the courts of Scotland shall have jurisdiction in relation to any matters arising out of, or in connection with, this Instrument or the Notes and, for those purposes, irrevocably prorogate the exclusive jurisdiction of those courts.

IN WITNESS WHEREOF this Instrument typewritten on this and the preceding 6 pages, together with the Schedule in 2 parts annexed, is executed in duplicate as follows:

SUBSCRIBED for and on behalf of **WALLACES EXPRESS LIMITED**

at _____ on _____

by:

Director:

Full Name:

Director/Secretary:

Full Name:

This is the Schedule in 2 parts referred to in the Loan Note Instrument made by WALLACES EXPRESS LIMITED dated 5 December 2003

Amount £•

SUBORDINATED VARIABLE RATE UNSECURED LOAN NOTES

Full Name:

Note:

- 1 Subject to the terms of the Subordination Agreement, the Notes are redeemable in accordance with the Instrument and the Conditions.
- 2 Subject to the terms of the Subordination Agreement, the Notes are transferable in minimum amounts or integral multiples of £50,000 or, if less, the balance of Notes outstanding held by the Noteholder.
- 3 This Certificate must be lodged with the Company secretary at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) before any redemption or transfer, whether of the whole or any part of the Notes comprised in it, can be made or a new Certificate issued in exchange.
- 4 A copy of the Instrument constituting the Notes is available for inspection by the Noteholder at the Company's registered office address (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) at all reasonable times during business hours.

PART 2
CONDITIONS OF ISSUE

1 INTERPRETATION

Words and expressions defined in the Instrument shall have the same meaning in this Part of the Schedule.

2 INTEREST ON NOTES

- 2.1 Until such time as the Notes are redeemed or purchased in accordance with the Instrument and these Conditions the Company shall pay to the Noteholder interest on the principal amount of the Notes for the time being outstanding at the Interest Rate.
- 2.2 Interest is payable to the Noteholder on the basis of the Register as at the close of business on the fifth Business Day preceding the relevant Interest Payment Date (the "**Record Date**") and the Noteholder shall be deemed to be the holder of the Notes held by him on the Record Date on such Interest Payment Date notwithstanding any intermediate transfer or transmission of any of those Notes.
- 2.3 Interest accrues daily and is calculated on the basis of a 365 day year and on the actual number of days elapsed in the relevant Interest Period counting the first and the last day of such period.
- 2.4 Interest is payable in arrears on each Interest Payment Date in respect of an Interest Period.
- 2.5 Subject to Condition 2.9, the Interest Rate on the Notes is the rate per annum which is one per cent above the base rate of the Bank from time to time. A certificate signed by an authorised official of such bank shall be final and conclusive evidence of such base rate from time to time, save in the case of manifest error.
- 2.6 If no rate referred to in Condition 2.5 is published by the Bank at any time, then the Interest Rate on the Notes for such Interest Period shall be calculated on the basis of the rate which is one per cent above the base rate offered by The Governor and Company of the Bank of Scotland. A certificate signed by an authorised official of such bank shall be final and conclusive evidence of such base rate from time to time, save in the case of manifest error.
- 2.7 On the redemption or purchase of all or any part of the Notes the Company shall pay all interest accrued (but remaining unpaid) on such Notes up to and including the date of actual repayment or cancellation.
- 2.8 Interest at the Interest Rate ceases to accrue on a Note after the due date for redemption or purchase of the Note. However, if upon surrender of this Certificate in accordance with Condition 5 (Procedure on Redemption) the Company does not pay any amount of principal on the Note when it is due, interest will continue to accrue on the said amount of principal which is due from and including the date following the date of such default until the date of

actual payment (both before as well as after any judgement) at a default rate of four per cent above the Interest Rate.

- 2.9 Interest shall accrue on any amount of unpaid interest from (but excluding) the due date for payment up to (and including) the actual date of payment at a default rate of four per cent above the Interest Rate at which interest on principal is payable in respect of the relevant Interest Period (and shall be deemed to be due and payable on the date on which such unpaid interest is actually paid).
- 2.10 To the extent that the Company has insufficient funds to make the interest payments due under this Condition 2 to the Noteholder and under the Cosh Loan Notes and to the extent that there are Cosh Loan Notes outstanding, the amount available to be applied in payment of such interest will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by the available amount.

3 REDEMPTION AND REPAYMENT

- 3.1 The Company shall redeem £5,772 of the Notes outstanding on the Initial Redemption Date and £5,772 of the Notes outstanding on each subsequent Redemption Date until the Term Loan Repayment Date, following which the Company shall redeem £11,544 of the Notes on each Redemption Date until the Notes have been redeemed in full. To the extent that the Company has insufficient funds to make the redemption payments due under this Condition 3 or under Condition 4 and under the Cosh Loan Notes and to the extent that there are Cosh Loan Notes outstanding, the amount available to be applied in such redemption will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by such available amount.
- 3.2 Following the Initial Redemption Date, in addition to the payments referred to in Condition 3.1, the Company shall make payment to the Noteholder within 35 Business Days after the end of each quarter of the following amounts in respect of such quarter:-
- 3.2.1 in respect of the period up to and including the Term Loan Repayment Date, the amount of Notes to be redeemed at par will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by one half of the Cash Sweep Amount; or
- 3.2.2 in respect of the period after the Term Loan Repayment Date, the amount of Notes to be redeemed at par will be such amount as is equal to the proportion that the Notes outstanding to the Noteholder bears to the Total Loan Notes outstanding multiplied by the Cash Sweep Amount until the Cosh Loan Notes have been redeemed in full by the Company, after which time the amount of Notes to be so redeemed shall be the whole of the Cash Sweep Amount.

- 3.3 In addition to the payments referred to in Condition 3.1 and 3.2, but subject as hereinafter provided at any time after the Term Loan Repayment Date, the Company may, on giving to the Noteholder not less than seven days notice at any time, redeem all or any of the outstanding Notes by payment of the principal amount together with accrued interest up to (and including) the date of redemption; Provided that the redemption of the Noteholder's Notes shall be pro rata to the redemption of Cosh Loan Notes outstanding.

4 EVENTS OF DEFAULT

- 4.1 Notwithstanding any other provision of the Instrument, upon receipt of a notice from the Noteholder in accordance with Condition 4.2, the Company shall immediately redeem the Noteholder's Notes at par (together with accrued interest up to (and including) the date of redemption) on the occurrence of any of the following events:

- 4.1.1 the Company fails to pay any principal or interest payable on any Notes within 5 Business Days after the due date for payment of such moneys in accordance with these Conditions; or
- 4.1.2 the Company breaches any of its obligations under the Instrument (other than its obligations in respect of the payment of principal and/or accrued interest) and such breach has not been remedied within 10 Business Days after service of notice on the Company by the Noteholder requiring its remedy; or
- 4.1.3 any obligation (whether present or future, actual or contingent) of the Company to pay or repay money which has been borrowed or raised:
 - (a) is not paid when due or (as the case may be) within any originally applicable grace periods; or
 - (b) becomes (or becomes capable of being declared) due and payable before its stated maturity otherwise than at the option of either the Company or (if no event of default has occurred) a person entitled to that indebtedness; or
- 4.1.4 a disposal is made of the majority of the issued share capital of the Company or of any other undertaking representing the whole or a substantial part of the assets or undertaking of the Company (otherwise than in the course of a re-organisation, reconstruction, amalgamation or merger on terms previously approved by the Noteholder in writing); or
- 4.1.5 an order is made or an effective resolution is passed for the winding up or dissolution of the Company or a liquidator or interim or provisional liquidator is appointed in respect of the whole or any substantial part of the assets or undertaking of the Company (otherwise than in the course of a re-organisation, reconstruction,

- amalgamation or merger on terms previously approved by the Noteholder holding at least a majority in principal value of the Notes for the time being outstanding); or
- 4.1.6 an encumbrancer takes possession of, or a trustee, receiver, administrative receiver, manager or similar officer is appointed, or an administration order is made in respect of the Company or in respect of the whole or any substantial part of the assets or undertaking of the Company; or
 - 4.1.7 the Company makes an arrangement or composition with its creditors generally or the Company makes an application to a court of competent jurisdiction for protection of its creditors generally; or
 - 4.1.8 attachment, sequestration, distress, execution, arrestment, poinding, diligence or other legal process is used, levied or put in force against the whole or any substantial part of the assets, rights or revenues of the Company; or
 - 4.1.9 the Company (otherwise than in the course of a re-organisation, reconstruction, amalgamation or merger as referred to in Condition 4.1.5) stops payment of its debts generally or ceases to carry on its business; or
 - 4.1.10 the Company is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - 4.1.11 any event equivalent or similar to the above occurs in relation to the Company in any applicable jurisdiction other than Scotland.
- 4.2 The Noteholder shall give notice to the Company at the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) identifying which event(s) referred to in Condition 4.1 he is relying on and shall surrender the Certificate for the Notes to be redeemed in accordance with Condition 5.1.
- 4.3 The Company shall forthwith give notice to the Noteholder of the happening of any event specified in Condition 4.1 upon becoming aware of such event.

5 PROCEDURE ON REDEMPTION

- 5.1 The Noteholder, any part of whose Notes is to be redeemed under these Conditions shall, not later than the due date for redemption, deliver to the Company secretary at the Company's registered office (or such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) the Certificate(s) for his Notes which are to be redeemed. Upon such delivery and against a receipt (if the Company so requires) for the principal moneys payable in respect of the Notes to be redeemed, the Company shall pay to the Noteholder the amount payable to him in respect of such redemption.

- 5.2 If any Certificate(s) so delivered to the Company includes any Notes which are not at that time to be redeemed, the Company shall cancel the old Certificate and issue a new Certificate for the balance of such Notes to the Noteholder without charge.
- 5.3 If the Noteholder, any part of whose Notes is to be redeemed under these Conditions, fails to comply with Condition 5.1:
- 5.3.1 the Company may pay all amounts payable in respect of the Notes into a separate bank account held by the Company;
 - 5.3.2 the payment of an amount into a bank account shall not constitute the Company a trustee for such Noteholder and such payment shall be deemed for all purposes to be a payment to the Noteholder and the Company shall be discharged from all obligations in connection with such Notes;
 - 5.3.3 the Company shall be entitled to the interest accrued on the amount;
 - 5.3.4 the Company shall not be responsible for the safe custody of such moneys or for interest as may accrue on such moneys; and
 - 5.3.5 if any such amount so paid or deposited remains unclaimed after a period of 12 years from the date on which the relevant principal first became due it shall revert to the Company and the Noteholder shall cease to be entitled to such amount.

6 CANCELLATION

The Company shall cancel each Note redeemed or purchased by the Company and shall not reissue or resell such Note.

7 THE REGISTER

The Register shall contain inter alia the following information:

- 7.1 the names and addresses of the Noteholders of the Notes;
- 7.2 the amount of the Notes held by each Noteholder from time to time;
- 7.3 the date on which the name of each Noteholder is entered in the Register in respect of such Notes;
- 7.4 the serial number of each Certificate issued and its date of issue; and
- 7.5 all transfers and changes of ownership of the Notes.

8 TRUSTS AND TRANSMISSION

- 8.1 It is hereby acknowledged that the Notes are held in trust by the Noteholder.
- 8.2 Subject to Condition 8.1, the Company shall:

- 8.2.1 recognise the Noteholder as the only person(s) having any right, title, interest or claim to or in such Notes;
 - 8.2.2 not (except where required by law or a court of competent jurisdiction) be bound to take notice of, or to see to the execution of, any trust (whether express, implied or constructive) to which any Notes may be subject and shall not be affected by any notice it may have (whether express, implied or constructive) of the right, title, interest or claim of any other person to or in such Notes or moneys; and
 - 8.2.3 not (except where required by law or a court of competent jurisdiction) be bound to enter in the Register any notice of any subsequent trust whether express, implied or constructive in respect of any Notes.
- 8.3 A person becoming entitled to Notes by reason of the bankruptcy of the Noteholder or otherwise by operation of law may be registered as the holder of such Notes upon producing evidence of his title as the Directors (acting reasonably) may require. The Company may in its sole discretion retain any payments due on such Notes until the person entitled under this Condition to be registered in respect of such Notes has been duly registered.

9 TRANSFER

- 9.1 Notes are transferable in nominal amounts and/or integral multiples of £50,000 (or, if less, the balance outstanding held by the Noteholder) by an instrument in writing in the usual common form or in any other form approved by the Directors.
- 9.2 Every instrument of transfer of Notes shall be signed by or on behalf of the transferor who will be deemed to remain the owner of the Note until the name of the transferee is entered in the Register in respect of the Note, provided that in the case of a partly paid Note the instrument shall also be signed by or on behalf of the transferee.
- 9.3 Every instrument of transfer shall be delivered to the Company secretary at the Company's registered office (or such other address in the United Kingdom as the Company may from time to time notify to the Noteholders) for registration, accompanied by the Certificate(s) for the Notes to be transferred and/or such other evidence as the Directors may require to prove the title of the transferor or his right to transfer the Notes and if the instrument is executed by some other person on his behalf the authority of that person to do so. If such transfer is in respect of some of the Notes comprised in the Certificate, a new Certificate shall be issued free of charge to the transferor in respect of the balance of the Notes not transferred. The Company may retain all instruments of transfer which are registered.
- 9.4 An instrument of transfer shall not include any loan notes not constituted by the Instrument.
- 9.5 The Company shall not register a transfer of Notes:

- 9.5.1 in respect of which the Company has served notice on a Noteholder pursuant to Condition 3.3; or
 - 9.5.2 in respect of which the Noteholder has served notice on the Company pursuant to Condition 4 (Events of Default); or
 - 9.5.3 during the 10 Business Days immediately preceding an Interest Payment Date.
- 9.6 The Company shall:
- 9.6.1 not charge a fee for the registration of any transfer or for the registration of any probate, letters of administration, certificates of marriage or death, power of attorney or other document relating to or affecting the title to any Notes; and
 - 9.6.2 issue to the transferee free of charge a Certificate endorsed with his name as Noteholder upon registration of a transfer of the Notes or a part of the Note and, where the transfer is of part only of a Note, the Company shall cancel the old Certificate and issue free of charge a new Certificate in respect of the balance of the Note retained by the Noteholder.

10 **PROCEDURE FOR PAYMENT**

- 10.1 All payments to be made by the Company under these Conditions or the Instrument (whether of principal or interest) shall be made after withholding or deduction for or on account of any tax, levy, impost, charge, fee or duty of whatsoever nature (present or future) imposed or levied by any authority having power to tax such payment which the Company shall for the time being be required by any applicable law to withhold or deduct.
- 10.2 Where any withholding or deduction is made pursuant to Condition 10.1 the Company shall provide to the Noteholder a certificate showing any such withholding or deduction from any payment made to the Noteholder during the preceding calendar year and the Company shall not be obliged to pay any additional amount to the Noteholder in respect of the amount so withheld or deducted.
- 10.3 Subject to Condition 10.5, any principal, interest or other moneys payable on or in respect of any Notes may be paid by cheque or warrant made payable to or to the order of, and sent to the registered address of, the Noteholder in respect of such Notes or to such person and to such address as the Noteholder may in writing direct.
- 10.4 Subject to payment of the relevant cheque or warrant by the bank on which it is drawn, the Company shall be deemed to have complied with any obligation to make payment on a particular date (the "**due date**") if a cheque or warrant is duly posted in accordance with Condition 10.3 on or before the second Business Day preceding the due date. If any such cheque or warrant has (or shall be alleged to have) been lost, stolen or destroyed, the Company may, at the request of the Noteholder entitled, issue a replacement cheque or

warrant subject to compliance with such conditions as to evidence and indemnity and the payment of out-of-pocket expenses of the Company in connection with the request as the Company may think fit.

- 10.5 If the Noteholder gives written notice to the Company (a "**transfer authority**") providing the Company with details (including bank name and address and account name, account number and sort code) of a United Kingdom bank account to which payments of principal and/or interest in respect of the Notes may be made, the Company shall pay principal and/or interest by CHAPS funds transfer or such other direct funds transfer to such account providing the Noteholder with cleared funds for credit on the due date for payment to the order of the Noteholder or, in the case of joint Noteholders, to the order of the person who is first named in the Register). The Noteholder shall give the Company not less than 10 days prior notice in order to vary or revoke any such transfer authority.
- 10.6 The receipt of the Noteholder or his executors or administrators for any moneys due in respect of his holding of Notes shall be a good discharge to the Company notwithstanding any notice it may have (whether express, implied or constructive) of the right, title, interest or claim of any other person to or in such Notes or moneys.
- 10.7 All Certificates and other documents and all cheques, warrants and other remittances sent through the post shall be sent at the risk of the Noteholder entitled to the same. If payment is made by a bank or other funds transfer the Company shall not be responsible for amounts lost or delayed in the course of the transfer.
- 10.8 If any day on which a payment is to be made by the Company in respect of the Notes is a non-Business Day such payment shall instead be made on the next Business Day.

11 REPLACEMENT CERTIFICATES

If a Certificate is lost, defaced or destroyed the Company shall renew it on such terms as to evidence and indemnity as the Directors may require. In the case of defacement the relevant Noteholder shall surrender the defaced Certificate before the Company will issue a new Certificate.

12 NO LIEN

Subject to Condition 10.1, all amounts due under the Instrument and the Conditions (including both principal and interest) to be paid by the Company to the Noteholder shall be paid without regard to any lien, right of set-off, counterclaim or other equivalent or analogous right on the part of the Company against the Noteholder.

13 INSPECTION OF THE INSTRUMENT

The Company shall keep at its registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) a copy of the

Instrument, which shall be available at all reasonable times during business hours for inspection by the Noteholder or in the case of a corporation by any person authorised in writing by the Noteholder.

14 NOTICES

14.1 Any notice or other document (including, without limitation, a Certificate) given under or in connection with the Instrument or these Conditions shall be in writing and shall be delivered personally or sent by first class pre-paid post:

14.1.1 in the case of the Company, to the Company's registered office (or at such other address in the United Kingdom as the Company may from time to time notify to the Noteholder) or by facsimile to the Company's facsimile number at such address;

14.1.2 in the case of the Noteholder, to the Noteholder at his registered address; and

14.1.3 in the case of a person entitled to any Notes in consequence of the bankruptcy of the Noteholder or of any other event giving rise to transmission by operation of law, to him by name or by title of the representatives or trustees of such Noteholder at the address (if any) in the United Kingdom supplied for the purpose of such person or (until such address is supplied) by giving notice in the manner in which it would have been given if the death, bankruptcy or other event had not occurred.

14.2 In the absence of earlier receipt, and subject to Condition 14.3, a notice or other document shall be deemed to have been served:

14.2.1 if delivered personally, when left at the address of the relevant party; and

14.2.2 if sent by first class post, two Business Days after posting it.

14.3 If a notice or other document is given or deemed to have been given on a non-Business Day it shall be deemed to have been served on the next Business Day.

15 GOVERNING LAW AND JURISDICTION

15.1 These Conditions shall be governed by and construed in accordance with the law of Scotland.

15.2 The Company and the Noteholder irrevocably agree that the courts of Scotland shall have jurisdiction in relation to any matters arising out of, or in connection with, the Conditions and for those purposes irrevocably prorogate the exclusive jurisdiction of those courts.

The block contains three handwritten signatures. The first signature is 'B Calder' in cursive. The second signature is 'J Calder' in cursive. The third signature is 'Susan M. Calder' in cursive.

STOCK
TRANSFER

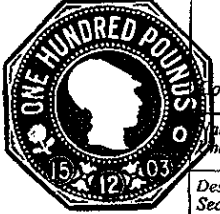
*Certified a true copy
Mudarik Wila
835
h*



(Above)



Certificate of Registrar

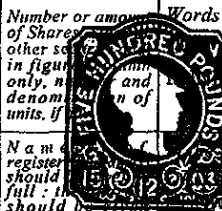


566,656

(For completion by the Registrar/Stock Exchange)

WALLACES OF AYR LIMITED

Description of Security. ORDINARY SHARES OF £1 EACH



Number or amount of Shares or other securities in figure only, not in words and denomination of units, if any.

Words HUNDRED AND EIGHTY-SEVEN THOUSAND, FIVE HUNDRED

Figures

287,500

(units of)

Name(s) of registered holder(s) of full title should be stated where there is only one holder.

STEPHEN COSH
WICK LODGE
18 EWENFIELD ROAD
AYR KA7 2QB

If the transfer is not made by the registered holder(s) insert also the name(s) and capacity (e.g., Executor(s)) of the person(s) making the transfer.

I hereby transfer the above security out of the name(s) aforesaid to the person(s) named below.

Signature(s) of transferor(s)

- 1.
- 2.
- 3.
- 4.

A body corporate should execute this transfer under its common seal or otherwise in accordance with applicable statutory requirements

Stamp of Selling Broker(s) or, for transactions which are not stock exchange transactions, of Agent(s), if any, acting for the Transferor(s)

Date 5 DECEMBER 2003

Full name(s) full postal address(es) (including County or, if applicable, Postal District number) of the person(s) to whom the security is transferred.

WALLACES EXPRESS LIMITED
CROMPTON WAY
NORTH NEWMOOR INDUSTRIAL ESTATE
IRVINE
KA11 4HU

Please state title, if any, or whether Mr., Mrs., or Miss.

Please complete in typewriting or in BLOCK CAPITALS

We request that such entries be made in the register as are necessary to give effect to this transfer.

Stamp of Buying Broker(s) (if any)

Stamp or name and address of person lodging this form (if other than the Buying Broker(s))

Reference to the Registrar in this Form means the registrar or registration agent of the undertaking NOT the Registrar of Companies at Companies House

FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS EXEMPT FROM STAMP DUTY

Instruments executed on or after 1st May 1987 effecting any transactions within the following categories are exempt from stamp duty:-

- A. The vesting of property subject to a trust in the trustees of the trust on the appointment of a new trustee, or in the continuing trustees on the retirement of a trustee.
- B. The conveyance or transfer of property the subject of a specific devise or legacy to the beneficiary named in the will (or his nominee). Transfers in satisfaction of a general legacy of money should not be included in this category (see category D below).
- C. The conveyance or transfer of property which forms part of an intestate's estate to the person entitled on intestacy (or his nominee). Transfers in satisfaction of the transferees entitlement to cash in the estate of an intestate, where the total value of the residuary estate exceeds that sum, should not be included in this category (see category D below).
- D. The appropriation of property within section 84(4) of the Finance Act 1985 (death: appropriation in satisfaction of a general legacy of money) or section 84(5) or (7) of that Act (death: appropriation in satisfaction of any interest of surviving spouse and in Scotland also of any interest of issue).
- E. The conveyance or transfer of property which forms part of the residuary estate of a testator to a beneficiary (or his nominee) entitled solely by virtue of his entitlement under the will.
- F. The conveyance or transfer of property out of a settlement in or towards satisfaction of a beneficiary's interest, not being an interest acquired for money or money's worth, being a conveyance or transfer constituting a distribution of property in accordance with the provisions of the settlement.
- G. The conveyance or transfer of property on and in consideration only of marriage to a party to the marriage (or his nominee) or to trustees to be held on the terms of a settlement made in consideration only of the marriage. A transfer to a spouse after the date of marriage is not within this category, unless made pursuant to an ante-nuptial contract.
- H. The conveyance or transfer of property within section 83(1) of the Finance Act 1985 (transfers in connection with divorce etc.).
- I. The conveyance or transfer by the liquidator of property which formed part of the assets of the company in liquidation to a shareholder of that company (or his nominee) in or towards satisfaction of the shareholder's rights on a winding-up.
- L. The conveyance or transfer of property operating as a voluntary disposition inter vivos for no consideration in money or money's worth nor any consideration referred to in section 57 of the Stamp Act 1891 (conveyance in consideration of a debt etc.).
- M. The conveyance or transfer of property by an instrument within section 84(1) of the Finance Act 1985 (death: varying disposition).

(1) Delete as appropriate.

(2) Insert "(A)", "(B)" or appropriate category.

(3) Delete second sentence if the certificate is given by the transferor or his solicitor.

(1) I/We hereby certify that the transaction in respect of which this transfer is made is one which falls within the category(2) above. (1)I/We confirm that (1)I/We have been duly authorised by the transferor to sign this certificate and that the facts of the transaction are within (1)my/our knowledge (3)

Signature(s)

Description ("Transferor", "Solicitor", etc.)

Date

NOTES

- (1) If the above certificate has been completed, this transfer does not need to be submitted to the Controller of Stamps but should be sent directly to the Company or its Registrars.
- (2) If the above certificate is not completed, this transfer must be submitted to the Controller of Stamps and duly stamped. (See below).

FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS NOT EXEMPT BUT IS NOT LIABLE TO AD VALOREM STAMP DUTY

Instruments of transfer, other than those in respect of which the above certificate has been completed, are liable to a fixed duty of £5.00 when the transaction falls within one of the following categories:-

- (a) Transfer by way of security for a loan or re-transfer to the original transferor on repayment of a loan.
- (b) Transfer, not on sale and not arising under any contract of sale and where no beneficial interest in the property passes: (i) to a person who is a mere nominee of, and is nominated only by, the transferor; (ii) from a mere nominee who has at all times held the property on behalf of the transferee; (iii) from one nominee to another nominee of the same beneficial owner where the first nominee has at all times held the property on behalf of that beneficial owner. (NOTE - This category does not include a transfer made in any of the following circumstances: (i) by a holder of stock, etc., following the grant of an option to purchase the stock, to the person entitled to the option or his nominee; (ii) to a nominee in contemplation of a contract for the sale of the stock, etc., then about to be entered into; (iii) from the nominee of a vendor, who has instructed the nominee orally or by some unstamped writing to hold stock, etc., in trust for a purchaser, to such purchaser.)

(1) Delete as appropriate.

(2) Insert "(a)", "(b)".

(3) Here set out concisely the facts explaining the transaction. Adjudication may be required.

(1) I/We hereby certify that the transaction in respect of which this transfer is made is one which falls within the category(2) above. (1)I/We confirm that (1)I/We have been duly authorised by the transferor to sign this certificate and the facts of the transaction are within (1)my/our knowledge.

(3)

Signature(s)

Description ("Transferor", "Solicitor", etc.)

Date



Certified a true copy
£4500
Husker W. W.

(Above this line for Registrars only)



Certificate lodged with the Registrar

Consideration Money £ 900,000

(For completion by the Registrar/Stock Exchange)



Name of Undertaking.

WALLACES OF AYR LIMITED

Description of Security.

"B" ORDINARY SHARES OF £1 EACH

Number or amount of Shares, Stock or other security and, in figures column only, number and denomination of units, if any.

Words

TWENTY-FIVE THOUSAND, SIX HUNDRED AND FIFTY-EIGHT

Figures

25,658

(units of)



Name(s) of registered holder(s) should be given in full: the address should be given where there is only one holder.

In the name(s) of

BRIAN JAMES CALDER AND SUSAN MARY CALDER
AS TRUSTEES OF THE D S COSH TRUST
3 SHALLOCH PARK
AYR
KA7 4HL

If the transfer is not made by the registered holder(s) insert also the name(s) and capacity (e.g., Executor(s) of the person(s) making the transfer.

I/We hereby transfer the above security out of the name(s) aforesaid to the person(s) named below.

Signature(s) of transferor(s)

1.

B. Calder

2.

Susan M. Calder

3.

4.

A body corporate should execute this transfer under its common seal or otherwise in accordance with applicable statutory requirements

Stamp of Selling Broker(s) or, for transactions which are not stock exchange transactions, of Agent(s), if any, acting for the Transferor(s)

Date 5 DECEMBER 2003

Full name(s) full postal address(es) (including County or, if applicable Postal District number) of the person(s) to whom the security is transferred.

WALLACES EXPRESS LIMITED
CROMPTON WAY
NORTH NEWMOOR INDUSTRIAL ESTATE
IRVINE
KA11 4HU

Please state title, if any, or whether Mr., Mrs., or Miss.

Please complete in typewriting or in BLOCK CAPITALS

We request that such entries be made in the register as are necessary to give effect to this transfer.

Stamp of Buying Broker(s) (if any)

Stamp or name and address of person lodging this form (if other than the Buying Broker(s))

Reference to the Registrar in this Form means the registrar or registration agent of the undertaking NOT the Registrar of Companies at Companies House

FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS EXEMPT FROM STAMP DUTY

Instruments executed on or after 1st May 1987 effecting any transactions within the following categories are exempt from stamp duty:-

- A. The vesting of property subject to a trust in the trustees of the trust on the appointment of a new trustee, or in the continuing trustees on the retirement of a trustee.
- B. The conveyance or transfer of property the subject of a specific devise or legacy to the beneficiary named in the will (or his nominee). Transfers in satisfaction of a general legacy of money should not be included in this category (see category D below).
- C. The conveyance or transfer of property which forms part of an intestate's estate to the person entitled on intestacy (or his nominee). Transfers in satisfaction of the transferees entitlement to cash in the estate of an intestate, where the total value of the residuary estate exceeds that sum, should not be included in this category (see category D below).
- D. The appropriation of property within section 84(4) of the Finance Act 1985 (death: appropriation in satisfaction of a general legacy of money) or section 84(5) or (7) of that Act (death: appropriation in satisfaction of any interest of surviving spouse and in Scotland also of any interest of issue).
- E. The conveyance or transfer of property which forms part of the residuary estate of a testator to a beneficiary (or his nominee) entitled solely by virtue of his entitlement under the will.
- F. The conveyance or transfer of property out of a settlement in or towards satisfaction of a beneficiary's interest, not being an interest acquired for money or money's worth, being a conveyance or transfer constituting a distribution of property in accordance with the provisions of the settlement.
- G. The conveyance or transfer of property on and in consideration only of marriage to a party to the marriage (or his nominee) or to trustees to be held on the terms of a settlement made in consideration only of the marriage. A transfer to a spouse after the date of marriage is not within this category, unless made pursuant to an ante-nuptial contract.
- H. The conveyance or transfer of property within section 83(1) of the Finance Act 1985 (transfers in connection with divorce etc.).
- I. The conveyance or transfer by the liquidator of property which formed part of the assets of the company in liquidation to a shareholder of that company (or his nominee) in or towards satisfaction of the shareholder's rights on a winding-up.
- L. The conveyance or transfer of property operating as a voluntary disposition inter vivos for no consideration in money or money's worth nor any consideration referred to in section 57 of the Stamp Act 1891 (conveyance in consideration of a debt etc.).
- M. The conveyance or transfer of property by an instrument within section 84(1) of the Finance Act 1985 (death: varying disposition).

(1) Delete as appropriate.

(2) Insert "(A)", "(B)" or appropriate category.

(3) Delete second sentence if the certificate is given by the transferor or his solicitor.

(1) I/We hereby certify that the transaction in respect of which this transfer is made is one which falls within the category(2) above. (1)I/We confirm that (1)I/We have been duly authorised by the transferor to sign this certificate and that the facts of the transaction are within (1)my/our knowledge (3)

Signature(s)

Description ("Transferor", "Solicitor", etc.)

Date

NOTES

- (1) If the above certificate has been completed, this transfer does not need to be submitted to the Controller of Stamps but should be sent directly to the Company or its Registrars.
- (2) If the above certificate is not completed, this transfer must be submitted to the Controller of Stamps and duly stamped. (See below).

FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS NOT EXEMPT BUT IS NOT LIABLE TO AD VALOREM STAMP DUTY

Instruments of transfer, other than those in respect of which the above certificate has been completed, are liable to a fixed duty of £5.00 when the transaction falls within one of the following categories:-

- (a) Transfer by way of security for a loan or re-transfer to the original transferor on repayment of a loan.
- (b) Transfer, not on sale and not arising under any contract of sale and where no beneficial interest in the property passes: (i) to a person who is a mere nominee of, and is nominated only by, the transferor; (ii) from a mere nominee who has at all times held the property on behalf of the transferee; (iii) from one nominee to another nominee of the same beneficial owner where the first nominee has at all times held the property on behalf of that beneficial owner. (NOTE - This category does not include a transfer made in any of the following circumstances: (i) by a holder of stock, etc., following the grant of an option to purchase the stock, to the person entitled to the option or his nominee; (ii) to a nominee in contemplation of a contract for the sale of the stock, etc., then about to be entered into; (iii) from the nominee of a vendor, who has instructed the nominee orally or by some unstamped writing to hold stock, etc., in trust for a purchaser, to such purchaser.)

(1) Delete as appropriate.

(2) Insert "(a)", "(b)".

(3) Here set out concisely the facts explaining the transaction. Adjudication may be required.

(1) I/We hereby certify that the transaction in respect of which this transfer is made is one which falls within the category(2) above. (1)I/We confirm that (1)I/We have been duly authorised by the transferor to sign this certificate and the facts of the transaction are within (1)my/our knowledge.

(3)

Signature(s)

Description ("Transferor", "Solicitor", etc.)

Date