

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

# 155(6)a

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

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

Company number

— — — — —

SC138807

Please read the notes  
on page 3 before  
completing this form

Name of company

\* BARRHEAD SANITARY WARE LIMITED

\* insert full name  
of company

~~X~~We ~~o~~ See Appendix One

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

† delete as appropriate

~~THESE DIRECTORS~~ [all the directors] † of the above company do solemnly and sincerely declare that

The business of the company is

§ delete whichever  
is inappropriate

[illegible]

(c) something other than the above §

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

~~XXXXXXXX~~ [company's holding company] Utopia Group Limited (CRN 5479695)

The assistance is for the purpose of [that acquisition] XXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXX †

The number and class of the shares acquired or to be acquired is

See Appendix Two

**Presenter's name address and  
reference (if any)**  
DLA Piper UK LLP  
101 Barbirolli Square  
Manchester  
M2 3DL

DX 14304 MANCHESTER  
(Ref LP/95538/120001/15627958)

For official Use  
General Section

Post room

THURSDAY



\*S8XVCTIF\*

SCT

04/10/2007

748

COMPANIES HOUSE

The assistance is to be given to (note 2) See Appendix Three

Please do not  
write in this  
margin

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

The assistance will take the form of

See Appendix Four

The person who ~~XXXXXX~~ [will acquire] † the shares is

† delete as  
appropriate

The Purchaser

The principal terms on which the assistance will be given are

See Appendix Five

The amount of cash to be transferred to the person assisted is £ See Appendix Six

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

The date on which the assistance is to be given is within eight weeks of the date hereof

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

[illegible]

*[Handwritten signature]*

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

The Registrar of Companies  
37 Castle Terrace  
Edinburgh  
EH1 2EB

**BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

**Form 155(6)a Appendix 1**

- 1 Steve Cox of 27 Birksdale Way, Lostock, Bolton, BL6 4PQ
- 2 Joanne Brooke of No 2 Avoncroft Court, Galton Way, Hadzor, Droitwich, Worcestershire WR9 7DJ
- 3 Theresa Eaton of 6 Leapgate Avenue, Stourport on Severn, Worcestershire DY13 9GN.
- 4 Elizabeth Green of Bryn Awel, Upper Hengred, Oswestry, Shropshire SY10 7ET
- 5 David Ridley of 9 East Butts Road, Rugeley, Staffordshire WS15 2LU

**BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

**Form 155(6)a - Appendix 2**

938,407 ordinary shares of £1 each in the Company

**BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

**Form 155(6)a Appendix 3**

The assistance is to be given to Utopia Bathroom Group Limited (company number 06285982) whose registered office is at Utopia House, Springvale Avenue, Springvale Business Park, Bilston, West Midlands WV14 0QL (the "**Purchaser**")

The person who will acquire the shares is the Purchaser

## **BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

### **Form 155(6)a - Appendix 4**

The execution of the following documents (as each such document may be amended and restated, novated, supplemented or assigned from time to time and shall include any amendment by way of increase to any facility or guarantee amount)

- 1 a facilities agreement to be dated on the date hereof and made between (1) Utopia Bathroom Group Limited (as the Principal Borrower) (2) The Original Borrowers (as defined therein and which includes the Company) (3) The Original Guarantors (as defined therein and which includes the Company) and (4) The Royal Bank of Scotland plc (as Lender) ("**Lender**") ("**Facilities Agreement**"),
- 2 an intra group loan agreement (which includes a letter of support) to be dated on the date hereof and made between (1) Utopia Bathroom Group Limited, as borrower and (2) the subsidiaries of Utopia Bathroom Group Limited as detailed therein, as lenders (including the Company) ("**Intra group Loan Agreement**"),
- 3 an intercreditor agreement to be dated on the date hereof and made between (1) Utopia Bathroom Group Limited, (2) the Obligors (as detailed therein and including the Company), (3) the Lender (4) the Managers (as detailed therein) and (5) the Vendors (as detailed therein) ("**Intercreditor Agreement**"),
- 4 a cross guarantee to be dated on the date hereof and made between, amongst others (1) the Company and (2) Ian Hall as security trustee for the Beneficiaries (as defined therein) ("**Vendor Cross Guarantee**"), and
- 5 a Scottish floating charge over all property owned by the Company to be dated the date hereof and to be entered into by (1) the Lender and (2) the Company ("**Floating Charge**")

# **BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

## **Form 155(6)a Appendix 5**

The principal terms on which the assistance will be given are

### **1. The Facilities Agreement**

Pursuant to the terms of the Facilities Agreement the Company (in its capacity as an Obligor) will give various indemnities, guarantees, undertakings, representations and warranties (as detailed therein) to the Lender. The indemnities and guarantees given by the Company are as set out below

#### **1.1 The Company irrevocably and unconditionally**

- (a) guarantees to the Lender punctual performance by the Obligors (other than itself) of all obligations of each Obligor under the Finance Documents,
- (b) undertakes with the Lender that whenever an Obligor (other than itself) does not pay any amount when due under or in connection with any Finance Document, that Guarantor as defined therein shall, on demand, pay that amount as if it was the principal obligor, and
- (c) indemnifies the Lender immediately on demand against any cost, loss or liability suffered by the Lender if any payment obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which the Lender would otherwise have been entitled to recover

#### **1.2 The provisions of clause 18 of the Facilities Agreement (*Tax gross up and indemnities*) shall apply to each Obligor as they apply to Utopia Bathroom Group Limited as Principal Borrower**



1 3 The Lender shall have the right at any time or times after the occurrence of an Event of Default which is continuing, and without notice to an Obligor

- (a) to combine or consolidate all or any sums of money now or hereafter standing to the credit of the then existing accounts of an Obligor with the Lender with the liabilities of that Obligor to the Lender, and/or
- (b) set off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of that Obligor to the Lender on any other account, or in any other respect,

whether any such liabilities are actual or contingent and regardless of the place of payment, booking branch or currency of any amount or liability. If any amounts or liabilities are in different currencies, the Lender may convert any such amount or liability at a market rate of exchange in its usual course of business for the purpose of the set off

All terms used in this paragraph 1 are as defined in the Facilities Agreement

## **2. The Intra-group Loan Agreement**

Pursuant to the terms of the Intra group Loan Agreement

2 1 The proceeds of each Advance shall be used solely

- (a) to enable each Borrower (as the case may be) to pay any amounts due to The Royal Bank of Scotland plc pursuant to the Facilities Agreement,
- (b) to enable each Borrower to pay any amounts under the Investment Documents,
- (c) to enable each Borrower to pay any amounts of deferred consideration due in respect of the acquisition of Utopia Group Limited by Utopia Bathroom Group Limited, and
- (d) in respect of a particular Advance, for such other purposes as the relevant Lender may agree in writing

2 2 Each of the Lenders shall, upon request by a Borrower (other than itself) at any time and so far as the Lenders are able, lend such sums as that Borrower considers

necessary to allow it to fund its working capital requirements and to make payment of all sums due or to become due by that Borrower pursuant to the Facilities Agreement

All terms used in this paragraph 2 are as defined in the Intra group Loan Agreement

### **3. The Intercreditor Agreement**

Pursuant to the terms of the Intercreditor Agreement the parties thereto agree to the ranking of certain payments and the regulating of the priority of security In particular the Principal Borrower and each Group Company undertakes that, at all times prior to the Discharge Date, it shall not (except as permitted by Clause 3 of the Intercreditor Agreement (*Permitted Payments*))

- (a) pay, repay, prepay, redeem, satisfy, make any distribution in respect of, or purchase or otherwise acquire, any Subordinated Debt, or give directly or indirectly any assistance (including, without limitation, the taking of any participation, the giving of any guarantee or indemnity or Encumbrance or the making of any deposit) to a third party to enable it to do any of the above, or
- (b) discharge any Subordinated Debt by set off or any right of combination of accounts or any similar right, or
- (c) create any Encumbrance over any of its assets as security directly or indirectly for any Subordinated Debt (other than under the Subordinated Security Document), or
- (d) take or omit any action whereby the subordinations contemplated by this Agreement may be impaired, or
- (e) save as specifically permitted under clause 27 28 of the Intercreditor Agreement (*Amendments*) of the Facilities Agreement, amend, vary, waive, release or supplement any term of any of the Manager Documents or the Vendor Documents

All terms used in this paragraph 3 are as defined in the Intercreditor Agreement

#### **3.2 Floating Charge**

As continuing security for payment of the Secured Liabilities, the Company with full title guarantee charges to the Lender by way of first floating charge the whole of the Company's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged or assigned (whether in law or equity) by

way of fixed security by the Debenture, including, without limitation, any heritable property of the Company situated in Scotland

### **3.3 Assignments**

The Company with full title guarantee assigns absolutely in favour of the Lender, but subject to the right of the Company to redeem such assignment upon the full payment or discharge of the Secured Liabilities, its right, title and interest from time to time in each of the following assets

- (a) the Specific Contracts,
- (b) the Insurances,
- (c) the Assigned Accounts, and
- (d) all rights under any agreement to which it is a party and which is not mortgaged or charged under Clause 3.1 (*Mortgages and Fixed Charges*) of the Debenture,

together with all Related Rights in respect of such Charged Property, provided that the Company is entitled until the Enforcement Date to exercise all rights assigned under Clause 3.3 (*Assignments*) of the Debenture (subject to the terms of the Facilities Agreement) and the Lender will reassign any such rights to the extent necessary to enable the Company to do so

### **3.4 General**

The Company shall, at its own expense, at any time when required by the Lender, execute and deliver to the Lender

- (a) a valid legal mortgage of any Land at the date of the Debenture or in the future owned by the Company,
- (b) a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land at the date of the Debenture or in the future belonging to the Company,
- (c) a legal assignment (subject to a licence back (if appropriate)) or other fixed Security over all or any of its Intellectual Property,

- (d) a legal charge over all or any of its Shares and/or Securities,
- (e) a chattel mortgage over such chattels, plant, machinery, computers and/or other equipment of the Company as the Lender may specify,
- (f) a fixed charge or other fixed security over any of its assets over which there is a floating charge (if possible),
- (g) where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Lender may reasonably require,
- (h) a notice to any third party of any of the charges or assignments created by or pursuant to the Debenture,
- (i) a legal assignment of any Charged Property which the Lender shall require, and a notice of any such assignment to any person when required by the Lender (and use reasonable endeavours to procure the delivery by such person of any acknowledgement of that notice), and
- (j) all deeds and documents which the Lender may deem necessary or desirable to vest in the Lender the Security intended to be created by the Debenture,

in each case, in a form to be agreed between the Company and the Lender. In the case of the Charged Property situated outside England and Wales, references to any form of Security shall be taken to refer to any form of Security available under the relevant local law which the Lender may select.

#### **4. Vendor Cross Guarantee**

Pursuant to the terms of the Vendor Cross Guarantee, the Company

- 4.1 jointly and severally, unconditionally and irrevocably guarantees that all Guaranteed Liabilities will be paid or satisfied. The Company will immediately have to pay the amount guaranteed when the Security Trustee demands payment. The Security Trustee does not need to demand payment from the Borrower first. The Security Trustee may make one or more demands for payment,

4 2 The Company will also be jointly and severally responsible for all costs and expenses the Security Trustee properly incurs in enforcing or trying to enforce this Guarantee, and

4 3 The Company may not take off any amount for tax or a similar charge unless it has to do so by law. If this is necessary, the Company must pay the Security Trustee the extra amount needed to make sure that the Security Trustee receives the full amount of the Security Trustee's demand.

All capitalised terms not defined elsewhere in these appendices shall have the meaning given to them in the Vendor Cross Guarantee.

## **5. The Floating Charge**

Pursuant to the terms of the Floating Charge as a continuing security for the payment and discharge of the Company's Obligations (including obligations under the Facilities Agreement) (as defined in the Floating Charge), the Company grants to the Lender a floating charge over the whole of the property (including uncalled capital) which is or may be from time to time while the floating charge is in force comprised in the property and undertaking of the Company.

6 Any reference to the Facilities Agreement, Intra Group Loan Agreement, Intercreditor Agreement and Floating Charge shall be a reference to such document as amended, restated, novated, supplemented from time to time and the Company acknowledges that further advances may be made under the Facilities Agreement and that further and/or supplemental security may be provided by the Company.

**BARRHEAD SANITARY WARE LIMITED**

**Company Number SC138807**

**Form 155(6)a - Appendix 6**

Nil at the date hereof, subject to any amounts pursuant to the Intra group Loan Agreement, up to a maximum amount of £70,000,000

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The Directors  
Barrhead Sanitary Ware Limited  
15 17 Nasmyth Road South  
Hillington  
Glasgow  
G52 4RE

Our ref AB3

26 September 2007

Dear Sirs

**Report of the Independent Auditor to the directors of Barrhead Sanitary Ware Limited  
(Company No. SC138807 (the "Company")) pursuant to Section 156(4) of the Companies Act  
1985**

We report on the attached statutory declaration dated 26 September 2007, prepared pursuant to the Companies Act 1985, in connection with the proposal that the Company should give financial assistance for the purchase of all the issued share capital of the Company's ultimate holding company, Utopia Group Limited. This report, including the opinion, has been prepared for and only for the Company and the Company's directors in accordance with Section 156 of the Companies Act 1985 and for no other purpose. We do not, in giving the opinion set out below, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come save where expressly agreed by our prior consent in writing.

**Basis of opinion**

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

**Opinion**

We are not aware of anything to indicate that the opinion expressed by the directors in their statutory declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully



PricewaterhouseCoopers LLP  
Chartered Accountants and Registered Auditors