

THIS MEMORANDUM OF UNDERSTANDING is a loan guarantee and is dated and

the HEADS OF TERMS ("HOT") for

BY:

- (1) <<Name of Borrower>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>> ("Borrower") and
- (2) <<Name of Lender>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>> ("Lender") and
- (3) <<Name of Guarantor>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>>] [AND <<Name of Guarantor>> [a company registered in England under number <<Company Registration Number>> with its registered office at] OR [of] <<insert Address>>] [together with <<insert Name>>] ("Guarantor")

## 1. Definitions

In this HOT, the following expressions shall have the following meanings:

**"Guarantee"**

the Guarantee described in Clause 3 and set out in the Guarantee; of this HOT;

**"Detailed Terms"**

the Detailed Terms, conditions, and set out in the Guarantee, including the Commercial Terms if and when agreed and set out in the Guarantee;

**"Commercial Terms"**

the Commercial Terms of the Guarantee which are set out in the Guarantee, this HOT being those terms which the Parties have agreed in principle. The definitive Commercial Terms, if and when agreed, will be set out in the Detailed Terms in the Guarantee;

**"Loan"**

the Loan to be made by the Lender to the Borrower on or before the above date under an agreement which is or will be separate from the Guarantee;

**"Party"**

the Parties to this HOT;

## 2. Purpose and Status of the HOT

- 2.1 Except for Clause 6 (which shall be binding on the Parties), this HOT is not intended to be, and shall not be, binding on the Parties;
- 2.2 The Parties have discussed the Commercial Terms in principle, but they have not yet agreed the definitive version of the Commercial Terms. The Parties shall fully discuss, negotiate, draft, and agree all of the other terms of the Guarantee.

2.3 The Parties intend to negotiate, draft, and sign a full written Guarantee containing the terms and conditions of this HOT, only if and in accordance with an agreement between them which is legally binding and enforceable.

2.4 The Parties agree that the terms and conditions of the oral or written statement of intent, warranty, promise, or agreement, made on or after the date of this HOT, shall constitute an express term of the

this HOT, they will fully discuss, negotiate, draft, and sign a full written Guarantee containing the terms and conditions of this HOT, and that, save for Clause 5 of this HOT, no agreement or arrangement into existence will there be any guarantee arrangements between them which is legally binding and enforceable; and

agreed in Clause 6 of this HOT, no agreement or arrangement (negligent or otherwise), and no statement of intent (whether before, on, or after the date of this HOT) shall have any effect in relation to the proposed Guarantee, unless it is agreed and included as an

### 3. Guarantee

The Guarantee will be a full and complete agreement whereby Guarantor will guarantee the performance of the Loan which is expressly covered by the Detailed Terms. The Guarantee shall be subject to the working arrangements, unless otherwise agreed in writing relating to such guarantee arrangements, and shall be a separate loan agreement.

The Guarantee shall be a full and complete agreement between the Parties whereby Guarantor will guarantee the performance of the Loan (and any other amount covered by the Borrower to the Lender on the terms and conditions of and the only terms, conditions, and matters governing, forming, and comprising the Guarantee of the Parties (other than the terms of the Loan and the Borrower).

### 4. Commercial Terms

The following Commercial Terms shall apply to the Guarantee and shall form part of the Detailed Terms:

The following Commercial Terms shall apply to the Guarantee, and the definitive version of the Guarantee shall be the definitive version of the Guarantee:

4.1 The Guarantee will be subject to the terms and conditions of the Lender and Borrower.

agreed date>>] [the date on which the Guarantee shall be made for the Loan;

4.2 The amount of the Loan shall be the amount of money>>;

of money>>;

4.3 The above amount shall not be increased or varied during the agreement [but for the amount of money>>];

not] be increased or varied during the agreement [but for the amount of money>>];

4.4 [The Guarantee will not be increased or varied during the agreement [but for the amount of money>>];

and not any other or further amount/s shall be increased or varied during the agreement [but for the amount of money>>];

OR

[The Guarantee will be subject to the terms and conditions of the Lender and Borrower [after] the date of the agreement [but for the amount of money>>];

whether with any other or further amount/s borrowed by the Lender [before] [or [on] [or] [after] the date of the agreement [but for the amount of money>>] ("Total Amount Guaranteed");

4.5 The Guarantor will not be liable for the amount of money>> ("Total Amount Guaranteed")

Guarantee for no more than the Total Amount Guaranteed

4.6 The Guarantor must not be liable for the amount of money>> ("Total Amount Guaranteed")

under at [<<insert percentage>>%] on sums claimed under the Guarantee from the date of the agreement [but for the amount of money>>] ("Total Amount Guaranteed"). The interest payable will not be limited or with the amount of money>> ("Total Amount Guaranteed");

4.7 The Guarantor is [not] liable for the amount of money>> ("Total Amount Guaranteed")

ity for the Loan. [The security will be the amount of money>> ("Total Amount Guaranteed")

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4.8 The Lender will [not] take any action, obtain any judgment, or enforce any right of the Borrower before making a claim against the Guarantor;

4.9 The Lender must give a period of time, i.e. state the relevant number of days or weeks, to the Guarantor in the event that the Borrower defaults on the Loan and the Lender intends to make a claim under the Guarantee;

4.10 [The Lender may not take any action against the Guarantor unless and until the Guarantor has agreed in writing to repay the Loan for at least <<insert period of time>> number of days or weeks>>];

4.11 [Since the Guarantor is a sole proprietor, their liability will be joint and several with any other persons or other entities, their liability shall not be limited by the Guarantor's assets];

4.12 The Lender will [not] notify the Guarantor with notice once the Loan is repaid; and

4.13 The Guarantee will be assigned to the Borrower [only with the prior consent of the Borrower] will [not] be assignable by the Borrower [only with the prior consent of the Lender]. [Prior notice of intention to assign of [at least 30 days] to the Borrower].

## 5. Ongoing Discussion and Negotiation

5.1 The Parties will not be bound by any discussion or negotiation to continue or complete their discussions or negotiations, or to produce, or sign any Guarantee;

5.2 Nevertheless, but without prejudice to the Parties' intention to do so, the Parties intend in good faith to continue their discussions and negotiations to sign a Guarantee as soon as reasonably possible;

5.3 Either Party may, but without prejudice to the other, at any time and for any reason, and without liability to the other, terminate their discussions or negotiations, and their Guarantee between them, and, except for Clause 5.4, all obligations hereupon cease; and

5.4 If a Guarantee is entered into, it shall supersede and replace this HOT but, subject to Clause 5.3.

## 6. Confidentiality

6.1 Each Party ("the First Party") shall, in consideration of the other Party, not disclose or make available to the First Party any confidential information concerning the business, affairs, or operations of the other Party which is or might be considered ("Confidential Information"), the First Party shall not use the Confidential Information for any purpose other than the negotiation or negotiation of a guarantee or recording of it in a Guarantee;

6.2 None of the Parties shall disclose or make available to either of the Other Parties any Confidential Information. However, in connection with the negotiation of a proposed Guarantee, the Parties anticipate that they may disclose or make available Confidential

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- Information to each
- 6.3 None of the Parties shall have any liability to the Other Parties for any inaccuracy in any Confidential Information that it supplies or makes available to the Other Parties;
- 6.4 If at any time any Party provides Confidential Information to the Other Party, the Other Party shall do so promptly and shall destroy any copies it has made of the same; and
- 6.5 Each Party acknowledges that damages alone would be an inadequate remedy for breach of Clause 6, and that an injunction, specific performance or other equitable relief, should be awarded against the defaulting Party in the event of an actual breach by it of this Clause 6 without prejudice to any other remedies that any Party may have in relation to such breach.

## 7. Law and Jurisdiction

- 7.1 This HOT, and the relationship between the Parties in connection with a proposed or actual Guarantee shall be governed by, and shall be construed in accordance with, the laws of England and Wales; [and]
- 7.2 [Subject to Clause 6, all disputes or claims arising out of or in connection with this HOT or the proposed or actual Guarantee shall fall to be determined in accordance with] [and]
- 7.3 [Any dispute, controversy, proceedings or claim between any or all of the Parties relating to this HOT or the proposed or actual Guarantee is to be dealt with by means of arbitration] [and/or] [arbitration] as set out in the details of alternative dispute resolution and/or arbitration]

### EITHER

[SIGNED on the above date for and on behalf of the Lender]

By <<Name and Title of person signing for Lender>>:

\_\_\_\_\_  
Authorised Signature]

### OR

[SIGNED on the above date by <<Name and Title of person signing for Lender>>]

\_\_\_\_\_  
Signature]

### AND

**EITHER**

[SIGNED on the above date for and on behalf of Lender>>:

By <<Name and Title of person signing>>

\_\_\_\_\_  
Authorised Signature]

**OR**

[SIGNED on the above date by <<Name of Lender>>:

\_\_\_\_\_  
Signature]

**AND**

**EITHER**

[SIGNED on the above date for and on behalf of Guarantor 1>>:

By <<Name and Title of person signing>>

\_\_\_\_\_  
Authorised Signature]

**OR**

[SIGNED on the above date by <<Name of Guarantor 1>>:

\_\_\_\_\_  
Signature]

**[AND**

**EITHER**

[SIGNED on the above date for and on behalf of Guarantor 2>>:

By <<Name and Title of person signing>>

\_\_\_\_\_  
Authorised Signature]

**OR**

[SIGNED on the above date by <<Name of Guarantor 2>>:

\_\_\_\_\_  
Signature]]