

ZA-LDGloa15

**Loan agreement: company; secured by guarantee**

Dated: [Date]

This agreement is dated:

It is made between [Lender name] of [ ] (“ ”)

And

[Borrower name] of [address] (“ ”)

And

[Guarantor name] of [address] (“ ”)

**The terms of this Agreement are:**

## 1. Definitions

“Advance” means all or part of the Loan drawn down by the

“Basic rate” means interest at the rate of [number]

OR

“Basic rate” means interest at the rate [number] per cent per year above the base rate from [ ]

“Financial Information” means all information relating to the financial affairs of the Borrower including the Borrower’s audited [consolidated] financial statement as on [date], consisting of a balance sheet as on that date and a statement of income and

“Higher Rate” means a rate of interest five per cent

“Interest Date” means [date number] in each month

“Loan” means the sum of R [amount] or such greater sum as shall in fact have been lent by the Lender to the Borrower at any time this agreement subsists, or such lesser sum

The terms “Lender”, “Borrower” include in the case of a corporation,

## 2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation
- 2.2. A reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a
- 2.3. Any agreement by any party not to do or omit to do something includes an obligation not to allow some
- 2.4. [Except where stated otherwise,] any obligation of any person arising from this
- 2.5. A reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information,
- 2.6. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or

### 3. Purpose of Loan

The Loan shall be used only to:

*[give precise details of reason for loan]*

### 4. Sum of Loan and when advanced

4.1. The total sum offered by the Lender and available for call-  
[ ].

4.2. The Loan shall be advanced in such amount or amounts as the  
Borrower shall

.

*AND/OR*

4.3. The Loan shall be drawn down in a single sum as soon

.

*OR*

4.4. The Loan shall be paid into the bank account of  
[ ].

*AND/OR*

4.5. The Loan shall be drawn down when the Borrower has provided certain  
information to

.

*OR*

4.6. The initial draw down of the Loan shall be made only

. ,

.

*AND/OR*

4.7. Before any Advance may be drawn ,  
/  
:

*[specify information required].*

## 5. Repayment conditions

5.1. The Loan shall [ ]

OR

5.2. The Loan shall :

*[list of dates and amounts].*

OR

5.3. The Loan shall be :

*[here set out the trigger , ]*.

## 6. Interest payable

6.1. Interest at the

6.2. Interest shall be [ ] [ ].

6.3. Interest shall be paid on the Interest Date.

## 7. Early repayment of part

The Borrower may repay all or part of the Loan before the due date for repayment provided that

## 8. Method of payment

All payments due to the Lender of both capital and interest shall be

## 9. Event of default

An “Event of Default” occurs when:

- 9.1. the Borrower fails to  
3 ;
- 9.2. the Borrower fails to pay in full and on the due date  
[ ] ;
- 9.3. a petition is presented ;
- 9.4. in the opinion of the Lender,  
,
- 9.5. If the Borrower is a company:
  - 9.5.1 a receiver is appointed to the Borrower; or
  - 9.5.2 notice is given of ;
  - 9.5.3 a petition is presented for the

## 10. Notice of Default

- 10.1. Where an Event of Default has occurred the Lender may issue a “  
” .
- 10.2. From the date when the Lender issues a Notice of Default,

10.3. Each Event of Default stands on its own,

10.4. When an Event of Default happens, the Lender may serve

## 11. Consequences of Termination

At any time after issue of a valid

, /  
:

11.1. all money ;

11.2. damages for any breach of this agreement;

11.3. all expenses and costs

## 12. No change to capital structure

Until the :

12.1. shall not make without the prior

;

12.2. shall not issue new share capital nor modify the rights attaching

;

12.3. shall not reduce its share capital or

,

## 13. Borrower's warranties

The Borrower represents and warrants that:

13.1. it / ;

13.2. every subsidiary and associated company is

;

13.3. the execution of this agreement, the borrowing, and the performance  
by the Borrower of his obligations are fully

,

,

.

13.4. the Financial Information fairly represents the financial state of

;

13.5. the Financial Information has been prepared in conformity with  
generally accepted accounting principles applied

,

.

13.6. the Borrower has no undisclosed contingent obligations;

13.7. there are no material,

;

13.8. the Borrower will advise the Lender

;

13.9. no litigation, arbitration proceedings or governmental proceedings are  
pending or

,

;

13.10. none of the assets

, :

13.10.1 for current taxes not yet

;

13.10.2 suppliers' or similar liens

;



13.10.3 those in favour of the Lender;

13.10.4 those identified in Schedule 1 of this agreement.

13.11.

## 14. Assignment

14.1.

OR

14.2.

14.3.

## 15. Promise to provide information

15.1.

2 ;

15.2.

)

,  
;

15.3.

;

15.4.

.

## 16. The Guarantor

16.1.

,

,

.

16.2.

,

.

16.3.

.

16.4.

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16.5.

,

,

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## 17. Guarantor's continuing liability

17.1.

,

17.2.

17.2.1

17.2.2

17.2.3

17.2.4 the assignment of the agreement; or

17.2.5

17.2.6

17.2.7

## 18. Rights waived

(

)

## 19. Miscellaneous matters

19.1.

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19.2.

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19.3.

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19.4.

,

,

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,

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19.5.

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19.6.

,

:

19.6.1

,

;

.

19.6.2 issue a claim in any court.

19.6.3 take any other action he considers appropriate.

19.7.

,

.

19.8.

It shall be deemed to have been delivered:

;

72 ;

24 ;

- : 24

. [

]

19.9.

19.10.

Signed by [\[personal name\]](#) on behalf of [\[named Lender\]](#) as its / his representative who personally accepts liability for the proper authorisation by [\[named Lender\]](#) to enter into this agreement.

Signed by [personal name] on behalf of [named Borrower] as its / his representative who personally accepts liability for the proper authorisation by [named Borrower] to enter into this agreement.

Signed by [personal name] on behalf of [named Guarantor] as its / his representative who personally accepts liability for the proper authorisation by [named Guarantor] to enter into this agreement.

**Schedule 1: debts and goods over which some third party  
has a charge or lien**

## Schedule 2: form of financial statement

[  
].



## Explanatory Notes:

**Loan agreement: company; secured by guarantee**

### General notes

1. There is little statutory regulation relating to an agreement of this nature, so the parties can make more .
2. The wording of the agreement will need slight alteration depending upon whether one or the other .

### Paragraph Specific Notes:

Notes relating to the numbered paragraphs

#### 1. Definitions

Note that the definition of “Loan” includes all money outstanding, which may of course .

#### 2. Interpretation

Specific points which strengthen the agreement and prevent “ -  
” .

#### 3. Purpose of Loan

It is important to specify the purpose because by doing so, if the borrower uses the money for something different, he is .

#### 4. Sum of Loan and when advanced

Provides for alternative draw down arrangements and provision of information to the lender. Edit to the precise draw down arrangement you have agreed. Use a .

#### 5. Repayment conditions

This could be a fixed date or several dates or on the happening of a specific event. If you use this last option, make sure that the event you “ .

6. **Interest payable**

The provision for cumulation of interest should have careful attention, particularly if the rate of interest is high. Cumulation has the effect of adding the interest to the capital, so that

“ ”,  
(  
).

7. **Early repayment of part**

We have no comment.

8. **Method of payment**

Leave as is or specify this precisely.

9. **Event of default**

We have no comment.

10. **Notice of default**

Precise procedural matters. We

11. **Consequences of Termination**

A simple statement to avoid dispute.

12. **No change to capital structure**

Provides further safeguard to lender.

13. **Borrower's warranties**

Insofar as the lender has relied on any information provided by

14. **Assignment**

We have no comment.

**15. Promise to provide information**

We suggest that you carefully consider

**16. The Guarantor(s)**

We have no comment.

**17. Guarantor's continuing liability**

This paragraph covers a list of

**18. Rights waived**

Leave this paragraph in place. Without it

**19. Miscellaneous matters**

A number of

**Schedule 1: debts and goods over which some third party has a charge or lien**

**Schedule 2: form of financial statement**

**End of notes**