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

**155(6)b**

— — — — —

\* Mintun 1 Limited

Mark Richard John Piper of 3 Jenner Close, Wanborough, Swindon,  
Wiltshire, SN4 0FA

LD3 COMPANIES HOUSE 362 09/02/2006

Page 1

Please do not  
write in this  
margin

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

The assistance is to be given to: (note 2) Barbara Limited of 26 Fleetwood House,  
Cromwell Business Park, Banbury Road, Chipping Norton, Oxfordshire, OX7 5SR  
and Barclays Bank Plc of 1 Churchill Place, London E14 5HP

Please see Attachment 1

† delete as appropriate

Please see Attachment 2

~~P.L.A.~~  
 P.L.P.  
 giving financial  
 payable under  
 it

The amount of cash to be transferred to the person assisted is £ the documents set out in Attachment

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 8 weeks of the date hereof

X We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~X~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]\* (note 3)

(b) XXXXXXXXXXthe young-ups at the company, with XXXXXXXX  
have formed the opinion that this company will be able to pay its debts in full within XXXXXXXX  
XXXXXXXXXX\* (note 3)

And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at BEAUFORT HOUSE  
15 ST BUTOLPH STREET  
LONDON EC3A 7EE

Declarants to sign below

Al. B. B. B.  
Bell  
P. H. A. B. B.

on 

Day	Month	Year
07	02	2006

before me Kavine Hudson

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

## NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies  
Companies House  
Crown Way  
Cardiff  
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies  
Companies House  
37 Castle Terrace  
Edinburgh  
EH1 2EB

**Mintun 1 Limited (the 'Company')**

**Company Number: 04631135**

**Attachment 1 to Form 155(6)b dated 7 February 2006.**

The assistance will take the form of:

**Guarantees**

- 1.1 Guarantees and indemnities granted by the Nutnim 2 Limited ('N2') to the persons (the **"Finance Parties"**) providing Barbara Limited with:
- a. senior loan facilities of up to £100,000,000 pursuant to a senior credit agreement to be entered into on or about the date hereof (the **"Credit Agreement"**);
  - b. interest rate hedging contracts and instruments (the **"Hedging Agreements"**);

These guarantees and indemnities are to be granted by N2 by the execution of the Credit Agreement.

**Security**

- 1.2 Fixed and floating charges, by way of security for (inter alia) its obligations under the guarantees and indemnities referred to in paragraph 1.1. above, over all of its assets in favour of the Finance Parties will be created by N2 executing a debenture to be entered into on or about the date hereof (the **"Debenture"**).

**Priority**

- 1.3 Priority and subordination arrangements entered into by N2 with (among others) the Finance Parties pursuant to an intercreditor deed to be entered into on or about the date hereof (the **"Intercreditor Deed"**)

**Fees**

- 1.4 The payment of the fees of professional advisors, including but not limited to, solicitors' fees, auditors' fees, financial advisors' fees and banking charges.

**Release of Existing Security**

- 1.5 By the execution of a deed of release (the **"Deed of Release"**) to be entered into by Mintun 3 Limited and Barclays Bank Plc as security agent and facility agent (the **"Agent"**), the release of existing security granted by certain companies in a group trading under the name of Minova (the **"Chargors"**) in favour of the Agent pursuant to a credit agreement dated 24<sup>th</sup> January 2003.

### **Upstream Loan Facility**

- 1.6 N2 will grant an upstream loan facility pursuant to an intercompany loan agreement (the “Upstream Intercompany Loan Agreement”) between inter alia N2 and Barbara Limited.

### **Amendments**

- 1.7 N2’s obligations as described above continue in relation to the relevant documents as such documents may be amended, varied, modified, novated or restated from time to time.

**Mintun 1 Limited**  
**Company Number 04631135**

**Attachment 2 to Form 155(6)(b) dated 7 February 2006**

The principal terms on which the assistance will be given are set out in the description of documents below, as such documents are amended, modified, varied, novated or restated from time to time.

**1 CREDIT AGREEMENT**

**1.1 Guarantees**

- (a) The guarantees and indemnities referred to in paragraph 1 of Attachment 1 are recorded in clause 20 of the Credit Agreement and clause 3 of the Intercreditor Deed.
- (b) Pursuant to these terms, N2 irrevocably and unconditionally jointly and severally with other parties:
  - (i) guarantees to each of the Finance Parties punctual performance by each Obligor (as defined in the Credit Agreement) of all that Obligor's obligations under the following documents: the Credit Agreement, each Security Document (as defined in the Credit Agreement), the Intercreditor Deed, each Hedging Agreement, each Ancillary Document (as defined in the Credit Agreement), each Accession Document (as defined in the Credit Agreement), each Transfer Certificate (as defined in the Credit Agreement), the Fees Letter (as defined in the Credit Agreement), the Polish Mortgage Certificate (as defined in the Credit Agreement) and any other document designated in writing as such as a Finance Document by the Parent (as defined in the Credit Agreement) and the Facility Agent (as defined in the Credit Agreement) (such documents together being the "**Finance Documents**");
  - (ii) undertakes with each Finance Party that whenever an Obligor does not pay any amount under or in connection with any Finance Document, N2 shall immediately pay on demand that amount as if it were the principal obligor; and
  - (iii) agrees to indemnify each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

## 1.2 Set Off

Under clause 32 of the Credit Agreement N2 agrees that a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 1.3 Further Assurances

- (a) Under clause 24.3 of the Credit Agreement, N2 agrees to promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as Barclays Bank PLC as security trustee for itself and the Finance Parties (the "**Security Agent**") may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (i) to perfect the Security Interests (as defined in the Credit Agreement) created or intended to be created under or evidenced by the Security Documents (which may include the execution of a mortgage, charge, assignment or other Security Interests over all or any of the assets which are, or are intended to be, the subject of the Security Documents) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Finance Parties Security Interests over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security Interests intended to be conferred by or pursuant to the Security Documents; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents.
- (b) N2 shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of (or in keeping with the best practices of the relevant jurisdiction in relation to) the creation, perfection, protection or maintenance of any Security Interests conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents, including in respect of the United States of America, the delivery to the Security Agent as soon as reasonably practicable after the filing of any UCC financing statement executed by any Obligor, copies of completed UCC searches evidencing the proper filing, recording and indexing of all such UCC financing statements.

## 2 SECURITY

### 2.1 Fixed Charge

Under the terms of the Debenture, N2, as security for the payment of the Indebtedness, charges in favour of the Security Agent with full title guarantee the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (a) by way of first legal mortgage all freehold and leasehold property (including the property specified in schedule 2 to the Debenture) together with all buildings and fixtures (including trade fixtures) on that property; and
- (b) by way of first fixed charge:
  - (i) all the Subsidiary Shares and Investments and all corresponding Distribution Rights;
  - (ii) all other interests (not charged under clause 3.1(a) of the Debenture) in any freehold or leasehold property, the buildings and fixtures (including trade fixtures) on that property, all proceeds of sale derived therefrom and the benefit of all warranties and covenants given in respect thereof and all licences to enter upon or use land and the benefit of all other agreements relating to land;
  - (iii) all plant, machinery, vehicles, computers, office and other equipment and the benefit of all contracts, licences and warranties relating thereto;
  - (iv) all Book Debts and all rights and claims against third parties and against any security in respect of Book Debts;
  - (v) all debts and monetary claims (other than Book Debts) and all rights against third parties in respect of such debts and claims;
  - (vi) all monies standing to the credit of its accounts (including the Cash Collateral Accounts and the Collection Accounts) with any bank, financial institution or other person;
  - (vii) all its Intellectual Property including (without limitation) all the Material Intellectual Property, provided that prior to enforcement there shall be no obligation to perfect the charge over Intellectual Property not forming part of the Material Intellectual Property;
  - (viii) the benefit of all consents and agreements held by it in connection with the use of any of its assets;
  - (ix) its goodwill and uncalled capital; and



- (x) if not effectively assigned by clause 3.3 of the Debenture, all its rights and interests in (and claims under) the Assigned Agreements.

## **2.2 Floating Charge**

As further security for the payment of the Indebtedness, N2 charges with full title guarantee in favour of the Security Agent by way of first floating charge all its present and future assets not effectively charged by way of first fixed charge under clause 3.1 of the Debenture or assigned under clause 3.3 of the Debenture including heritable property and all other assets in Scotland.

## **2.3 Security Assignment**

As further security for the payment of the Indebtedness, N2 assigns absolutely with full title guarantee to the Security Agent all its rights, title and interest in the Assigned Agreements, provided that on payment or discharge in full of the Indebtedness the Security Agent will at the request and cost of that Charging Company re-assign the Assigned Agreements to that Charging Company (or as it shall direct).

## **2.4 Further Assurances**

N2 will, at its own expense, promptly following request by the Security Agent, execute such deeds and other agreements and otherwise take whatever action the Security Agent may reasonably require:

- (i) to perfect and/or protect the security created (or intended to be created) by the Debenture;
- (ii) to facilitate the realisation or enforcement of such security;
- (iii) to facilitate the exercise of any of the rights, powers or discretions of the Security Agent or the Finance Parties under the Debenture; and/or
- (iv) to confer on the Security Agent security over any assets of N2 (in whatever jurisdiction situated) equivalent or similar to the security intended to be conferred by the Debenture,

including the conversion of charges to assignments, equitable security to legal security, the execution of any transfer, conveyance, assignment or assurance whatsoever and the giving of all notices, orders, instructions and directions whatsoever.

- (b) Barbara Limited will on demand pay to each of the Security Agent, the other Finance Parties and any receiver the amount of all costs and expenses (including legal fees and other out of pocket expenses and any value added tax or other similar tax thereon) reasonably incurred by any of them in connection with the preservation, enforcement or attempted preservation or enforcement

of any of their rights under the Debenture (and any documents referred to in the Debenture) or any of the Charged Property (as defined in the Debenture).

- (c) Barbara Limited will on demand indemnify each of the Security Agent, the other Finance Parties and any receiver appointed under the Debenture, from and against any liability for any stamp, documentary, filing and other duties and Taxes (if any) which are or may become payable in connection with the Debenture.
- (d) If not paid when due, the amounts payable under clause 15 of the Debenture shall carry interest compounded with monthly rests at the Default Rate (as defined in the Debenture) (after as well as before judgment), from the date of demand and shall form part of the Indebtedness (as defined in the Debenture).

## 2.5 Costs

Barbara Limited will on demand pay to each of the Security Agent and any Receiver (as defined in the Debenture) the amount of all costs and expenses (including legal fees and other out-of-pocket expenses and any value added tax or other similar tax thereon) reasonably incurred by any of them in connection with:

- (a) the negotiation, preparation, execution and completion of this deed, and all documents, matters and things referred to in, or incidental to the Debenture;
- (b) any amendment, consent or suspension of rights (or proposal for any of the same) relating to the Debenture (and documents, matters or things referred to in the Debenture); and
- (c) the investigation of any Default (as defined in the Debenture).

## 2.6 Indemnity

N2 will indemnify the Security Agent against all losses incurred by the Security Agent as a result of a breach by any Charging Company of its obligations under clauses 8.1 to 8.9 of the Debenture (inclusive) and in connection with the exercise by the Security Agent of its rights contained in clause 8.10 of the Debenture. All sums the subject of this indemnity will be payable by N2 to the Security Agent on demand and if not so paid will bear interest at the Default Rate (as defined in the Credit Agreement). Any unpaid interest will be compounded with monthly rests.

## 2.7 For the purposes of this paragraph 2:

**"Assigned Agreements"** means the Acquisition Documents, the Hedging Agreements, the Insurances and the Key Person Policies (each as defined in the Credit Agreement);

**"Book Debts"** means all book and other debts arising in the ordinary course of trading;

**"Cash Collateral Accounts"** means the Cash Collateral Accounts as defined in the Credit Agreement;

**"Charging Companies"** means Barbara Limited, each of the companies listed in schedule 1 to the Debenture (including N2) and each company which grants security over its assets in favour of the Security Agent by executing a Security Accession Deed;

**"Collection Accounts"** means the accounts of the Charging Companies set out in schedule 5 to the Debenture (or in the schedules to any relevant Security Accession Deed) and/or such other accounts as the relevant Charging Company and the Security Agent shall agree or (following the occurrence of a Declared Default) as the Security Agent shall specify;

**"Declared Default"** means an event of default which has resulted in the Facility Agent (as defined in the Credit Agreement) exercising any of its rights under clause 25.26 (Acceleration) of the Credit Agreement;

**"Distribution Rights"** means all dividends, distributions and other income paid or payable on an Investment or Subsidiary Share, together with all shares or other property derived from that Investment or Subsidiary Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Investment or Subsidiary Share (whether by way of conversion, redemption, bonus, preference, option or otherwise);

**"Hedging Agreements"** means the Hedging Agreements as defined in the Credit Agreement;

**"Indebtedness"** means all money or liabilities due, owing or incurred to any Finance Party by any Charging Company or any other Obligor under any Finance Document at present or in the future, in any manner whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon and including all liabilities in connection with any notes, bills or other instruments accepted by any Secured Party for or at the request of an Obligor and all losses incurred by any Secured Party in connection therewith except for any money or liability which, if it were so included, would cause the infringement of section 151 of the Companies Act 1985;

**"Insurances"** means all policies of insurance and all proceeds of them either now or in the future held by, or written in favour of, a Charging Company or in which it is otherwise interested, but excluding any third party liability or public liability insurance and any directors and officers insurance;

**"Intellectual Property"** means the Intellectual Property Rights owned or used by N2 throughout the world together with the benefit of all agreements entered into for

the benefit of all agreements relating to the use or exploitation of any of those Intellectual Property Rights;

**"Intellectual Property Rights"** means all patents and patent applications, trade and service marks and trade and service mark applications (and all goodwill associated with any such registrations and applications), all brand and trade names, all copyrights and rights in the nature of copyright, all design rights, all registered designs and applications for registered designs, all inventions, all trade secrets, all know-how and all other intellectual property rights throughout the world;

**"Investments"** means any stock, share, debenture, loan stock, security, interest in any investment fund and any other comparable investment (whether or not marketable) whether owned directly by or to the order of a Charging Company or by any trustee, fiduciary or clearance system on its behalf (including, unless the context otherwise requires, the Subsidiary Shares);

**"Material Intellectual Property"** has the meaning given to it in the Credit Agreement and includes all those intellectual property rights set out in schedule 8 to the Debenture or in the schedules to any Security Accession Deed;

**"Security Accession Deed"** means a deed executed by a group company substantially in the form set out in schedule 7 to the Debenture, with those amendments which the Security Agent may approve or reasonably require; and

**"Subsidiary Shares"** means all shares owned by a Charging Company in its subsidiaries from time to time including those specified in schedule 2 to the Debenture (and in the schedules to any relevant Security Accession Deed)

### **3 PRIORITY**

By executing the Intercreditor Document, N2 (amongst other things) will:

- 3.1 covenant to pay the amounts owing under the Finance Documents;
- 3.2 agree that any sums owed to it by way of intra-group loan by any other member of its group will be subordinated to sums owed by such members of the group to the Finance Parties; and
- 3.3 fully indemnify each Investor (as defined in the Intercreditor Document) upon demand for the amount of any payment or distribution to the Security Agent under clause 5.4 of the Intercreditor Document.

### **4 RELEASE OF EXISTING SECURITY**

- 4.1 The Agent unconditionally and irrevocably:

- (a) releases and discharges all of the charges, mortgages and other security constituted by the Security Documents (as defined in the Deed of Release, such definition applying throughout this paragraph 4) as they may have been amended from time to time, including but not limited to those set out in schedule 3 to the Deed of Release; and
  - (b) releases and discharges all undertakings, liabilities and obligations whether actual or contingent and whether past, present or future incurred or owing pursuant to the Credit Agreement and the Intercreditor Deed (each as defined in the Deed of Release, such definitions to apply throughout this paragraph 4)).
- 4.2 The Agent releases to the Chargors the property secured pursuant to the Security Documents to hold the same free and discharged from the security interests created pursuant to the Security Documents.
- 4.3 The Agent re-assigns and re-conveys to the Chargors all assets and property of the Chargors which were assigned and/or conveyed to the Agent by way of security pursuant to the terms of the Security Documents and the Chargors accept such re-assignment and re-conveyance.
- 4.4 The Agent agrees and undertakes to deliver promptly to the Chargors at the Chargors' expense (such delivery to the Chargors being in full satisfaction of the Agent's obligations under this paragraph) all documents of title and other documents (if any) presently held by the Agent in relation to the assets secured pursuant to the Security Documents.
- 4.5 The Agent for itself and the Finance Parties consents to the repayment in full of all money and liabilities owing or incurred to any Investor by any Group Company under any Investor Document (as such terms are defined in the Intercreditor Deed) on the date on which all money and liabilities owed or incurred to any Finance Party under any Finance Documents has been fully discharged and all commitments of the Finance Parties to the Obligors have expired in accordance with the Finance Documents.

## **5 UPSTREAM LOAN AGREEMENT**

- 5.1 By executing the Upstream Loan Agreement, N2 (and certain other companies in the same group as N2 together for the purposes of this paragraph, the "**Lenders**") will make available an interest bearing revolving credit facility to Barbara Limited.
- 5.2 Barbara Limited may only utilise advances drawn under the Upstream Loan Agreement:
- (a) to make payments when due under the Credit Agreement;
  - (b) to pay costs and expenses incurred by Barbara Limited directly or indirectly in connection with the acquisition by Barbara Limited (directly or indirectly) of any shares in the capital of the Lenders;

- (c) to pay any other liability incurred directly or indirectly for the purpose of or otherwise in connection with any such acquisition (including, for the avoidance of doubt, the repayment of any existing indebtedness to the Seller and/or any affiliate company of the Seller (other than the Lenders));
- (d) to put any other person in funds to enable it to make any payment of the type referred to in clauses 3.1(a) to (d) of the Upstream Loan Agreement.

**5.3** Barbara Limited shall repay all outstanding advances under the Upstream Loan Agreement on the Termination Date (as defined in the Upstream Loan Agreement), subject to the terms of the Intercreditor Deed.

Mintun 1 Limited  
26 Fleetwood House  
Cromwell Business Park  
Banbury Road  
Chipping Norton, Oxfordshire OX7 5SR

## **INDEPENDENT AUDITORS' REPORT TO THE DIRECTORS OF MINTUN 1 LIMITED ("THE COMPANY") PURSUANT TO SECTION 156(4) OF THE COMPANIES ACT 1985**

We have examined the attached statutory declaration of the directors of the Company dated 7 February 2006 in connection with the proposal that the Company's subsidiary Nutnim 2 Limited should give financial assistance as set out in the attached statutory declaration.

This report is made solely to the directors of the Company for the purpose of section 156(4) of the Companies Act 1985. Our work has been undertaken so that we might state to the directors of the Company those matters that we are required to state to them in an auditors' report under that section and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company, for our work, for this report, or for the opinions that we have formed.

### **Basis of opinion**

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

### **Opinion**

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

*Deloitte & Touche LLP*

Deloitte & Touche LLP  
Date