

# G

CHWP000

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## COMPANIES FORM No. 155(6)b

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

# 155(6)b

Pursuant to section 155(6) of the Companies Act 1985

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

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

For official use

Company number

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5866531

Name of company

\* GAUCHO GROUP LIMITED

**Note**  
Please read the notes  
on page 3 before  
completing this form

\* insert full name  
of company

I/We ☐ PLEASE SEE APPENDIX A ATTACHED HERETO

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

† delete as  
appropriate

~~the sole director~~ [all the directors]† of the above company (hereinafter called 'this company') do  
solemnly and sincerely declare that

§ delete whichever  
is inappropriate

The business of the company is

- (a) ~~that of a [recognised bank][licensed institution]† within the meaning of the Banking Act 1979§~~  
(b) ~~that of a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on  
insurance business in the United Kingdom§~~  
(c) something other than the above§

The company is [the][a] holding company of\* INHOCO 4065 LIMITED (the "Company") /

\_\_\_\_\_ which is

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

in [this company][

\_\_\_\_\_ the holding company of this company ]†

Presenter's name address and  
reference (if any)

For official Use (02/06)  
General Section

FRIDAY



\*LTWH1VVI\*

LD9

28/12/2007

93

COMPANIES HOUSE

The assistance is for the purpose of [that acquisition][~~reducing or discharging a liability incurred for the purpose of that acquisition~~] † (note 1)

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this margin

The number and class of the shares acquired or to be acquired is 588,707 A Ordinary Shares, 411,293 B Ordinary Shares and 13,917,100 Preference Shares

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

The assistance is to be given to (note 2) GAUCHO HOLDINGS LIMITED

The assistance will take the form of

PLEASE SEE APPENDIX B ATTACHED HERETO

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

† delete as  
appropriate

GAUCHO HOLDINGS LIMITED

The principal terms on which the assistance will be given are

PLEASE SEE APPENDIX C ATTACHED HERETO

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is \_\_\_\_\_

The amount of cash to be transferred to the person assisted is £ 55,000,000

The value of any asset to be transferred to the person assisted is £ 0 00

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The date on which the assistance is to be given is WITHIN 8 WEEKS OF THE DATE HEREOF

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

I/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)

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

- (a) [I/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) ~~[It is intended to commence the winding up of this company within 12 months of that date, and I/we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up]\*~~ (note 3)

And I/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 Latham & Watkins  
99 Bishopsgate  
London EC2M 3XF

Declarants to sign below

Day Month Year  
on 

14	12	2007
----	----	------

before me [Signature] R NORRIDGE  
SOLICITOR

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

[Signature]  
[Signature]

## 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

DX 33050 Cardiff

or, for companies registered in Scotland -

The Registrar of Companies  
37 Castle Terrace  
Edinburgh  
EH1 2EB

DX 235 Edinburgh

or LP-4 Edinburgh 2

**INDEPENDENT AUDITORS' REPORT TO THE DIRECTORS OF THE GAUCHO  
GROUP LIMITED PURSUANT TO SECTION 156(4) OF THE COMPANIES ACT 1985**

We have examined the attached statutory declaration of the directors of Gauchó Group Limited dated 14 December 2007, prepared in accordance with applicable United Kingdom law, in connection with the proposal that the company's subsidiary Inhoco 4065 Limited should give financial assistance for the purpose of the purchase of the entire issued share capital of Gauchó Group Limited

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

**Basis of opinion**

We have enquired into the state of affairs of the company so far as necessary 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 1985 is unreasonable in all the circumstances

Ernst & Young LLP  
Registered Auditor  
Belfast  
Date

*Ernst & Young LLP*  
*14 December 2007*

**Appendix A to Form 155(6)b given by Gaucho Group Limited (registered number 5866531)**

**Directors**

Name ZEEV GODIK

Address 7 LOWER MALL  
HAMMERSMITH  
LONDON  
W6 9DJ

Name CHARLES MCLEAN

Address 2 LILYFIELDS CHASE  
EWHURST  
CRANLEIGH  
GU6 7RX

**Appendix B to Form 155(6)b given by Gaucho Group Limited (registered number 5866531)**

**Form of Assistance**

Terms defined in this statutory declaration (including in the Appendices) have the same meaning in this Appendix unless otherwise stated or the context requires otherwise

The assistance will take the form of the execution, delivery and performance by the Company of the following documents (as the same may be amended, varied, supplemented or substituted from time to time)

- 1 An accession agreement (**Senior Facilities Accession Agreement**) to be entered into between, among others, the Company and Gaucho Holdings Limited (**Gaucho Holdings Limited**) whereby the Company agrees to become an Additional Borrower and an Additional Guarantor (as defined in the Senior Facilities Agreement) and to be bound by the terms of a £48 million term loan and revolving loan facilities agreement dated on or about the date of this Form and made between Gaucho Holdings Limited, as parent, the parties named therein as original guarantors, Lloyds TSB Bank Plc and The Royal Bank of Scotland Plc, as Mandated Lead Arrangers, the financial institutions listed therein as original lenders, Lloyds TSB Bank Plc, as agent for the other finance parties and security trustee (**Security Trustee**) and the Royal Bank of Scotland Plc, as the original ancillary lender and issuing bank (**Senior Facilities Agreement**),
- 2 a debenture to be entered into between the Company as chargor (**Chargor**) and Lloyds TSB Bank Plc as Security Trustee (**Debenture**),
- 3 an intercreditor agreement to be entered into between, among others, the Company and the Security Trustee whereby the Company agrees to be bound by the terms of an intercreditor agreement dated on or about the date of this Form made between, among others, the Parent, the Company, the Investors (as defined therein) and the Security Trustee (**Intercreditor Agreement**),
- 4 a company intra-group loan agreement for the provision of a loan facility to be made available by certain group companies to Gaucho Acquisitions Limited and to be made between, among others, certain group companies and Gaucho Acquisitions Limited (**Intra-Group Loan Agreement**),
- 5 a letter of support from Gaucho Acquisitions Limited to certain Group Companies pursuant to which Gaucho Acquisitions Limited will, if any Group company has difficulty in meeting its working capital needs and if no Termination Event (as defined therein) has occurred and is continuing, use all best endeavours to make available to that company such amounts as are necessary to meet such working capital shortfalls (**Letter of Support**)
- 6 a company intra-group fee loan agreement for the provision of a loan facility to be made available by Gaucho Acquisitions Limited to Gaucho Holdings Limited for the payment of certain fees and expenses (**Intra-Group Fee Loan Agreement**)
- 7 a Dutch law share pledge to be entered into between Gaucho Grill Limited, as pledgor, and Lloyds TSB Bank Plc as Security Trustee (**Dutch Share Pledge**)

**Appendix C to Form 155(6)b given by Gaucho Group Limited (registered number 5866531)**

**Principal Terms**

Terms defined in this statutory declaration (including the other Appendices) have the same meaning in this Appendix unless otherwise stated or the context otherwise requires

The principal terms on which assistance will be given are as follows

**1 The Senior Facilities Accession Agreement and Senior Facilities Agreement**

In this Appendix 3 the following terms shall have the following meanings

**Accession Letter** means a document substantially in the form set out in Schedule 6 (Form of Accession Letter) of the Senior Facilities Agreement

**Acquisition** means the acquisition by Gaucho Holdings Limited of Gaucho Group Limited pursuant to the terms of the Acquisition Documents

**Acquisition Costs** means all fees, costs and expenses, stamp, registration and other Taxes incurred by the Parent or any other Group Company in connection with the Acquisition or the Transaction Documents

**Acquisition Documents** means the Acquisition Agreement and the Disclosure Letter, and any other document designated as an Acquisition Document by the Agent and the Parent

**Additional Guarantor** means a company which becomes a Guarantor in accordance with Clause 29 (*Changes to the Obligors*) of the Senior Facilities Agreement

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company

**Ancillary Document** means each document relating to or evidencing the terms of an Ancillary Facility

**Ancillary Facility** means any ancillary facility made available by an Ancillary Lender in accordance with Clause 8 (*Ancillary Facilities*) of the Senior Facilities Agreement

**Closing Date** means the date on which Completion occurs

**Completion** means the completion of the Acquisition in accordance with clause 3 of the Acquisition Agreement

**Company Intra-Group Loan Agreement** means the loan agreement in the agreed form between the Company and certain other Group Companies pursuant to which those Group Companies have or will make available a facility to the Company up to a maximum aggregate principal amount equal to the aggregate principal amount of (plus interest on) the Facilities or such other amount as is approved by the Agent

**Disclosure Letter** has the meaning given to that term in the Acquisition Agreement

**Fee Letter** means

(A) any letter or letters dated on or about the date of this Agreement between the Arranger and the Parent (or the Agent and the Parent or the Security Trustee and the Parent) setting out any of the fees referred to in Clause 16 (*Fees*) of the Senior Facilities Agreement, and

(B) any other agreement setting out fees referred to in Clause 16.5 (*Fees payable in respect of Letters of Credit*) or Clause 16.6 (*Interest, commission and fees on Ancillary Facilities*) of the Senior Facilities Agreement

**Finance Document** means the Senior Facilities Agreement, any Accession Letter, any Ancillary Document, the Company Intra-Group Loan Agreement, any Compliance Certificate, any Transfer Certificate, any Assignment Agreement, any Fee Letter, any Hedging Agreement, the Intercreditor Agreement, any Selection Notice, any Transaction Security Document, any Utilisation Request (each as defined in the Senior Facilities Agreement) and any other document designated as a Finance Document by the Agent and the Parent

**Finance Parties** means the Agent, the Arranger, the Security Trustee, the Lenders, the Issuing Bank, the Hedge Counterparty/ies and any Ancillary Lender

**Group** means the Parent, Target and each of their respective Subsidiaries for the time being and Group Company means any one of them

**Guarantor** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 29 (*Changes to the Obligors*) of the Senior Facilities Agreement

**Holding Company** means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary

**Intercreditor Agreement** means the intercreditor agreement dated the same date as the Senior Facilities Agreement and made between, among others, the Parent, the Company, the Investors (as defined therein) and the Security Trustee

**Obligor** means a Borrower or Guarantor

**Original Guarantor** means the parties listed in Part I of Schedule 1 (*The Original Parties*) of the Senior Facilities Agreement as original guarantors

**Subsidiary** means a subsidiary undertaking within the meaning of section 258 of the Act and a subsidiary within the meaning of section 736 of the Act

**Structure Memorandum** means the structure paper entitled "Memorandum on Structure" and dated on or about the date of this Agreement describing the Group and the Acquisition and prepared by PricewaterhouseCoopers in the agreed form and addressed to, and/or capable of being relied upon by, the Arranger and the other Secured Parties

**Target** means Gaucho Group Limited, a company incorporated under the law of England and Wales with registered number 05866531

**Transfer Certificate** means a certificate substantially in one of the forms set out in Part 1 of Schedule 5 (*Form of Transfer Certificate*) of the Senior Facilities Agreement or any other form agreed between the Agent and the Parent

**Vendor** means the persons whose names and addresses are set out in Schedule 1 (*The Original Parties*) of the Acquisition Agreement

in each case with such amendments as the Agent may approve or reasonably require, or any other form agreed between the Agent and the Company

Under the terms of the Senior Facilities Accession Agreement and the Senior Facilities Agreement

- (a) The Company is to become a Borrower and shall apply all amounts borrowed by it under an Acquisition Term Facility towards the Acquisition Purposes,
- (b) The Company shall apply all amounts borrowed by it under Facility D towards New Site Capital Expenditure, and, for the avoidance of doubt, not for revenue expenditure items or pre-opening costs,
- (c) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility and any Letter of Credit and any Utilisation of any Ancillary Facility towards the working capital purposes of the Group (but not, for the avoidance of doubt, towards (a) the Acquisition Purposes, (b) acquisitions of companies, businesses or undertakings or (c) the payment of interest, fees or the prepayment of any Term Loan or, in the case of any Utilisation of any Ancillary Facility, towards prepayment of any Revolving Facility Utilisation),
- (d) the Company irrevocably and unconditionally jointly and severally (with each other Guarantor)
  - (i) guarantees to each Finance Party punctual performance by the Borrower of all the Borrower's obligations under the Finance Documents,
  - (ii) undertakes with each Finance Party that, whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand by the Facility Agent pay that amount as if it was the principal obligor in respect of that amount, and
  - (iii) indemnifies each Finance Party immediately on demand against any 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 loss or liability under such indemnity shall be equal to the amount which that Finance Party would otherwise have been entitled to recover,
- (e) the obligations of the Company as described in paragraph (a) above will not be affected by any act, omission, or thing which, but for Clause 22.4 of the Senior Facilities Agreement as set out in this paragraph (b), would reduce, release or prejudice any of its obligations described in paragraph (a) above (whether or not known to it or any Finance Party) including
  - (i) any time, waiver or consent granted to, or composition with, any Obligor or other person,
  - (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any person,

- (iii) the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security,
- (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person,
- (v) any amendment, novation, supplement, extension, restatement (in each or any case, however fundamental, whether or not more onerous and of whatsoever nature) or replacement of a Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security,
- (vi) any unenforceability, illegality or invalidity of any obligation of, or any Security created by any person under any Finance Document or any other document, or
- (vii) any insolvency, liquidation, administration or similar procedure,
- (f) the Company gives various representations, warranties, undertakings and indemnities to the Finance Parties and agrees to pay certain costs fees and expenses to the Finance Parties,
- (g) the Company shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require in favour of the Security Trustee or its nominee(s))
  - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Trustee or the Finance Parties provided by or pursuant to the Finance Documents or by law,
  - (ii) to confer on the Security Trustee or confer on the Finance Parties Security over any property and assets of the Company located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents, and/or
  - (iii) following the occurrence of an Event of Default which remains continuing, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security
- (h) The Company shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be

conferred on the Security Trustee or the Finance Parties by or pursuant to the Finance Documents

- (i) The Company must use, and must procure that any other Group Company that is a potential provider of any Transaction Security uses, all reasonable endeavours lawfully available to avoid or mitigate any constraints on the provision of Security

## 2 The Debenture

In this paragraph 2 of Appendix 3 the following terms shall have the following meanings

**Book Debts** means, in relation to the Company, all its book debts arising in the ordinary course of trading

**Distribution Rights** means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them

**Enforcement Event** means the occurrence of an Event of Default which is continuing

**Insurance** means each contract or policy of insurance to which the Company is a party or in which it has an interest, other than any policy which is taken out in respect of third party liabilities

**Investments** means all or any stocks, shares (other than any Shares), bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations)

**Land** has the same meaning as it has in section 205(1) of the Property Law Act 1925

**Non Trading Debts** means all debts and monies due or payable to the Company except for Book Debts and those referred to in Clause 3.7 (*Accounts held with Finance Parties*) of the Debenture

**Plant and Machinery** means, in relation to the Company, all its fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related Authorisations, agreements and warranties

**Secured Liabilities** means the liabilities of the Obligors to the Finance Parties under or pursuant to the Finance Documents except for any liabilities which, if secured by the Debenture, would result in a contravention by a Company of section 151 of the Companies Act 1985

**Security Assets** means, in relation to the Company, all of its assets and rights which are the subject of any Security created or intended to be created by the Debenture (including, for the avoidance of any doubt and without limitation, each Excluded Asset)

**Shares** means all shares held by the Company in its Subsidiaries, including (without limitation) those shares listed in Schedule 3 (*Shares*) of the Debenture

Under the terms of the Debenture

- (a) the Company covenants with the Security Trustee and the other Finance Parties that they will on demand pay and discharge the Secured Liabilities when due,
- (b) the Company charges
  - (i) by way of legal mortgage its interest in the Land referred to opposite its name in Schedule 1 (*Land charged by way of legal mortgage*) of the Debenture, and
  - (ii) by way of fixed charge any right, title or interest which it has now or may subsequently acquire to or in any other Land,
- (c) by way of fixed charge
  - (i) all Shares,
  - (ii) all related Distribution Rights,
  - (iii) all Investments and all related Distribution Rights, including those held for it by any nominee,
  - (iv) all Plant and Machinery in so far as it is not charged by way of legal mortgage under Clause 3.1 (*Land*) of the Debenture,
  - (v) all Book Debts, and
  - (vi) all benefits, rights and Security held in respect of, or to secure the payment of, the Book Debts,
  - (vii) all Non Trading Debts,
  - (viii) all benefits, rights and Security held in respect of, or to secure the payment of, the Non Trading Debts,
  - (ix) all amounts standing to the credit of
    - (A) each Account, and
    - (B) any other bank account in its name or to which it is beneficially entitled or in which it has an interest,
  - (x) all Intellectual Property Rights,
  - (xi) its goodwill,
  - (xii) its uncalled capital, and
  - (xiii) the benefit of all Authorisations held by it in relation to any Security Asset,
- (d) the Company assigns absolutely all its rights and interests under the Assigned Agreements to which it is party to the extent that it is not prohibited from doing so under the terms of such Assigned Agreements,

- (e) until an Event of Default occurs, but subject to Clause 14 (*Assigned Agreements and Insurances*) of the Debenture, the Company may continue to deal with the counterparties to the relevant Assigned Agreements,
- (f) the Company assigns absolutely all its rights and interests in the Insurances
- (g) until an Event of Default/ occurs, but subject to Clause 14 (*Assigned Agreements and Insurances*) of the Debenture, the Company may continue to deal with the counterparties to the Insurances,
- (h) Subject to Clause 3 16 (*Excluded Assets*) of the Debenture, the Company charges by way of fixed charge all its rights under any agreement to which it is a party other than the Assigned Agreements to the extent they are effectively assigned by Clause 3 12 (*Assigned Agreements*) of the Debenture
- (i) The Company charges by way of first floating charge with full title guarantee all its rights to and title and interest from time to time in the whole of its business, undertaking and assets, whatsoever and wheresoever, present and future, other than any business, undertaking and assets validly and effectively charged by way of fixed charge or assigned (whether at law or in equity) under Clause 3 of the Debenture
- (j) The floating charge hereby created is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986
- (k) Without prejudice to Clause 3 15 2 of the Debenture, the Security Trustee reserves its rights to appoint an administrative receiver on and following an Enforcement Event in accordance with sections 72B to H (inclusive) of the Insolvency Act 1986
- (l) The Security Trustee has entered into the Debenture in reliance on the representations of the Company set out in Clause 6 of the Debenture, and the Company warrants to the Security Trustee on the date of the Debenture, as set out in this Clause 6 of the Debenture
- (m) Save as expressly permitted by the Facilities Agreement, the Company shall not enter into a single transaction or a series of transactions (whether related or not), whether voluntary or involuntary and whether at the same time or over a period of time, to sell, lease, transfer, loan (and, in the case of the Book Debts, factor or discount them), nor otherwise dispose of any Security Asset, nor enter into an agreement to make any such disposal
- (n) Save as expressly permitted by the Facilities Agreement, the Company shall not create or permit to subsist any Security over any Security Asset except for Permitted Security
- (o) The provisions of Clauses 35 (*Notices*), 36 (*Calculations and certificates*), 37 (*Partial Invalidity*), 38 (*Remedies and waivers*), 39 (*Amendments and waivers*) and 40 (*Counterparts*) of the Facilities Agreement shall apply to the Debenture, *mutatis mutandis*, as if set out in full in the Debenture

### 3 Intercreditor Agreement

In this paragraph 3 of Appendix 3 the following terms shall have the following meanings

**Ancillary Liability** means, in relation to any Liability (and any document or agreement relating to any Liability)

- (a) any refinancing, novation, refunding, deferral or extension of that Liability,
- (b) any claim for misrepresentation, breach of representation, warranty or undertaking or on an event of default or under any indemnity in connection with that Liability,
- (c) any further advance made under any document or agreement supplemental to that document or agreement plus all interest, fees and costs in connection with that advance,
- (d) any claim for damages or restitution in the event of rescission of that Liability or otherwise in connection with that document or agreement,
- (e) any claim against any Group Company flowing from any recovery by a Borrower or any other person of a payment or discharge in respect of that Liability on the grounds of preference or otherwise, or
- (f) any amount (such as post-insolvency interest) which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of it in any insolvency or other proceedings

**Hedging Document** means any Hedging Agreement or any document entered into under or in connection with them

**Hedging Lender** means any Senior Lender which becomes a party to this Agreement as a Hedging Lender in accordance with Clause 4.1 (*Accession of Hedging Lenders*) of the Intercreditor Deed in its capacity as provider of hedging facilities to any Group Company

**Hedging Liabilities** means any liability of any Group Company to a Hedging Lender under any Hedging Document or any Ancillary Liability

**Junior Liabilities** means an Intragroup Liability, an Investor Liability or a Holdco Investor Liability

**Liability** means a Senior Liability, a Hedging Liability or a Junior Liability

**Senior Liabilities** means any liability payable or owing at any time by any Group Company to the Finance Parties under the Finance Documents, and any Ancillary Liability

Under the terms of the Intercreditor Agreement Deed of Accession and Intercreditor Agreement

- (a) the Company agrees and acknowledges that whether secured or unsecured, the Liabilities shall rank at all times and for all purposes as follows
  - (i) first, the Senior Liabilities and the Hedging Liabilities, *pari passu*,
  - (ii) second, the Junior Liabilities
- (b) The Company consents to the granting by any Group Company of any Security in favour of the Security Trustee as Security for the Senior Liabilities

- (c) All Security conferred on the Finance Parties shall at all times secure the Senior Liabilities and the Hedging Liabilities pari passu
- (d) Each Obligor, Investor, Holdco Investor and Intragroup Creditor agrees to do all acts and things (including, without limitation, the execution of powers of attorney, assignments or other instruments) as are reasonably required to give effect to the purposes of the Intercreditor Agreement (and do nothing to jeopardise the same)
- (e) Each Party undertakes with each other Party that it will use all reasonable endeavours to ensure that the ranking of priorities and subordination in the Intercreditor Agreement are given effect in all relevant jurisdictions

#### **4 The Intra-Group Loan Agreement**

Under the terms of the Intra-Group Loan Agreement between amongst others, the Company and certain Group companies, a loan facility is to be made available to Gaucho Acquisitions Limited for among other purposes to repay the Senior Facilities Agreement

#### **5 Letter of Support**

Under the terms of the Letter of Support Company will, if any Group company has difficulty in meeting its working capital needs and if no Termination Event (as defined therein) has occurred and is continuing, use all best endeavours to make available to that company such amounts as are necessary to meet such working capital shortfalls

#### **6 Intra-Group Fee Loan Agreement**

Under the terms of the Intra-Group Fee Loan Agreement Gaucho Acquisitions Limited is to make available a loan facility to Gaucho Holdings Limited for the payment of certain fees and expenses in connection with the Senior Facilities Agreement

#### **7 Dutch Share Pledge**

Under the terms of the Dutch Share Pledge between the Company, as pledgor, and Lloyds TSB Bank Plc as Security Trustee, the Company pledges its interest in the Shares (as defined in the Dutch Share Pledge)

**INDEPENDENT AUDITORS' REPORT TO THE DIRECTORS OF THE GAUCHO GROUP LIMITED PURSUANT TO SECTION 156(4) OF THE COMPANIES ACT 1985**

We have examined the attached statutory declaration of the directors of Gaucho Group Limited dated 14 December 2007, prepared in accordance with applicable United Kingdom law, in connection with the proposal that the company's subsidiary Inhoco 4065 Limited should give financial assistance for the purpose of the purchase of the entire issued share capital of Gaucho Group Limited

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

**Basis of opinion**

We have enquired into the state of affairs of the company so far as necessary 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 1985 is unreasonable in all the circumstances.

Ernst & Young LLP  
Registered Auditor  
Belfast  
Date

*Ernst & Young LLP*  
*14 December 2007*