

DATED

DRAFT September 2023

## **DRAFT PARTIAL BAD DEBT GUARANTEE FOR CONSOLIDATION LENDING**

**Fair4All Finance Limited**

**and**

**[Lender]**

**Note: This document should be read in conjunction with the Consolidation partial bad debt guarantee overview (pdf) and Participant Brief Financial submission excel file which illustrates the intended operation of this guarantee. It builds on the heads of term originally issued for this work.**

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**THIS DEED** is made on

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**Parties**

- (1) FAIR4ALL FINANCE LIMITED, of 2nd Floor, 28 Commercial Street, London, E1 6LS , (**Fair4All Finance**);
- (2) [FULL NAME OF LENDER], incorporated and registered in England and Wales with company number [NUMBER], whose registered office is at [REGISTERED OFFICE ADDRESS](**Lender**).

**Recitals**

- (A) The Lender is a regulated entity which makes debt consolidation loans available to individual borrower [and which is an entity incorporated to pursue social change and financial inclusion by working to provide access to fair, affordable and appropriate financial products and services to people in financially vulnerable circumstances in England].
- (A) Fair4All Finance is a not for profit organisation which seeks to improve vulnerable people's access to mainstream financial products and services.
- (B) In order to widen the availability of the debt consolidation loans currently being made available by the Lender, Fair4All has agreed to provide a partial guarantee to the Lender to facilitate the expansion of the Lender's debt consolidation loan offering.

**Agreed terms**

- 1. Definitions and interpretation
- 1.1 **Definitions**

The following definitions apply in this guarantee.

- "Baseline Loans"** means the debt consolidation loans issued to individuals by the Lender that are not Eligible DCLs covered by this guarantee. [to be proposed by the lender and defined in this agreement with Fair4All Finance including the underwriting criteria which will apply to and identify this population. This is the reference population not the treatment population].
- "Baseline Percentage Losses"** means the proportion, expressed as a percentage, of the Baseline Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
- "Business Day"** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

<b>"Calculation Certificate"</b>	Means the certificate to be delivered by the Lender to Fair4All Finance setting out the calculations referred to in clause 4.1 in substantially the same form as set out in Schedule 2
<b>"Calculation Date"</b>	means the day falling [30 days] before the Settlement Date in each year.
<b>"Calculation Period"</b>	means, (i) for the initial Calculation Period, the period beginning on the first day of the Wave 1 Availability Period and ending on the next occurring Calculation Date and (ii) for all other Calculation periods, the period beginning on the day after the previous Calculation Date and ending on the following Calculation Date.
<b>"Cost of Capital"</b>	costs incurred by the Lender on borrowing any capital that is advanced by the Lender under the Eligible DCLs, which may include the dividend offered on credit union member savings which are then on-lent or the funds secured through deferred shares, grant or other mechanisms, where such costs of capital are capable of being validated through Open Book Accounting.
<b>"DCL"</b>	means debt consolidation loan.
<b>"Eligible DCL" or "Eligible Debt Consolidation Loan"</b>	has the meaning given to that term in clause 2.2.
<b>"Excluded DCL"</b>	Has the meaning given to that term in clause 2.3.
<b>"Gross Profit"</b>	the total returns received by the Lender from borrowers of Eligible DCLs less any Cost of Capital less the principal amount of all Eligible DCLs made by the Lender.
<b>"Material Breach"</b>	Means[ ]
<b>"Monthly Report"</b>	Means the report to be provided by the Lender to Fair4All Finance in substantially the same form as set out in Schedule 1.
<b>"Net Profit"</b>	Gross Profit less Servicing Costs and other qualifying expenses where such other qualifying expenses are agreed in writing by Fair4All Finance and the Lender.
<b>"Open Book Accounting"</b>	Means an open book accounting treatment in relation to Servicing Costs and Net Profit calculations which is met by providing Fair4All Finance with such information and access to such of its personnel as it may from time to time require in ascertaining, confirming, verifying or checking all such costs and expenditure including full information as to the items included in the Net Profit calculation.
<b>"Population A"</b>	[to be proposed by the lender and defined in this agreement with Fair4All Finance including the underwriting criteria which will apply to and identify this population]
<b>"Population B"</b>	[to be proposed by the lender and defined in this agreement with Fair4All Finance including the underwriting criteria which will apply to and identify this population]

<b>"Provisioning Policy"</b>	[to be shared by the Lender – the Lender’s provisioning policy which will apply to all lending including DCLs]
<b>"Rights"</b>	any Security or any other right or benefit whether arising by way of set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.
<b>"Rulebook"</b>	means the PRA Rulebook and/or the FCA handbook and/or the Credit Unions Act 1979 in so far as it shall apply to the Lender or its activities
<b>"Scheme"</b>	means the scheme of credit support in the form of ‘bad debt guarantees’ under this guarantee (and substantially similar guarantees made to other participants) being provided by Fair4All Finance.
<b>"Security"</b>	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
<b>"Servicing Costs"</b>	costs incurred by the Lender, not including Cost of Capital, in lending, servicing, administering, and/or enforcing the Eligible DCLs, where such servicing costs are capable of being validated through Open Book Accounting.
<b>"Settlement Date"</b>	means [insert financial year end] in each year
<b>"Tax"</b>	all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction and any penalty, fine, surcharge, interest, charges or costs relating to them.
<b>"Lending Wave"</b>	The discrete periods of lending utilised by Fair4All Finance and the Lender to test this type of consolidation lending backed with this guarantee which are intended to enable an opportunity to refine and improve lending practices for these populations as the tests continue
<b>"Wave 1 Availability Period"</b>	means the period beginning on [ ] and ending on [ ] unless extended by Fair4All Finance.
<b>"Wave 1 Claim Period"</b>	The date commencing on the first day of the Wave 1 Availability Period and ending 42 months after the final day of the Wave 1 Availability Period, unless extended in accordance with clause [ ]
<b>"Wave 1 Covered Cap Amount"</b>	means [£ x ] which applies to the bad debt incurred for Population A and Population B across all years in Wave 1 and which the Parties will agree will be phased between the years with a limited share of the cap applied to each Calculation Period based on the relative performance of the populations A

and B to the **Baseline Percentage Losses** using the agreed Gainshare Taper ratio as set out in 7.7. The Wave 1 Covered Cap Amount will be apportioned between populations A and B as defined in "Wave 1 Population A Loss Cap" and "Wave 1 Population B Loss Cap". There will be a final 'true up' calculation at the end of the wave in the final Calculation Period within the wave to pay out up to the maximum Wave 1 Covered Cap Amount ]

**[Note:** we are open to alternatives regarding the phasing of this payment mechanism or lenders can agree to be paid out in full at the end of the wave period at the same time that profit sharing is calculated ]

**"Wave 1 Covered Population A Losses Negative Carry"**

means the sum determined by Clause 4.2.

**"Wave 1 Covered Population A Losses"**

means the Wave 1 Covered Population A Percentage Losses multiplied by the Wave 1 Population A Loans, plus the Wave 1 Covered Population A Losses Negative Carry (if any).

**"Wave 1 Covered Population A Percentage Losses"**

means the Wave 1 Population A Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.

**"Wave 1 Covered Population B Losses Negative Carry"**

means the sum determined by Clause 4.2.

**"Wave 1 Covered Population B Losses"**

means the Wave 1 Covered Population B Percentage Losses multiplied by the Wave 1 Population B Loans, plus the Wave 1 Covered Population B Losses Negative Carry (if any).

**"Wave 1 Covered Population B Percentage Losses"**

means the Wave 1 Population B Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.

**"Wave 1 Population A Loans"**

means an Eligible DCL made by the Lender to an individual in Population A during the Wave 1 Availability Period that is not an Excluded DCL.

**"Wave 1 Population A Loss Cap"**

means an amount equal to [80] per cent of the Wave 1 Covered Cap Amount.

**"Wave 1 Population A Loss Payments"**

means the total amount of Wave 1 Covered Population A Losses paid to the Lender by Fair4All Finance.

**"Wave 1 Population A Percentage Losses"**

means the proportion, expressed as a percentage, of the Population A Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.

<b>"Wave 1 Population B Loans"</b>	means an Eligible DCL made by the Lender to an individual in Population B during the Wave 1 Availability Period that is not an Excluded DCL.
<b>"Wave 1 Population B Loss Cap"</b>	means an amount equal to [20] per cent of the Wave 1 Covered Cap Amount.
<b>"Wave 1 Population B Loss Payments"</b>	means the total amount of Wave 1 Covered Population A Losses paid to the Lender by Fair4All Finance.
<b>"Wave 1 Population B Percentage Losses"</b>	means the proportion, expressed as a percentage, of the Wave 1 Population B Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
<b>"Wave 1 Review Period"</b>	The period beginning immediately after the last day of the Wave 1 Availability Period and ending on the first day of the Wave 2 Availability Period
<b>"Wave 2 Availability Period"</b>	means the period beginning on the date notified to the Lender by Fair4All Finance in writing until a date set by Fair4All Finance in writing [ ] unless extended by Fair4All Finance.
<b>"Wave 2 Claim Period"</b>	The date commencing on the first day of the Wave 2 Availability Period and ending 42 months after the final day of the Wave 2 Availability Period, , unless extended in accordance with clause [ ]
<b>"Wave 2 Covered Cap Amount"</b>	means [£ ], which applies to the bad debt incurred for Population A and Population B across all years in Wave 2 and which the Parties will agree will be phased between the years with a limited share of the cap applied to each Calculation Period based on the relative performance of the populations A and B to the <b>Baseline Percentage Losses</b> using the agreed Gainshare Taper ratio as set out in 7.7. The Wave 2 Covered Cap Amount will be apportioned between populations A and B as defined in "Wave 2 Population A Loss Cap" and "Wave 2 Population B Loss Cap". There will be a final 'true up' calculation at the end of the wave in the final Calculation Period within the wave to pay out up to the maximum Wave 2 Covered Cap Amount, unless modified in accordance with Clause 6.
	<b>[Note:</b> we are open to alternatives regarding the phasing of this payment mechanism or lenders can agree to be paid out in full at the end of the wave period at the same time that profit sharing is calculated.]
<b>"Wave 2 Covered Population A Losses Negative Carry"</b>	means the sum determined by Clause 4.2.

<b>"Wave 2 Covered Population A Losses"</b>	means the Wave 2 Covered Population A Percentage Losses multiplied by the Wave 2 Population A Loans, plus the Wave 2 Covered Population A Losses Negative Carry (if any).
<b>"Wave 2 Covered Population A Percentage Losses"</b>	means the Wave 2 Population A Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.
<b>"Wave 2 Covered Population B Losses Negative Carry"</b>	means the sum determined by Clause 4.2.
<b>"Wave 2 Covered Population B Losses"</b>	means the Wave 2 Covered Population B Percentage Losses multiplied by the Wave 2 Population B Loans, plus the Wave 1 Covered Population B Losses Negative Carry (if any).
<b>"Wave 2 Covered Population B Percentage Losses"</b>	means the Wave 2 Population B Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.
<b>"Wave 2 Population A Loans"</b>	means an Eligible DCL made by the Lender to an individual in Population A during the Wave 2 Availability Period that is not an Excluded DCL.
<b>"Wave 2 Population A Loss Cap"</b>	means an amount equal to [80] per cent of the Wave 2 Covered Cap Amount.
<b>"Wave 2 Population A Loss Payments"</b>	means the total amount of Wave 2 Covered Population A Losses paid to the Lender by Fair4All Finance.
<b>"Wave 2 Population A Percentage Losses"</b>	means the proportion, expressed as a percentage, of the Wave 2 Population A Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
<b>"Wave 2 Population B Loans"</b>	means an Eligible DCL made by the Lender to an individual in Population B during the Wave 2 Availability Period that is not an Excluded DCL.
<b>"Wave 2 Population B Loss Cap"</b>	means an amount equal to [20] per cent of the Wave 2 Covered Cap Amount.
<b>"Wave 2 Population B Loss Payments"</b>	means the total amount of Wave 2 Covered Population A Losses paid to the Lender by Fair4All Finance.
<b>"Wave 2 Population B Percentage Losses"</b>	means the proportion, expressed as a percentage, of the Wave 2 Population B Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
<b>"Wave 2 Review Period"</b>	The period beginning immediately after the last day of the Wave 2 Availability Period and ending on the first day of the Wave 3 Availability Period
<b>"Wave 3 Availability Period"</b>	means the period beginning on the date notified to the Lender by Fair4All Finance in writing until a date set by Fair4All Finance in writing [ ] unless extended by Fair4All Finance.
<b>"Wave 3 Claim Period"</b>	The date commencing on the first day of the Wave 3 Availability Period and ending 42 months after the final day of the Wave 3



	Availability Period, unless extended in accordance with clause [ ]
<b>"Wave 3 Covered Cap Amount"</b>	means[ £x ] which applies to the bad debt incurred for Population A and Population B across all years in Wave 3 and which the Parties will agree will be phased between the years with a limited share of the cap applied to each Calculation Period based on the relative performance of the populations A and B to the <b>Baseline Percentage Losses</b> using the agreed Gainshare Taper ratio as set out in 7.7. The Wave 3 Covered Cap Amount will be apportioned between populations A and B as defined in "Wave 3 Population A Loss Cap" and "Wave 3 Population B Loss Cap". There will be a final 'true up' calculation at the end of the wave in the final Calculation Period within the wave to pay out up to the maximum Wave 3 Covered Cap Amount], unless modified in accordance with Clause 6.  <b>[Note:</b> we are open to alternatives regarding the phasing of this payment mechanism or lenders can agree to be paid out in full at the end of the wave period at the same time that profit sharing is calculated. ]
<b>"Wave 3 Covered Population A Losses Negative Carry"</b>	means the sum determined by Clause 4.2.
<b>"Wave 3 Covered Population A Losses"</b>	means the Wave 3 Covered Population A Percentage Losses multiplied by the Wave 3 Population A Loans, plus the Wave 3 Covered Population A Losses Negative Carry (if any).
<b>"Wave 3 Covered Population A Percentage Losses"</b>	means the Wave 3 Population A Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.
<b>"Wave 3 Covered Population B Losses Negative Carry"</b>	means the sum determined by Clause 4.2.
<b>"Wave 3 Covered Population B Losses"</b>	means the Wave 3 Covered Population B Percentage Losses multiplied by the Wave 3 Population B Loans, plus the Wave 3 Covered Population B Losses Negative Carry (if any).
<b>"Wave 3 Covered Population B Percentage Losses"</b>	means the Wave 3 Population B Percentage Losses less the Baseline Percentage Losses, these are the losses above the lenders' first losses.
<b>"Wave 3 Population A Loans"</b>	means an Eligible DCL made by the Lender to an individual in Population A during the Wave 3 Availability Period that is not an Excluded DCL.
<b>"Wave 3 Population A Loss Cap"</b>	means an amount equal to [80] per cent of the Wave 3 Covered Cap Amount.
<b>"Wave 3 Population A Loss Payments"</b>	means the total amount of Wave 3 Covered Population A Losses paid to the Lender by Fair4All Finance.

<b>"Wave 3 Population A Percentage Losses"</b>	means the proportion, expressed as a percentage, of the Wave 3 Population A Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
<b>"Wave 3 Population B Loans"</b>	means an Eligible DCL made by the Lender to an individual in Population B during the Wave 3 Availability Period that is not an Excluded DCL.
<b>"Wave 3 Population B Loss Cap"</b>	means an amount equal to [20] per cent of the Wave 3 Covered Cap Amount.
<b>"Wave 3 Population B Loss Payments"</b>	means the total amount of Wave 3 Covered Population A Losses paid to the Lender by Fair4All Finance.
<b>"Wave 3 Population B Percentage Losses"</b>	means the proportion, expressed as a percentage, of the Wave 3 Population B Loans that are provisioned to 100 per cent in accordance with the Provisioning Policy.
<b>"Wave 3 Review Period"</b>	The period beginning immediately after the last day of the Wave 3 Availability Period and shall end on the last day of the Wave 3 Claim Period

1.2 **Interpretation**

In this guarantee:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this guarantee;
- 1.2.2 a **person** includes an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.6 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.7 a reference to **writing** or **written** includes fax and e-mail;
- 1.2.8 a reference to **this guarantee** (or any provision of it) is to this guarantee (or a provision of it), and such a reference or a reference to any other agreement or document referred to in this guarantee is a reference to this guarantee, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this guarantee) from time to time;

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- 1.2.9 unless the context otherwise requires, a reference to a clause or the Schedule is to a clause of, or the Schedule to, this guarantee [and a reference to a paragraph is to a paragraph of the Schedule];
- 1.2.10 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.11 a reference to an **amendment** includes a novation, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- 1.2.12 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.13 a reference to an **authorisation** includes a consent, approval, resolution, licence, exemption, filing, notarisation or registration;
- 1.2.14 a reference to a **determination** means, unless the contrary is indicated, a determination made at the discretion of the person making it (and **determine** shall be construed accordingly); and
- 1.2.15 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

## 2. **Eligible Debt Consolidation Loan**

- 2.1 It is anticipated that the Lender will provide debt consolidation loans to borrowers.
- 2.2 A loan made by a Lender to a borrower is an **Eligible DCL** if all of the criteria set out below in this clause are satisfied to the reasonable satisfaction of Fair4All Finance:
  - 2.2.1 It is made to an individual within Population A or Population B;
  - 2.2.2 The loan is made to refinance existing debts of the relevant borrower;
  - 2.2.3 The proceeds of the loan are disbursed:
    - (a) Directly to the refinanced lender(s); or
    - (b) During the initial three months of the Wave 1 Availability Period, or other such duration as agreed in writing with Fair4All Finance, to the relevant borrower, provided that:
      - (i) the Lender has implemented suitable support systems and encouragement to enable the relevant borrower to refinance their existing debt;
      - (ii) the Lender implements suitable monitoring to ensure that the proceeds of the loan are used to refinance the borrower's existing indebtedness; and

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- (iii) the Lender transparently communicates to the borrower that the loan is considered and then approved on the understanding that the funds will be used to refinance their existing debt,

such communication, support and monitoring systems are to be implemented to the satisfaction of Fair4All Finance;

- 2.2.4 the annual percentage rate payable on the loan must be less than the average annual percentage rate payable on the existing indebtedness of the borrower that is being refinanced (calculated according to the relative weighting of each underlying debt);
- 2.2.5 the total amount payable on the loan must be less than the total amounts payable on the existing loans (including any break fees) of the borrower being refinanced excluding any responsible and proportionate unutilised credit limit on the relevant loan which the borrower is provided with at the lenders' discretion;
- 2.2.6 any existing debt of the relevant borrower that is to be refinanced via the loan that is held with the Lender is less than (i) 20 per cent of the total amount of the debt consolidation loan or (ii) £1,000, whichever is the lower;
- 2.2.7 any existing debt of the relevant borrower that is to be refinanced via the loan that is held with the Lender is not in arrears or showing other signs of potential impairment, including but not limited to: the cessation of borrower deposits into their savings account(s); requests for payment holidays; or other support sought from the Lender regarding the borrower's existing debt (not including the request for a consolidation loan);
- 2.2.8 no other debt consolidation loans have been made by the Lender to the relevant borrower;
- 2.2.9 the borrower has not received a debt consolidation loan from another lender under the Scheme; and
- 2.2.10 no drawstop has been declared in accordance with cause 14.2

2.3 An **Excluded DCL** is an Eligible DCL which:

2.3.1 has become unenforceable due to the default, negligence or other fault of the Lender;

2.3.2 [*F4A may include further exclusion categories following discussions with the Lender*]

### 3. **Payment of Covered Losses**

3.1 On each Settlement Date within the Wave 1 Claim Period, Fair4All Finance shall subject to the phasing agreed as per 7.7 and the definitions set out above, pay the Lender a sum equal to:

3.1.1 the Wave 1 Covered Population A Losses incurred in the relevant Calculation Period provided that, if the cumulative Wave 1 Covered Population A Losses incurred by the Lender is greater than the Wave 1 Population A Loss Cap, the payment made by Fair4All Finance under this clause shall be limited to an amount equal to the Wave 1 Population A Loss Cap less the

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cumulative Wave 1 Covered Population A Losses previously paid by Fair4All Finance under this clause (if any); and

3.1.2 the Wave 1 Covered Population B Losses incurred in the relevant Calculation Period but, if the total Wave 1 Covered Population B Losses incurred by the Lender is greater than the Wave 1 Population B Loss Cap, the total payment made by Fair4All Finance under this clause shall be limited to the Wave 1 Population B Loss Cap less the cumulative Wave 1 Covered Population B Losses previously paid by Fair4All Finance under this clause (if any); and.

3.2 On each Settlement Date within the Wave 2 Claim Period, Fair4All Finance shall pay the Lender a sum equal to:

3.2.1 the Wave 2 Covered Population A Losses incurred in the relevant Calculation Period provided that, if the total Wave 2 Covered Population A Losses incurred by the Lender is greater than the Wave 2 Population A Loss Cap, the total payment made by Fair4All Finance under this clause shall be limited to the Wave 2 Population A Loss Cap less the cumulative Wave 2 Covered Population A Losses previously paid by Fair4All Finance under this clause (if any); and; and

3.2.2 the Wave 2 Covered Population B Losses incurred in the relevant Calculation Period provided that, if the total Wave 2 Covered Population B Losses incurred by the Lender is greater than the Wave 2 Population B Loss Cap, the total payment made by Fair4All Finance under this clause shall be limited to the Wave 2 Population B Loss Cap less the cumulative Wave 2 Covered Population B Losses previously paid by Fair4All Finance under this clause (if any);

3.3 On each Settlement Date within the Wave 3 Claim Period, Fair4All Finance shall pay the Lender a sum equal to:

3.3.1 the Wave 3 Covered Population A Losses incurred in the relevant Calculation Period provided that, if the total Wave 3 Covered Population A Losses incurred by the Lender is greater than the Wave 3 Population A Loss Cap, the total payment made by Fair4All Finance under this clause shall be limited to the Wave 3 Population A Loss Cap less the cumulative Wave 3 Covered Population A Losses previously paid by Fair4All Finance under this clause (if any);

and

3.3.2 the Wave 3 Covered Population B Losses incurred in the relevant Calculation Period provided that, if the total Wave 3 Covered Population B Losses incurred by the Lender is greater than the Wave 3 Population B Loss Cap, the total payment made by Fair4All Finance under this clause shall be limited to the Wave 3 Population B Loss Cap less the cumulative Wave 3 Covered Population B Losses previously paid by Fair4All Finance under this clause (if any); and.

3.4 Fair4All Finance's total liability under clauses 3.1 to 3.3 shall be limited to [ £x ].

#### 4. **Calculation of Covered Losses**

4.1 The Lender shall calculate subject to the phasing agreed as per 7.7 and the definitions set out above:

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- 4.1.1 on each Calculation Date within the Wave 1 Claim Period:
- (a) the Wave 1 Covered Population A Losses; and
  - (b) the Wave 1 Covered Population B Losses;
- 4.1.2 on each Calculation Date within the Wave 2 Claim Period:
- (a) the Wave 2 Covered Population A Losses; and
  - (b) the Wave 2 Covered Population B Losses, and
- 4.1.3 on each Calculation Date within the Wave 3 Claim Period:
- (a) the Wave 3 Covered Population A Losses; and
  - (b) the Wave 3 Covered Population B Losses.
- 4.2 If any of the calculations referred to in clause 4.1 above results in a negative value, the relevant calculation shall be deemed to be zero but any such calculations that would have been negative but for this clause shall instead become the corresponding 'Negative Carry' definition set out in clause 5 below.
- 4.3 If any of the calculations referred to in clause 4.1 above results in a positive value, the corresponding 'Negative Carry' definition set out in clause 5 above shall become zero.
- 4.4 The Lender shall deliver a Calculation Certificate to Fair4All Finance setting out the calculations in clause 4.1 as soon as reasonably practicable following the respective Calculation Dates and in any event no less than [60] days prior to the relevant Settlement Date.
- 4.5 The Lender may request in writing that Fair4All Finance consents to vary the calculations set out in 4.1 if such variation would provide additional forbearance or more favourable repayment terms to the borrower which would, if granted, fall outside of the Lenders' Provisioning Policy. Fair4All Finance may accept or decline such variation in its absolute discretion.
5. **Reconciliation of Negative Carry Amounts**
- 5.1 If, following the Calculation Date next occurring after the end of the Wave 1 Claim Period, there is any Wave 1 Covered Population A Losses Negative Carry or Wave 1 Covered Population B Losses Negative Carry, the Lender shall pay an amount equal to the positive value of these such amounts to Fair4All Finance on the next occurring Settlement Date.
- 5.2 If, following the Calculation Date next occurring after the end of the Wave 2 Claim Period, there is any Wave 2 Covered Population A Losses Negative Carry or Wave 2 Covered Population B Losses Negative Carry, the Lender shall pay an amount equal to the positive value of these such amounts to Fair4All Finance on the next occurring Settlement Date.
- 5.3 If, following the Calculation Date next occurring after the end of the Wave 3 Claim Period, there is any Wave 3 Covered Population A Losses Negative Carry or Wave 3 Covered

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Population B Losses Negative Carry, the Lender shall pay an amount equal to the positive value of these such amounts to Fair4All Finance on the next occurring Settlement Date.

5.4 Fair4All Finance may elect, at its absolute discretion, to defer any Negative Carry payments due to it by the Lender on the next occurring Settlement Date during the Wave 1 Claim Period or the Wave 2 Claim Period until the Settlement Date occurring immediately following the end of the Wave 3 Claim Period where adjustments to lending practice are planned between the waves to enhance overall performance.

## 6. **Transfer of Covered Cap Amounts**

6.1 No later than the first day of the Wave 2 Availability Period, the Lender may request in writing to Fair4All Finance that:

6.1.1 Where the cumulative Wave 1 Population A Loss Payments made under clause [ ] are lower than the Wave 1 Population A Loss Cap, the Wave 1 Population A Loss Cap is reduced to an amount not less than the Wave 1 Population A Loss Payments and a corresponding cumulative amount is added to the Wave 2 Population A Loss Cap and/or the Wave 2 Population B Loss Cap; and/or

6.1.2 Where the Wave 1 Population B Loss Payments are lower than the Wave 1 Population B Loss Cap, the Wave 1 Population B Loss Cap is reduced to an amount not less than the Wave 1 Population B Loss Payments and a corresponding cumulative amount is added to the Wave 2 Population B Loss Cap and/or the Wave 2 Population A Loss Cap.

6.2 No later than the first day of the Wave 3 Availability Period, the Lender may request in writing to Fair4All Finance that:

6.2.1 the Wave 2 Population A Loss Cap is reduced to an amount not less than the Wave 2 Population A Loss Payments and a corresponding cumulative amount is added to the Wave 3 Population A Loss Cap and/or the Wave 2 Population B Loss Cap; and/or

6.2.2 the Wave 2 Population B Loss Cap is reduced to an amount not less than the Wave 2 Population B Loss Payments and a corresponding cumulative amount is added to the Wave 3 Population B Loss Cap and/or the Wave 2 Population A Loss Cap.

6.2.3 Any such requests under Clause 6.1 or 6.2 shall be determined by Fair4All Finance may also consider the transfer of Loss Cap amounts between Population A and Population B in conjunction with requestions.

6.3 Within, [10 Business Days] following the request in Clause 6.1 or 6.2, Fair4All Finance may, in its absolute discretion, consent to such amendment in writing, and the relevant 'Loss Cap' shall be amended accordingly.

6.4 If Fair4All Finance does not reply within the period referred to in 6.2.3, it shall be deemed to have rejected the request.

## 7. **Gainshare**

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- 7.1 On the Calculation Date next occurring on or after the last date of the Wave 1 Claim Period, the Lender shall calculate the sum of the Net Profit for the Wave 1 Population A Loans and Wave 1 Population B Loans. This sum shall be proportioned according to the Wave 1 Gainshare Proportion and paid to Fair4All Finance in accordance with Clause 7.2.
- 7.2 On the Settlement Date next occurring after the Calculation Date referred to in Clause 7.1, the Lender shall pay a sum to Fair4All Finance equal to the amount referred to in Clause 7.1. At its sole discretion Fair4All Finance may elect to waive a portion of the gainshare payment for whatever reason it so chooses.
- 7.3 On the Calculation Date next occurring on or after the last date of the Wave 2 Claim Period, the Lender shall calculate the sum of the Net Profit for the Wave 2 Population A Loans and Wave 2 Population B Loans. This sum shall be proportioned according to the Wave 2 Gainshare Proportion and paid to Fair4All Finance in accordance with Clause 7.3.
- 7.4 On the Settlement Date next occurring after the Calculation Date referred to in Clause 7.3, the Lender shall pay a sum to Fair4All Finance equal to the amount referred to in Clause 7.3. At its sole discretion Fair4All Finance may elect to waive a portion of the gainshare payment for whatever reason it so chooses.
- 7.5 On the Calculation Date next occurring on or after the last date of the Wave 3 Claim Period, the Lender shall calculate the sum of the Net Profit for the Wave 3 Population A Loans and Wave 3 Population B Loans. This sum shall be proportioned according to the Wave 3 Gainshare Proportion and paid to Fair4All Finance in accordance with Clause 7.6.
- 7.6 On the Settlement Date next occurring after the Calculation Date referred to in Clause 7.5, the Lender shall pay a sum to Fair4All Finance equal to the amount referred to in Clause 7.5. At its sole discretion Fair4All Finance may elect to waive a portion of the gainshare payment for whatever reason it so chooses.
- 7.7 The Wave 1 Gainshare Proportion is calculated on a sliding scale where the pre-agreed Gainshare Proportion is determined by comparing the relative performance ratio of Wave 1 Covered Population A Percentage Losses relative to the Baseline Percentage Losses and by comparing the relative performance ratio of Wave 1 Covered Population B Percentage Losses relative to the Baseline Percentage Losses using the below calculation

Wave 1 Population A Percentage Losses / Baseline Percentage Losses = [Ratio]

[Gainshare % equating to the Ratio below] x Net Profit Population A = Gainshare Proportion of Net Profit on Population A due to Fair4All Finance

Wave 1 Population B Percentage Losses / Baseline Percentage Losses = [Ratio]

[Gainshare % equating to the Ratio below] x Net Profit Population B = Gainshare Proportion of Net Profit on Population B due to Fair4All Finance

Gainshare Proportion of Net Profit on Population A due to Fair4All Finance + Gainshare Proportion of Net Profit on Population B due to Fair4All Finance = Gainshare payment due to Fair4All Finance for Wave 1



**Worked example:** Wave 1 Population A Percentage Losses are 9% / Baseline Percentage Losses are 5% = Ratio = 1.8

1.8 ratio equates 26.8% x Net Profit Population A = Gainshare Proportion of Net Profit on Population A due to Fair4All Finance

Table 1 Gainshare % and performance ratios

[Example only included below – the highlighted figures in max and min gainshare % to be agreed between Fair4All Finance and Lender]

<b>Gainshare %</b>	<b>Wave [x] Covered Population [A or B] Percentage Losses vs baseline from other loans "default ratio"</b>
<b>50.0%</b>	<b>2.50</b>
47.6%	2.43
45.3%	2.35
42.9%	2.28
40.5%	2.20
38.1%	2.13
35.8%	2.05
33.4%	1.98
31.0%	1.90
28.6%	1.83
26.3%	1.75
23.9%	1.68
21.5%	1.60
19.1%	1.53
16.8%	1.45
14.4%	1.38
12.0%	1.30
9.6%	1.23
7.2%	1.15
4.9%	1.08
<b>2.5%</b>	<b>1.00</b>

7.8 The **Wave 2 Gainshare Proportion** is calculated as per the above detail for Wave 1 in 7.7 where Wave 1 is replaced by Wave 2. The **Wave 3 Gainshare Proportion** is calculated as per the above detail for Wave 1 in 7.7 where Wave 1 is replaced by Wave 3

7.9 Within 2 months of the date of this agreement, the parties shall implement the above into an excel model in an agreed form between the parties. In the event of inconsistency between the agreed form model and this clause the [model/this agreement] shall prevail.

8. **Extension of Claim Periods**

- 8.1 The Lender may request to Fair4All Finance in writing that any of the Wave 1 Claim Period, the Wave 2 Claim Period and the Wave 3 Claim Period be extended.
- 8.2 Fair4All Finance may, in its absolute discretion agree to such extension, imposing any such conditions that are agreed between the parties.
- 8.3 Upon such agreement the Wave 1 Claim Period, the Wave 2 Claim Period and/or the Wave 3 Claim Period shall be extended as agreed.

9. **Costs**

- 9.1 The Lender shall, promptly on demand, pay to, or reimburse, Fair4All Finance, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender in connection with:
  - 9.1.1 the negotiation, preparation, execution and delivery of this guarantee;
  - 9.1.2 the preservation, exercise or enforcement of any rights under or in connection with this guarantee or any attempt to do so;
  - 9.1.3 any amendment, extension, waiver or consent (or any proposal for any of these) under or in connection with this guarantee;
  - 9.1.4 any discharge or release of this guarantee; or
  - 9.1.5 any stamping or registration of this guarantee.

10. **Representations and warranties**

The Lender makes the representations and warranties in clause 10.1 to clause 10.12 to the Fair4All Finance on the date of this Agreement.

- 10.1 Status
  - The Lender:
    - 10.1.1 is duly incorporated and validly existing under the law of its jurisdiction of incorporation; and
    - 10.1.2 has the power to own its assets and carry on its business as it is being conducted.
- 10.2 Power and authority
  - 10.2.1 The Lender has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Finance Documents and the transactions contemplated by them.
  - 10.2.2 No limit on its powers will be exceeded as a result of receiving the partial guarantee or making the loans..

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10.3 Non-contravention

The entry into and performance by it of, and the transactions contemplated by, this Agreement do not and will not contravene or conflict with:

10.3.1 the Lender's constitutional documents;

10.3.2 any agreement or instrument binding on it or its assets or constitute a default or termination event (however described) under any such agreement or instrument; or

10.3.3 any law or regulation or judicial or official order, applicable to it.

10.4 Authorisations

The Lender has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations this Agreement. Any such authorisations are in full force and effect.

10.5 Binding obligations

The obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations.

10.6 Deduction of tax

No deduction for, or on account of, Tax is required from any payment that the Lender may make under this Agreement.

10.7 Eligible DCLs

10.7.1 Each Eligible DCL notified to Fair4All Finance has been validly written and is enforceable against the borrower.

10.7.2 Each Eligible DCL complies with the provisions of clause 2.2 and the Rulebook.

10.7.3 [ *Further representation to be agreed* ]

10.8 No default

10.8.1 No Event of Default and, on the date of this Agreement Potential Event of Default, is continuing.

10.8.2 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which any of its assets is subject which has or is reasonably likely to have a Material Adverse Effect.

10.9 Information

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The information, in written or electronic format, supplied by, or on behalf of, the Lender to the Fair4All Finance in connection with this Agreement was, at the time it was supplied or at the date it was stated to be given (as the case may be):

- 10.9.1 if it was factual information, complete, true and accurate in all material respects;
- 10.9.2 if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
- 10.9.3 if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
- 10.9.4 not misleading in any material respect, nor rendered misleading by a failure to disclose other information,

except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Lender to the Fair4All Finance.

10.10 Financial statements

10.10.1 Each set of financial statements delivered to the Fair4All Finance by the Lender under this Agreement was prepared in accordance with [UK GAAP consistently applied **OR** consistently applied accounting principles, standards and practices generally accepted in its jurisdiction of incorporation] and [gives a true and fair view of **OR** fairly presents] the Lender's financial condition and operations during the relevant accounting period and was approved by the Lender's directors in compliance with section 393 of the Companies Act 2006.

10.10.2 There has been no material adverse change in the business, assets, financial condition, trading position or prospects of the Lender since the date of [this Agreement **OR** the publication of its most recent [audited] financial statements].

10.11 No litigation

No litigation, arbitration or administrative proceedings are taking place or pending, or, to the best of the Lender's knowledge and belief (after due and careful enquiry), have been threatened against it, any of its directors or any of its assets, which, if adversely determined, might reasonably be expected to have a Material Adverse Effect.

10.12 No breach of law

The Lender has not breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

10.13 Repetition

The Lender repeats the representations and warranties in this clause 10 so far as it relates to a Potential Event of Default) on:

- 10.13.1 the date of each [Monthly Report]; and

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10.13.2 each Settlement Date;

by reference to the facts and circumstances existing on each such date.

## 11. **General covenants**

The Lender covenants with the Fair4All Finance as set out in clause 11.1 to clause 11.11 and undertakes to comply with those covenants.

11.1 Continuing obligations

The covenants given by the Lender shall remain in force from the date of this Agreement until the end of the Wave 3 Claim Period.

11.2 Disposals

The Lender shall not sell, novate, assign, lease, transfer or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, any Eligible DCL.

11.3 Authorisations

The Lender shall promptly obtain all consents and authorisations under any law or regulation (and do all that is needed to maintain them in full force and effect) to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability and admissibility in evidence of this Agreement in its jurisdiction of incorporation.

11.4 Compliance with law

The Lender shall comply in all respects with all relevant laws, rules and regulations to which it may be subject, and the Rulebook.

11.5 Eligible DCLs

11.5.1 [Suitable undertakings to be discussed]

11.6 Merger

The Lender shall not enter into any amalgamation, demerger, merger or corporate reconstruction.

11.7 Insurance

The Lender will insure and keep insured all its assets with underwriters or insurance companies of repute to such extent and against such risks and for such amounts as prudent businesses similar to those of the Lender normally insure.

11.8 Change of business

The Lender shall not make any substantial change to the general nature or scope of its business as carried on at the date of this Agreement.

11.9 Further information

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The Lender shall supply to the Fair4All Finance:

11.9.1 details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Lender or any of its directors as soon as it becomes aware of them, and which might, if adversely determined, have a Material Adverse Effect; and

11.9.2 promptly, any further information about the financial condition, business and operations of the Lender that the Fair4All Finance may reasonably request.

11.10 Notification of default

11.10.1 The Lender shall notify the Fair4All Finance of any Potential Event of Default or Event of Default (and the steps, if any, being taken to remedy it) promptly on becoming aware of its occurrence.

11.10.2 The Lender shall, promptly on request by the Fair4All Finance, supply a certificate signed by one of its director(s) or senior officers on its behalf certifying that no Event of Default is continuing (or, if an Event of Default is continuing, specifying the Event of Default and the steps, if any, being taken to remedy it).

11.11 Know your customer

If the Fair4All Finance is obliged for any reason to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Lender shall, promptly on the request of the Fair4All Finance, supply (or procure the supply of) such documentation and other evidence as is reasonably requested in order for the Fair4All Finance to carry out, and be satisfied that it has complied with, all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transactions contemplated in this Agreement.

12. **Information Undertakings**

12.1 Financial statements

The Lender shall supply to the Fair4All Finance copies of:

12.1.1 On the date of this Agreement, its annual audited accounts for the period ending on [ ]

12.1.2 as soon as they become available, but in any event within 180 days after the end of each of its financial years, its audited financial statements for that financial year;

12.1.3 as soon as they become available, but in any event within 180 days after the end of each of its financial years, its annual business plan and

12.1.4 as soon as they become available, but in any event within 30 days after the end of each month, its monthly management accounts.

12.2 Certification of financial statements

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Each set of financial statements delivered to the Fair4All Finance by the Lender shall be certified by a director of the Lender as giving a true and fair view of its financial condition as at the date at which those financial statements were drawn up.

12.3 Financial statements requirements

The Lender shall ensure that the financial statements delivered to the Fair4All Finance shall:

12.3.1 be prepared using UK GAAP and, subject to clause 10.10.1 using accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements; and

12.3.2 [present a true and fair view of the Lender's assets, liabilities, financial position and profit or loss during the relevant accounting period **OR** fairly represent its financial condition as at the date at which those financial statements were drawn up]; and

12.3.3 have been approved by the Lender's directors in compliance with section 393 of the Companies Act 2006.

12.4 Change in accounting practices

12.4.1 In relation to any set of financial statements:

(a) the Lender shall notify the Fair4All Finance if there has been a change in accounting principles, standards or practices or financial reference periods. The Lender shall procure that its auditors deliver to the Fair4All Finance sufficient information, in form and substance as may be reasonably required by the Fair4All Finance, to enable the Fair4All Finance to determine whether clause 10.10 has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements; and

(b) any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis on which the Original Financial Statements were prepared.

12.4.2 If the Lender's financial statements are prepared at the date of this Agreement in accordance with UK GAAP, the Lender may determine after the date of this Agreement that its financial statements should be prepared in accordance with IFRS but, prior to implementing that change it shall agree with the Fair4All Finance, both parties acting in good faith, the amendments to be made to the provisions of this Agreement to reflect that change in accounting principles [on the basis of advice received from the Lender's auditors]. To the extent practicable those amendments will be such as to ensure that the change to IFRS does not result in any material alteration in the commercial effect of the obligations in this Agreement.

12.5 Monthly Report

On the [first] Business Day of each month, the Lender shall provide Fair4All Finance with the Monthly Report.

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12.6 Other information

12.6.1 As soon as reasonably practicable after receiving the same, the Lender shall provide Fair4All Finance with a copy of any social impact report that the Lender commissions during the term.

12.6.2 The Lender shall attend such meetings with Fair4All Finance as are reasonably requested by Fair4All Finance, such meetings to be held on reasonable notice.

12.6.3 The Lender shall immediately inform Fair4All Finance of any significant cash flow or management problems which, or which may, arise in connection with its activities limited to such problems that may reasonably be considered to negatively and materially impact its ability to continue to trade and on the request of Fair4All Finance to meet with Fair4All Finance to discuss any proposed courses of remedial action.

12.6.4 Following the occurrence of any Event of Default or other breach of this agreement, the Lender shall permit any person authorised by Fair4All Finance such reasonable access to the Lender's employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating its business and its fulfilment of its obligations under this agreement.

13. **Events of Default**

Each of the events or circumstances set out in clause 13.1 to clause 13.10 is an Event of Default.

13.1 Non-payment

The Lender fails to pay any sum payable by it under any this Agreement when due, unless its failure to pay is caused solely by:

13.1.1 an administrative error or technical problem and payment is made within three Business Days of its due date; or

13.1.2 a Disruption Event and payment is made within three Business Days of its due date.

13.2 Non-compliance

The Lender fails (other than a failure to pay or a failure referred to in clause 13.1) to comply with any provision of this Agreement and (if the Fair4All Finance considers, acting reasonably, that the default is capable of remedy) such default is not remedied within 14 days of the earlier of:

13.2.1 Fair4All Finance notifying the Lender of the default and the remedy required; and

13.2.2 the Lender becoming aware of the default.

13.3 Misrepresentation



Any representation, warranty or statement made, repeated or deemed made by the Lender in, or pursuant to, this Agreement is (or proves to have been) incomplete, untrue, incorrect or misleading [in any material respect] when made, repeated or deemed made.

13.4 Cessation of business

13.4.1 The Lender suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

13.4.2 The Lender ceases to have appropriate approvals by the FCA or any inquiry being instigated or disciplinary action threatened or commenced by any regulatory authority howsoever in relation to the Lender or any step being taken or likely to be taken to terminate the authorisation of the Lender under the Rulebook.

13.5 Cross-default

13.5.1 Subject to clause 13.5.2:

(a) any Financial Indebtedness is not paid when due nor within any originally applicable grace period;

(b) any Financial Indebtedness becomes due, or capable of being declared due and payable, prior to its stated maturity by reason of an event of default (howsoever described);

(c) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor of the Lender by reason of an event of default (howsoever described); or

(d) any creditor of the Lender becomes entitled to declare any Financial Indebtedness due and payable prior to its stated maturity by reason of an event of default (howsoever described).

13.5.2 An event or circumstance referred to in clause 13.5.1 shall not constitute an Event of Default if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness affected is less than £[100,000] (or its equivalent in other currencies).

13.6 Insolvency

13.6.1 The Lender stops or suspends payment of any of its debts or is unable to, or admits its inability to, pay its debts as they fall due.

13.6.2 The Lender commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding the Fair4All Finance) with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties).

13.6.3 A moratorium is declared in respect of any indebtedness of the Lender.

13.6.4 Any action, proceedings, procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium in respect of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Lender; or
  - (b) a composition, compromise, assignment or arrangement with any creditor of the Lender; or
  - (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Lender or any of its assets.
- 13.6.5 The value of the Lender's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- 13.6.6 Any event occurs in relation to the Lender that is analogous to those set out in clause 13.6.1 to clause 13.6.5 (inclusive) in any jurisdiction.
- 13.6.7 A winding-up petition that is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised shall be excluded from clause 13.6.1 to clause 13.6.6. The ending of any moratorium referred to in clause 13.6.3 shall not remedy any Event of Default caused by that moratorium.
- 13.7 Creditors' process  

A distress, attachment, execution, expropriation, sequestration or other analogous legal process is levied, enforced or sued out on, or against, the Lender's assets having an aggregate value of £[100,000] (or its equivalent in other currencies) and is not discharged or stayed within [30] days.
- 13.8 Illegality  

All or any part of this Agreement becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.
- 13.9 Repudiation and rescission  

The Lender repudiates or rescinds or shows an intention to repudiate or rescind this Agreement.
- 13.10 Material adverse change  

Any event occurs (or circumstances exist) which, in the reasonable opinion of Fair4All Finance, has or is reasonably likely to have a Material Adverse Effect.
- 14. **Termination and Drawstop**
- 14.1 On and at any time after the occurrence of an Event of Default which is continuing, Fair4All Finance may by notice to the Lender terminate this agreement with immediate effect.
- 14.2 On and at any time after the occurrence of an Event of Default which is continuing, Fair4All Finance may by notice to the Lender declare that no further Eligible Loans under this

agreement shall be accepted with immediate effect. Such drawstop shall last until Fair4All Finance notifies the Lender to the contrary.

14.3 Fair4All Finance may by 21 days written notice to the Lender declare that no further Eligible Loans under this agreement shall be accepted with immediate effect. Such drawstop shall last until Fair4All Finance notifies the Lender to the contrary.

14.4 The Lender may terminate this Agreement at any time by:

(a) providing one month's written notice to Fair4All Finance of its intention to terminate the agreement; and

(b) repaying to Fair4All Finance any amounts which have been paid to the lender under clause 3.

14.5 The Lender may terminate this agreement immediately upon Material Breach by Fair4All Finance by providing written notice to Fair4All Finance.

## 15. **Calculations**

15.1 Certificates and determinations

Any certification or determination by Fair4All Finance of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

15.2 Day count convention

Any interest, commission or fee shall accrue on a day-to-day basis, calculated according to the actual number of days elapsed and a year of 365 days.

## 16. **Payments**

16.1 All sums payable under this guarantee shall be paid in sterling in full, without set-off, counterclaim or condition.

## 17. **Fair4All Finance's right of set-off**

17.1 Fair4All Finance may at any time set off any liability of the Lender to Fair4All Finance against any liability of Fair4All Finance to the Lender, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this guarantee. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Fair4All Finance of its rights under this clause 17.1 shall not limit or affect any other rights or remedies available to it under this guarantee or otherwise.

17.2 Fair4All Finance is not obliged to exercise its rights under clause 17.1. If it does exercise those rights it must promptly notify the Lender of the set-off that has been made.

## 18. **Assignment and transfer**

Fair4All Finance may assign any of its rights under this agreement or transfer all of its rights and/or obligations by novation. The Lender may not assign any of its rights or transfer any of its rights or obligations under this agreement.

**19. Subsidy Control**

19.1 For the purposes of this clause 19.1, the Subsidy Control Regime means the UK's subsidy control regime as set out in the Subsidy Control Act 2022; related statutory guidance; and any other subsidy control commitments arising from the UK-EU Trade and Co-operation Agreement and the UK's membership of the WTO.

19.2 In accepting and using the guarantee provided under this agreement the Lender shall take all steps to ensure that such acceptance and use comply with and facilitate compliance with the Subsidy Control Regime.

19.3 The Lender acknowledges that the details of the subsidy awarded will be published by Fair4All Finance in the public Subsidy Control Regime register and at its sole discretion Fair4All Finance will make the subsidy funds available 30 days after publication

19.4 In the event that all or any part of the arrangements established by this agreement or the otherwise arising from this agreement is deemed by a court or other agency of competent jurisdiction not to comply with the Subsidy Control Regime, (A) Fair4All Finance may at its sole discretion terminate this agreement, and (B) any amounts of the guarantee or other amounts paid by Fair4All Finance to the Lender pursuant to this agreement may become repayable by on the direction of Fair4All Finance (and the Lender agrees to comply with any order by any court or other agency of competent jurisdiction to that effect).

**20. Amendments, waivers and consents**

20.1 No amendment of this guarantee shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

20.2 A waiver of any right or remedy under this guarantee or by law, or any consent given under this guarantee, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any subsequent right or remedy. It only applies to the circumstances in relation to which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

20.3 A failure by Fair4All Finance to exercise, or delay by it in exercising, any right or remedy provided under this guarantee or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this guarantee. No single or partial exercise of any right or remedy provided under this guarantee or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this guarantee by the Lender shall be effective unless it is in writing.

20.4 The rights and remedies provided under this guarantee are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**21. Partial invalidity**

If, at any time, any provision of this guarantee is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22. **Survival**

22.1 On termination or expiry of this agreement, clause 19 (Subsidy Control) shall continue in force).

22.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

23. **Counterparts**

23.1 This guarantee may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but both counterparts shall together constitute one deed.

24. **Third party rights**

24.1 A person who is not a party to this guarantee has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this guarantee.

24.2 Notwithstanding any term of this guarantee, the consent of any person who is not a party to this guarantee is not required to rescind or vary this Deed at any time.

25. **Notices**

25.1 Delivery

Any notice or other communication given to a party under or in connection with this guarantee shall be:

25.1.1 in writing;

25.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

25.1.3 sent to:

(a) the Lender at:

[ADDRESS]

Fax: [NUMBER]

(b) Fair4All Finance at:

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[ADDRESS]

Fax: [NUMBER]

Attention: [NAME]

or to any other address or fax number notified in writing by one party to the other from time to time.

25.2 Service of proceedings

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26. **Governing law and jurisdiction**

26.1 Governing law

This guarantee and any dispute or claim (including a non-contractual dispute or claim) arising out of or in connection with it or its subject-matter or formation shall be governed by, and construed in accordance with, the law of England and Wales.

26.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including a non-contractual dispute or claim) arising out of or in connection with this guarantee or its subject-matter or formation.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

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### **Schedule 1 Form of Monthly Report**

Provide information on incurred and forecast losses in loan book of Eligible Debt Consolidation Loans.

Provide information on incurred and forecast losses in loan book of all other debt consolidation loans

Reporting will include, but is not limited to, the following across the Lender's entire portfolio of debt consolidation loans:

#### Loan Applications

- Approved
- Declined
- Declined and referred to debt advice
- Withdrawn
- Loan volumes /values that create the baseline

#### Loan Status

- Live
- Fully repaid
- In arrears
- In default

#### Loan Values

- Total value of loans approved
- Average value of loans
- Loan CRA ratings

#### Range of Loan Terms (including payment frequency)

#### Consolidation data

- Number of loans consolidated
- Value of monthly customer saving
- Saving over loan term
- APR per loan consolidated

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Loan payment

- Paid cash member
- Lender pays creditor
- Lender pays creditors and closes facility
- Mixed payment

Customer Demographics applied/approved including

- Gender
- Age range
- Ethnicity
- Marital status
- Caring responsibilities
- Disabled
- Housing tenure
- Employment status
- Monthly personal income
- In receipt of benefits

Customer outcome data – for one year following the repayment/write off of an Eligible Debt Consolidation Loan, the Lender shall supply Fair4All Finance with information on any debt products advanced to that borrower.

The Lender will also collaborate with Fair4All Finance to fulfil the evaluation requirements Fair4All Finance sets out from time to time, including but not limited to supply data and participating in surveys (of borrowers and lenders) to complete process, social and economic impact evaluations. The evaluation requirements may necessitate tracking borrowers who are declined for a consolidation loan but offered an alternative product or other similar counterfactual constructs.

Requisite data for Fair4All Finance to complete full Expected Credit Loss (ECL) reporting. This will include undiscounted principal obligation; remaining term; discount rate; discounted principal and interest; probability of default; loss given default. Also, a credit risk assessment.

Anticipated profit share reporting on the profit share element.



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**Schedule 2 Form of Calculation Certificate**

To: Fair4All Finance Limited

From: [Lender]

Dated:

Dear Sirs

**[Lender] – Partial Bad Debt Guarantee dated [ ] (the "Agreement")**

1. We refer to the Agreement. This is a Calculation Certificate. Terms defined in the Agreement have the same meaning when used in this Calculation Certificate unless given a different meaning in this Calculation Certificate.
2. We confirm that:
  - (a) the Wave 1 Covered Population A Losses are:
  - (b) the Wave 1 Covered Population B Losses are:
  - (c) the Wave 2 Covered Population A Losses are:
  - (d) the Wave 2 Covered Population B Losses are:
  - (e) the Wave 3 Covered Population A Losses are:
  - (f) the Wave 3 Covered Population B Losses are:
3. We set out below calculations establishing the figures in paragraph 2 above:  
[ ].
4. We confirm that no Default is continuing.

Signed:

[Lender]