



香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

Our Ref.: IHK/AMB/2/3 II

Your Ref.: CBI/PL/FA

30 October 2003

Miss Salumi Chan
Clerk to Panel on Financial Affairs
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

By Fax : 2869 6794

Dear Miss Chan,

Panel on Financial Affairs

Special meeting to follow up the discussion on the "Campaign to relaunch Hong Kong's economy"

Thank you for your letter of 28 October 2003 addressed to the Administrative Assistant to Financial Secretary, who has asked me to provide the information requested in paragraph 4(a) in your letter.

As requested, I attach herewith:

- (a) copies of the three Memoranda of Understanding (MoU) signed between the Government and the American Chamber of Commerce in Hong Kong (AmCham) in relation to Harbour Fest, as referred to in the contract document between the Government and AmCham which we provided to the Panel on 25 October 2003; and
- (b) a copy of the MoU between AmCham and Red Canvas Limited, viz the "special purpose vehicle" of AmCham for organising Harbour Fest 2003.



INVEST HONG KONG 投資推廣署

Suites 1501-6, Level 15, One Pacific Place, 88 Queensway, Hong Kong 香港金鐘道88號太古廣場1座15樓1501-6室
Tel 電話: (852) 3107 1000 Fax 傳真: (852) 3107 9007 Website 網址: www.InvestHK.gov.hk

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The Government has obtained the consent of AmCham to the release the three MoUs at (a) above to the Panel in view of the confidentiality clause in these documents.

The Government is not a party to the MoU at (b) above. The Government has, therefore, sought and obtained the agreement of AmCham to provide this document to the Panel.

Please let me know if I can be of further assistance.

Yours sincerely,



(David Y W Chiu)

for Director-General of Investment Promotion

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made on 31 July 2003 between THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG, the principal office of which is at 1904 Bank of America Tower, 12 Harcourt Road, Central, Hong Kong ("AmCham") and THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION (the "Government") as represented by THE DIRECTOR GENERAL OF INVESTMENT PROMOTION, INVEST HONG KONG, at Suites 1501-6, Level 15, One Pacific Place, 88 Queensway, Hong Kong.

The parties intend this MoU to be legally binding.

1. Scope and Purpose of this MoU

- 1.1 AmCham has made a proposal to the Government for the convening (either by AmCham or through a special purpose company, and references in this MoU to AmCham include any such company) of an entertainment showcase festival in Hong Kong to be called the "Hong Kong International Autumn Festival" (the "Festival") within the period between 1 October 2003 and 30 November 2003.
- 1.2 The Government has agreed to support the Festival and to underwrite the shortfall between the organising expenses for, as agreed by both parties, and the revenue generated from the Festival, up to the maximum sum of HK\$100 million in the form of a Sponsorship Fee, which shall be the maximum liability of the Government in relation to the Festival.
- 1.3 AmCham and the Government expect to enter into a full agreement setting out in detail each party's obligations with regard to the convening and underwriting of the Festival. The purpose of this MoU is to record AmCham's and the Government's respective general understanding with regard to the convening and the underwriting of the Festival, and to provide for payment of the initial instalment referred to in Clause 2.
- 1.4 The parties expect the detailed agreement to provide, without limitation, in relation to the keeping of proper books of account, and the preparation of audited accounts by AmCham in relation to the Festival, and the full support and all necessary facilitation by HHK in the procurement of possession and use of the Festival site and of all necessary licences, consents and permissions by AmCham to enable the Festival to take place as envisaged.

2. Payment of Initial Instalment

The Government will pay to AmCham on execution of this MoU an initial instalment of HK\$25 million, representing 25% of the maximum Sponsorship Fee of HK\$100 million.

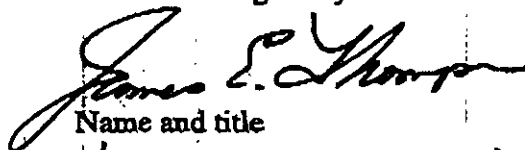
3. Miscellaneous

- 3.1 No failure or delay in exercising any right under this MoU shall operate as a waiver thereof; and no variation shall be effective unless in writing and signed by each party. This MoU cancels and supersedes all prior oral or written agreements or understandings between the parties concerning the subject matter hereof.
- 3.2 This MoU is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- 3.3 Neither party shall disclose the subject matter, purpose or existence of this MoU without the prior written consent of the other party, except as required by law and government regulations, and except for disclosure on a need to know basis to its own employees and its legal or other professional advisers.
- 3.4 Each party shall bear its own expenses and costs for all negotiations and activities relating to this MoU.
- 3.5 This MoU shall be governed by and construed according to Hong Kong Special Administrative Region law.

**Accepted and agreed to by
The American Chamber of Commerce
in Hong Kong**

**Accepted and agreed to
for and on behalf
of the Government of the
Hong Kong Special
Administration Region by**

Authorised Signatory



Name and title

**JAMES E. THOMPSON
CHAIRMAN**

Date:

31 July 2003

Authorised Signatory



Name and title

**Ms Ophelia Tsang
Associate Director-General
Invest Hong Kong**

Date:

31 July 2003

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made on 29 August 2003 between THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG, the principal office of which is at 1904 Bank of America Tower, 12 Harcourt Road, Central, Hong Kong ("AmCham") and THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION (the "Government") as represented by THE DIRECTOR GENERAL OF INVESTMENT PROMOTION, INVEST HONG KONG, at Suites 1501-6, Level 15, One Pacific Place, 88 Queensway, Hong Kong ("IHK").

The parties intend this MoU to be legally binding.

1. Scope and Purpose of this MoU

- 1.1 AmCham has made a proposal to the Government for the convening (either by AmCham or through a special purpose company, and references in this MoU to AmCham include any such company) of an entertainment showcase festival in Hong Kong to be called the "Hong Kong Harbour Fest 2003" (the "Festival", which was formerly referred to the "Hong Kong International Autumn Festival" in all previous correspondence between the two parties) within the period between 1 October 2003 and 30 November 2003.
- 1.2 The Government has agreed to support the Festival and to underwrite the shortfall between the organising expenses for, as agreed by both parties, and the revenue generated from the Festival, up to the maximum sum of HK\$100 million in the form of a Sponsorship Fee, which shall be the maximum liability of the Government in relation to the Festival.
- 1.3 AmCham and the Government expect to enter into a full agreement setting out in detail each party's obligations with regard to the convening and underwriting of the Festival. The purpose of this MoU is to record AmCham's and the Government's respective general understanding with regard to the convening and the underwriting of the Festival, and to provide for payment of the second instalment referred to in Clause 2.
- 1.4 The parties expect the detailed agreement to provide, without limitation, in relation to the keeping of proper books of account, and the preparation of audited accounts by AmCham in relation to the Festival, and the full support and all necessary facilitation by IHK in the procurement of possession and use of the Festival site and of all necessary licences, consents and permissions by AmCham to enable the Festival to take place as envisaged.

2. Payment of Second Instalment

- 2.1 On execution of the MoU signed between the two parties on 31 July 2003, the Government paid the initial instalment of HK\$25 million, representing 25% of the maximum Sponsorship Fee of HK\$100 million to AmCham on 4 August 2003.

2.2 The Government will pay to AmCham on execution of this MoU a second instalment of HK\$25 million, which together with the first instalment paid will make up to 50% of the maximum Sponsorship Fee of HK\$100 million.

3. Miscellaneous

3.1 No failure or delay in exercising any right under this MoU shall operate as a waiver thereof; and no variation shall be effective unless in writing and signed by each party. This MoU cancels and supersedes all prior oral or written agreements or understandings between the parties concerning the subject matter hereof.

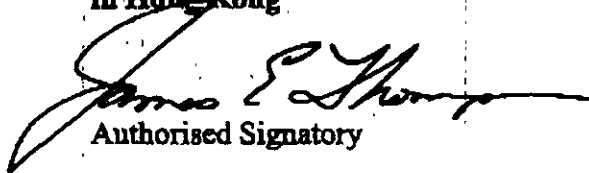
3.2 This MoU is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

3.3 Neither party shall disclose the subject matter, purpose or existence of this MoU without the prior written consent of the other party, except as required by law and government regulations, and except for disclosure on a need to know basis to its own employees and its legal or other professional advisers.

3.4 Each party shall bear its own expenses and costs for all negotiations and activities relating to this MoU.

3.5 This MoU shall be governed by and construed according to Hong Kong Special Administrative Region law.

Accepted and agreed to by
The American Chamber of Commerce
in Hong Kong


Authorised Signatory

Name and title Mr. James E. Thompson
Chairman

Date: August 29, 2003

Accepted and agreed to
for and on behalf
of the Government of the
Hong Kong Special
Administration Region by


Authorised Signatory

Name and title: Ms Ophelia Tsang
Associate-Director General
of Investment Promotion

Date: 29 August 2003

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made on 3 October 2003 between THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG, the principal office of which is at 1904 Bank of America Tower, 12 Harcourt Road, Central, Hong Kong ("AmCham") and THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION (the "Government") as represented by THE DIRECTOR GENERAL OF INVESTMENT PROMOTION, INVEST HONG KONG, at Suites 1501-6, Level 15, One Pacific Place, 88 Queensway, Hong Kong ("IHK").

The parties intend this MoU to be legally binding.

1. Scope and Purpose of this MoU

- 1.1 AmCham has made a proposal to the Government for the convening (either by AmCham or through a special purpose company, and references in this MoU to AmCham include any such company) of an entertainment showcase festival in Hong Kong to be called the "Hong Kong Harbour Fest 2003" (the "Festival", which was formerly referred to the "Hong Kong International Autumn Festival" in all previous correspondence between the two parties) within the period between 1 October 2003 and 30 November 2003.
- 1.2 The Government has agreed to support the Festival and to underwrite the shortfall between the organising expenses for, as agreed by both parties, and the revenue generated from the Festival, up to the maximum sum of HK\$100 million in the form of a Sponsorship Fee, which shall be the maximum liability of the Government in relation to the Festival.
- 1.3 AmCham and the Government expect to enter into a full agreement setting out in detail each party's obligations with regard to the convening and underwriting of the Festival. The purpose of this MoU is to record AmCham's and the Government's respective general understanding with regard to the convening and the underwriting of the Festival, and to provide for payment of the third instalment referred to in Clause 2.
- 1.4 The parties expect the detailed agreement to provide, without limitation, in relation to the keeping of proper books of account, and the preparation of audited accounts by AmCham in relation to the Festival, and the full support and all necessary facilitation by IHK in the procurement of possession and use of the Festival site and of all necessary licences, consents and permissions by AmCham to enable the Festival to take place as envisaged.

2. Payment of Third Instalment

- 2.1 On execution of the two previous MoUs signed between the two parties on 31 July 2003 and 29 August 2003, the Government already paid two instalments each

of HK\$25 million to AmCham, with the aggregate sum of HK\$50 million paid representing 50% of the maximum Sponsorship Fee of HK\$100 million.

2.2 The Government will pay to AmCham on execution of this MoU the third instalment of HK\$25 million, which together with the first two instalments paid will make up to 75% of the maximum Sponsorship Fee of HK\$100 million.

3. Miscellaneous

3.1 No failure or delay in exercising any right under this MoU shall operate as a waiver thereof; and no variation shall be effective unless in writing and signed by each party. This MoU cancels and supersedes all prior oral or written agreements or understandings between the parties concerning the subject matter hereof.

3.2 This MoU is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

3.3 Neither party shall disclose the subject matter, purpose or existence of this MoU without the prior written consent of the other party, except as required by law and government regulations, and except for disclosure on a need to know basis to its own employees and its legal or other professional advisers.

3.4 Each party shall bear its own expenses and costs for all negotiations and activities relating to this MoU.

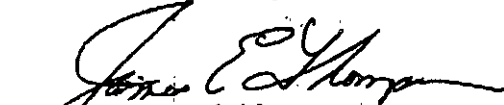
3.5 This MoU shall be governed by and construed according to Hong Kong Special Administrative Region law.

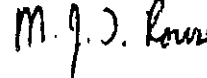
Accepted and agreed to by
The American Chamber of Commerce
in Hong Kong

Accepted and agreed to
for and on behalf
of the Government of the
Hong Kong Special
Administration Region by

Authorised Signatory

Authorised Signatory


Name and title


Name and title: Mr M J T Rowse
Director General of Investment Promotion

Date:

Date: 3 October 2003

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made on 2003 between **THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG**, the principal office of which is at 1904 Bank of America Tower, 12 Harcourt Road, Central, Hong Kong ("**AmCham**") and **RED CANVAS LIMITED** a company incorporated in Hong Kong (company registration number 718441), the registered address of which is at Suite 2001, MassMutual Tower, 38 Gloucester Road, Wanchai, Hong Kong ("**Red Canvas**").

The parties intend this MoU to be legally binding.

1. **Scope and Purpose of this MoU**

- 1.1 AmCham has made a proposal to the Government of Hong Kong SAR (as represented by the Director General of Investment Promotion, Invest Hong Kong) (the "**Government**") for the convening (either by AmCham or through Red Canvas as a special purpose vehicle of AmCham) of an entertainment showcase festival in Hong Kong to be called the "Hong Kong International Autumn Festival" (the "**Festival**") within the period between 1 October 2003 and 30 November 2003.
- 1.2 The Government has agreed to support the Festival and to underwrite the shortfall between the organising expenses for, as agreed by AmCham and the Government, and the revenue generated from the Festival, up to the maximum sum of HK\$100 million in the form of a sponsorship fee (the "**Sponsorship Fee**"), which shall be the maximum liability of the Government in relation to the Festival.
- 1.3 AmCham and the Government expect to enter into a full agreement (to which Red Canvas may be a party) setting out in detail respective obligations with regard to the convening and underwriting of the Festival. The purpose of this MoU is to record that respective general understanding of AmCham and Red Canvas with regard to the convening and the underwriting of the Festival, and to detail the intended role of Red Canvas in relation to the Festival.

2. **Role of Red Canvas**

Red Canvas shall (save as may be agreed between the parties) be responsible for organising, managing, convening and promoting the Festival in the manner agreed with AmCham. This shall include the entry into all contractual arrangements and the assumption of all liabilities relating to the Festival (save as may be assumed by AmCham contractually with the Government or as otherwise agreed from time to time between the parties in writing).

3. **Finance**

- 3.1 The Government has paid to AmCham an initial instalment of HK\$25 million, representing 25% of the maximum Sponsorship Fee of HK\$100 million.

- 3.2 This initial instalment sum stands to the credit of an interest-bearing bank account in the name of AmCham (the "Bank Account") which shall be used solely for the purpose of and in connection with the Festival. The initial instalment and any further credits and interest accruing shall not be co-mingled with other funds or withdrawn from that bank account (save for any repayment due to the Government or amounts advanced to Red Canvas).
- 3.3 The Bank Account shall be used for all funds advanced by the Government in relation to the Festival and for no other purpose.
- 3.4 In the performance of its obligations under Clause 2, Red Canvas shall incur expenditure and liabilities in relation to the Festival. In consideration of the performance of those obligations, AmCham agrees (subject to Clause 3.6 below) to make available to Red Canvas (up to the maximum amount standing to the credit of the Bank Account from time to time) funds to meet the expenditure and liabilities incurred and assumed by Red Canvas in relation to the Festival.
- 3.5 It is acknowledged and agreed that Red Canvas shall:
- (a) seek to obtain commercial sponsorship as a means of increasing revenue from the Festival;
 - (b) take all reasonably prudent steps to secure its intellectual property rights in relation to the Festival (which for the avoidance of doubt vest in Red Canvas) and related matters;
 - (c) cause proper books of account to be kept with respect to:
 - (i) all sums of money received and expended by Red Canvas and the matters in respect of which the receipt and expenditure takes place;
 - (ii) all sales and purchases of goods by it; and
 - (iii) its assets and liabilities;
 - (d) submit to AmCham (as soon as reasonably practicable after their preparation by Red Canvas' accountants) audited accounts in relation to the Festival (to include an analysis of revenue and a statement of the source and application of funds);
 - (e) not incur any liabilities other than in relation to the Festival to the detriment of its ability to make any repayment required under Clause 3.6 below.
- 3.6 Monies paid by AmCham to Red Canvas pursuant to this MoU shall be applied solely for the purposes of the Festival.
- 3.7 In the event that the amount advanced by AmCham to Red Canvas exceeds the final Sponsorship Fee due and payable by the Government to AmCham under

agreements between AmCham and the Government (even if the Government has advanced a greater sum), Red Canvas shall forthwith refund the excess which it has received and which is due to AmCham as it shall reasonably direct. For the avoidance of doubt, this obligation to refund monies to AmCham shall apply where the amount advanced by the Government to AmCham exceeds the Government's maximum monetary liability in respect of the Festival and that amount has been advanced to Red Canvas. This obligation exists in order to take account of the agreement between the Government and AmCham that AmCham will procure that revenue earned by Red Canvas will be offset first against Red Canvas' liabilities in respect of the Festival and then against the amount advanced to Red Canvas by the Government in the form of a Sponsorship Fee. The intent is that this will reduce the amount of the final Sponsorship Fee for which the Government is responsible below HK\$100 million and the Government will receive a repayment to that extent.

4. Miscellaneous

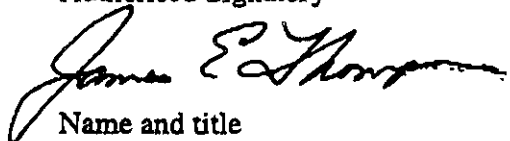
- 4.1 No failure or delay in exercising any right under this MoU shall operate as a waiver thereof; and no variation shall be effective unless in writing and signed by each party. This MoU cancels and supersedes all prior oral or written agreements or understandings between the parties concerning the subject matter hereof.
- 4.2 This MoU is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- 4.3 Neither party shall disclose the subject matter, purpose or existence of this MoU without the prior written consent of the other party, except as required by law and government regulations, and except for disclosure on a need to know basis to its own employees and its legal or other professional advisers.
- 4.4 Each party shall bear its own expenses and costs for all negotiations and activities relating to this MoU.
- 4.5 This MoU shall be governed by and construed according to Hong Kong Special Administrative Region law.

**Accepted and agreed to by
The American Chamber of
Commerce in Hong Kong**

**Accepted and agreed to
for and on behalf of
Red Canvas Limited**

Authorised Signatory

Authorised Signatory

Name and title
FRANK MARTIN
PRESIDENT

Name and title
JAMES E. THOMPSON
DIRECTOR

Date: August 13, 2003

Date: August 13, 2003