

## SECTION B – GUARANTEE & INDEMNITY

**THIS GUARANTEE AND INDEMNITY** is given by the Guarantor/s in favour of **HJD Industries Pty Ltd t/as Jaybro, and includes their successors and assigns (Supplier).**

### INTRODUCTION

- A. The Guarantor/s have asked the Supplier to supply Goods and/or Hired Goods to the Customer and to extend (or continue to extend) credit to the Customer.
- B. The Supplier has agreed to the request of the Guarantor/s in consideration of their agreement as follows:

### IT IS AGREED:

- The Guarantor/s guarantee to the Supplier the punctual payment of the monetary liabilities of the Customer (on any account and in any capacity whatsoever and including liabilities in respect of the Goods or Hired Goods) which are now owing, or may from time to time be owing by the Customer to the Supplier (Amount Owing). The Guarantor/s acknowledge and agree that the Amount Owing includes any legal and other costs and expenses incurred or to be incurred by the Supplier in seeking payment from the Customer or in enforcing this Guarantee and Indemnity against the Guarantor/s.
- If there is more than one (1) guarantor, the Guarantors are jointly and severally liable to the Supplier for the Amount Owing.
- For the purpose of securing payment of the Amount Owing, the Guarantor/s hereby charge in favour of the Supplier all legal, equitable and beneficial interest in real property which it, he or she now or might subsequently acquire a legal or beneficial interest in, and authorise and consent the Supplier to lodge a Caveat upon title of the Guarantor/s real property. The Guarantor/s shall not object to the lodgement or upholding of the said caveat or take any steps to have any such caveat removed from the Land Titles Office register
- The obligations of the Guarantor/s under this Guarantee and Indemnity are principal obligations and are not affected by:
  - any variation which may be agreed by the Supplier and the Customer in respect of the Terms on which the Goods are delivered and/or hire of Hired Goods are provided and paid for;
  - any waiver, extension of time or indulgence given by the Supplier to the Customer or a Guarantor;
  - any right or claim which the Customer may assert to resist making payment of any part of the Amount Owing;
  - any increase in the amount of the Amount Owing;
  - any failure or omission by the Supplier to give notice to the Guarantor/s of any default by the Customer; or
  - any act, omission, matter or other thing whatsoever.
- This Guarantee and Indemnity is a continuing obligation of each Guarantor/s for the amount of the Amount Owing which may be owing from time to time and, binds the successors and assigns of the Guarantor/s and will not be affected by:
  - the death, incapacity, bankruptcy, of a Guarantor or the Customer; or
  - a Guarantor or the Customer which is a company becoming an externally administered company pursuant to the Corporations Act 2001(C)
- If the obligation of any Guarantor in respect of any part of the Amount Owing is unenforceable, the Guarantor's obligations in respect of the balance of the Amount Owing will not be affected by such unenforceability.
- If any payment or other transaction relating to or affecting the Amount Owing is:
  - void, voidable or unenforceable in part or in whole; or
  - is claimed to be void, voidable or unenforceable and that claim is upheld, conceded or compromised in whole or in part; the liability of each of the Guarantor/s is the same as if:
    - that payment or transaction (or the void, voidable or unenforceable part of it); and any release, settlement or discharge made in reliance on anything referred to in paragraph (b) above, has not been made and the Guarantor/s must immediately take all action and sign all documents necessary or required by the Supplier to pay to or restore to the Supplier the Amount Owing in full.
- If all or any of the Amount Owing is:
  - not recoverable from the Customer; or
  - not recoverable from a Guarantor under this Guarantee and Indemnity;each of the Guarantor/s, as a separate and principal obligation, indemnifies the Supplier against any loss, liability, expense or outgoing suffered, paid or incurred by the Supplier in relation to such amounts and must pay the Supplier an amount equal to such amounts.
- For the avoidance of doubt it is expressly acknowledged by the Guarantor/s that the Guarantor/s' obligations extend to and may include Amount Owing and other obligations of the Customer which have arisen before or after the date of this Guarantee.

### ACKNOWLEDGMENT

10. Each of the Guarantor/s hereby acknowledge, affirm and agree that he/she:
- had an opportunity to and sought independent legal advice before entering into the Guarantee and Indemnity;
  - the nature of the Guarantee and Indemnity;
  - the liability which the Guarantor would incur by executing the Guarantee and Indemnity; and
  - the manner in which such liability could be enforced.

### ASSIGNMENT AND NOVATION

11. The Supplier may at any time assign, novate or otherwise dispose of or deal with its rights and obligations under these this Guarantee by notice in writing to the Guarantor/s. The Guarantor/s agrees that any order for Goods and/or Hired Goods submitted by the Customer to the Supplier after the date of a notice of assignment will be deemed to be an acceptance of such assignment.

### LAWS TO GOVERN PROVISIONS OF THE GUARANTEE AND INDEMNITY

This Guarantee and Indemnity shall be governed by and construed in accordance with the laws of New South Wales.

### Guarantor

(Signature)

/ / 20

### Witness

(Print Name)

### Witness

(Signature)

/ / 20

### Guarantor

(Print Name)

### Guarantor

(Signature)

/ / 20

### Witness

(Print Name)

### Witness

(Signature)

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