

## AGREEMENT TO GUARANTEE AND INDEMNIFY

**To: Brickworks Building Products Pty Ltd ABN 63 119 059 513** and each of its subsidiaries, divisions, affiliates, associated companies and related entities and any successors and assigns including but not limited to the Brickworks Group ("**Brickworks**").

1. **We Guarantee** payment to You of all monies (without set-off of any kind) and performance of all obligations including any past, present and future indebtedness or obligation by the Customer or any of Us arising from any past, present or future dealing with You and any GST applicable thereto.
2. **We Indemnify You** against all loss or damage arising from any past, present or future dealing You have or have had with the Customer or any of Us or arising from any breach of any part of this Agreement to Guarantee and Indemnify ("this **Guarantee**") by any of Us.
3. **We Agree:**
  - a) this Guarantee shall be effective despite any conduct or event (including any later agreement to guarantee or indemnify and any other security taken or any Deed of Company Arrangement whether or not You agreed) which may have released or varied any obligation of the Customer or any of Us;
  - b) any payment by the Customer or Us which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid;
  - c) that We sign both in our personal capacity and as Trustee of every trust of which We are trustee;
  - d) to notify You within 7 days, of any change in the Customer's structure, management or position, including any sale or disposition of any part of the business of the Customer any change in director, shareholder, management, partnership or trusteeship, any new charge, mortgage or security given to any party by the Customer and any involvement in any franchise or licensed business in any capacity;
  - e) You may make any arrangement or compromise with any of Us, obtain additional guarantees, indemnities or securities from any of Us or any other party or release or compromise with any of Us or any other party and any amount may be extinguished or compromised without affecting our liability to You;
  - f) to not recover (or seek to recover) any money from the Customer until You are fully paid;
  - g) this Guarantee is a continuing guarantee and indemnity and it continues until You have given Us a written release from this guarantee and indemnity; and
  - h) that a release of any security by You does not preclude and will not be a barrier to You seeking or registering any other security (including security that is the same or similar to that released) and for the avoidance of doubt, a withdrawal of a caveat does not preclude or prevent You registering another caveat over the same property.
4. **We hereby:**
  - a) agree despite anything to the contrary contained herein or any other rights which You may have howsoever, where We (jointly or severally) are the owner of land, realty or any other asset capable of being charged and/or over which a security interest may be created ("Asset"), We agree hereby to charge all of our joint and/or several interest in the Asset to You secure all amounts and other monetary obligations payable by the Customer to You;
  - b) consent unconditionally to You lodging a caveat noting Your interest in any current or later acquired real property any of Us have an interest in; and
  - c) agree that You may (without limitation) exercise Your rights under clause 15 to effect compliance with this clause where We fail to do so.
5. **Consideration** We enter into this Guarantee in consideration of You agreeing to grant credit at Your discretion to the Customer and/or to forbear from taking any legal action against the Customer for one month.
6. **Proper Law:** This agreement and any claim or dispute between You, the Customer or any of Us shall be governed by the law of the State/Territory nominated by You & the Customer & Us agree to submit to the jurisdiction of the appropriate Courts in or nearest the Capital of that State/Territory.
7. **Signatures:**
  - a) If more than one of Us is intended to sign, We each agree to be liable for the full amount owed, even if We are the only one to sign.
  - b) Neither You nor the Customer is required to sign this guarantee. It is a separate obligation of each of Us.
8. **Credit Limit:** We agree that any credit limit You grant or apply to the Customer is at Your discretion and will not limit our liability to You.
9. **Privacy Act 1988 (Cth):** Subject to the requirements of the Privacy Act, the Privacy Reporting Code and Your Privacy Policy:
  - a) You may make any enquiries You deem necessary to investigate Us including enquiry with our bankers, any credit provider or credit reporter and any personal credit and consumer credit information, ("**Sources**").
  - b) We authorise the Sources to disclose anything about Us which is in their possession. We agree that You may disclose information You have about Us to the Sources.
10. **Severability:** Any part of anything herein shall be severable without affecting any other part hereof.
11. **Acknowledgment:** We acknowledge and agree that Our liability under this Guarantee is unlimited.
12. **Definitions:**
  - a) **"You"** means Brickworks;
  - b) **"We"** and **"Us"** means jointly and severally, each of the persons and entities listed as guarantors in Part A of the Schedule to this Guarantee;
  - c) **"Customer"** means each of the parties listed in Part C of the Schedule to this Guarantee jointly and severally and any party who acquires and/or conducts any part of the business of the Customer or has any beneficial interest therein until notice is given pursuant to clause 3.e) and also each member of any franchise/licensed network of which the Customer is a member;
  - d) **"Credit Application"** means the Brickworks Credit Application to which this Guarantee is included; and
  - e) **"Brickworks Group"** means jointly and severally the entities listed on page 2 of the Credit Application to which this Guarantee is included and any new member admitted to the Brickworks' Group from time to time (whether with notice or not to the Customer or Guarantors) and each of their subsidiaries, divisions, affiliates, associated and related entities and their successors and assigns.
13. **Demand:** We agree that our liability to You arises without any demand upon the Customer or any of Us.
14. **Stamp Duty:** We agree that our liability to You arises without any demand upon the Customer or any of Us.
15. **Attornment:** To give effect to all obligations arising under this Guarantee, We irrevocably appoint any officer or manager of You from time to time, as our attorney.
16. **Read and Understood:** We have each read and understood this document before signing and have received legal advice or have had the opportunity of obtaining legal advice before accepting it. (\*refer below).
17. **Dating:** This Guarantee is made on the last "date signed" in Part A of the Schedule to this Guarantee except if any of Us fail to note the date We signed, then the date inserted in the Guarantee by You at Part B of the Schedule will be the date of the Guarantee.
18. **Personal Property Securities Act 2009 ("PPSA"):**
  - a) If You determine that this Guarantee (or a transaction in connection with it) is or contains a security interest for the purpose of the PPSA, We agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signing and supplying information) which You ask and consider necessary for the purposes of:
    - (i) ensuring that the security interest is enforceable, protected and otherwise effective;
    - (ii) enabling You to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by You; and
    - (iii) enabling You to exercise Your rights in connection with the security interest.

- b) Everything We are required to do under this clause 18 is at our expense. We agree to pay or reimburse Your costs and expenses in connection with anything You do under this clause 18.
- c) You need not give any notice under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

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**EXECUTED AS A DEED POLL BY THE GUARANTORS NAMED IN PART A OF THE SCHEDULE BELOW:**

**SCHEDULE TO AGREEMENT TO GUARANTEE AND INDEMNIFY**

**Part A: GUARANTORS:**

<div>1.</div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div>(Print name of 1<sup>st</sup> Guarantor)</div><div>of ..... (Address of 1<sup>st</sup> Guarantor)</div></div> <div>Email Address: .....</div>	
Signature of 1 <sup>st</sup> Guarantor and dating:	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"><span>(signature of 1<sup>st</sup> Guarantor)</span><span>(date signed)</span></div>
Witness Signature:  Witness Name (print):	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"><span>Witness Address:</span></div>

<div>2.</div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div>(Print name of 2<sup>nd</sup> Guarantor)</div><div>of ..... (Address of 2<sup>nd</sup> Guarantor)</div></div> <div>Email Address: .....</div>	
Signature of 2 <sup>nd</sup> Guarantor and dating:	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"><span>(signature of 2<sup>nd</sup> Guarantor)</span><span>(date signed)</span></div>
Witness Signature:  Witness Name (print):	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"><span>Witness Address:</span></div>

<div>3.</div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div>(Print name of 3<sup>rd</sup> Guarantor)</div><div>of ..... (Address of 3<sup>rd</sup> Guarantor)</div></div> <div>Email Address: .....</div>	
Signature of 3 <sup>rd</sup> Guarantor and dating:	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"><span>(signature of 3<sup>rd</sup> Guarantor)</span><span>(date signed)</span></div>
Witness Signature:  Witness Name (print):	<div style="border-bottom: 1px solid black; height: 30px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"><span>Witness Address:</span></div>

**EXECUTED BY:** ....., ACN .....

(Insert Company Name)

(Print ACN)

In accordance with section 127(1) of the Corporations Act 2001, on

(Print Date)

1

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

**\*IMPORTANT NOTICE:** If you sign this Agreement to Guarantee and indemnify you may be required to pay someone else's debts. You should ensure that you read and understand its terms. If necessary, seek independent professional advice.

**Part B: DATING BY BRICKWORKS:**

DATED in acceptance by Brickworks on \_\_\_\_/\_\_\_\_/\_\_\_\_ by:

(Print name and position)

**Part C: CUSTOMER'S DETAILS:**

Customer: ..... ACN/ABN .....