



DEED OF GUARANTEE & INDEMNITY

TO: ROY GALVIN & CO PTY LTD (ACN 008 719 408) T/AS GALVINS PLUMBING SUPPLIES
(the Company)

CUSTOMER: Account Number:

ACN/ ABN:

CURRENT DEBT ACKNOWLEDGED:

A: Existing clients: \$..... as at B: New clients: \$.....

GUARANTOR 1:

Name: Driver's Licence No:

Address: Date of Birth:

GUARANTOR 2:

Name: Driver's Licence No:

Address: Date of Birth:

GUARANTOR 3:

Name: Driver's Licence No:

Address: Date of Birth:

The Guarantor(s) hereby covenant and undertake, and if more than one, jointly and severally, as follows:

Definitions

1. The Following definitions apply to this guarantee and indemnity:
 - a. This **Agreement** or this **Guarantee and Indemnity** means this guarantee and indemnity as may be varied, amended or supplemented from time to time.
 - b. The **Company** means Roy Galvin & Co Pty Ltd (ACN 008 719 408) and any business owned or operated by any one or more of the companies or entities herein described and any holding company, subsidiary or related body corporate (as the expression is defined in the Corporations Act) and the successors, transferees and assigns of any one or more of the companies or entities herein described.
 - c. **Customer** means the party listed above as "the Customer", all related and associated companies, trusts and other entities, all successors and/or assigns, any party or parties who acquire, have any beneficial interest in and/or conduct any part of the business of the Customer.
 - d. **Guaranteed Monies** means all monies at any time actually or contingently owing to the Company by the Customer either alone or jointly or severally with others on any account arising from past or present and/or future dealing with the Customer.

- e. **We and us** means any and all of the Guarantors listed above and if more than one jointly and severally and in any event (to the extent applicable) the joint and several successors and/or assign of each.

Consideration

2. I/We agree to guarantee the performance of all obligations and the payment to the Company of all money which is now or at any time in the future becomes due and payable to the Company by the Customer on any account or accounts whether they now exist or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Customer to the Company arising out of a relationship of trustee and beneficiary in consideration of the Company extending or agreeing to extend credit, or further credit to the Customer, for Goods sold or to be sold from time to time.

Guarantee and Indemnity

3. I/We indemnify the Company against all loss, damage or expense it may suffer as a result, either directly or indirectly, of any failure by the Customer to make due payment of any money owing to the Company whether for Goods sold or otherwise or to observe the terms of any agreement between the Customer and the Company including costs on an indemnity basis.

4. I/We unconditionally and irrevocably guarantee to the Company the due and punctual payment by the Customer to the Company of the Guaranteed Monies, including without limitation, by way of:
 - a. monies payable for Goods;
 - b. interest;
 - c. costs and charges; and
 - d. indemnity or damages.
5. I/We agree that, if the Customer defaults in payment of the Guaranteed Monies, I/we shall pay those monies on demand, by way of currency, to or as directed by the Company in order to discharge the debt owed by the Customer in full.
6. I/We agree that this Agreement will be a continuing guarantee and indemnity and will not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by the Company to the credit of any account of the Customer or us, or deemed to be held on trust by the Customer for the Company, and will be available as a guarantee and indemnity for the whole of the Guaranteed Monies.
7. I/We agree that where two or more persons execute this guarantee and indemnity, the guarantees, covenants, obligations in this guarantee given or undertaken by me/us will be deemed to bind me/us jointly and severally and the Company will be entitled to seek payment in full from any one or more of us without seeking payment from the other Guarantors.
8. I/We agree that this Agreement will continue in force until such time as the Company releases the me/us in writing and notwithstanding the fact that I/we are no longer directors, shareholders or owners of the Customer
9. I/We agree that the Company need not incur any expenses or make any payment before enforcing its right to indemnity.
10. I/We agree:
 - a. to pay to a stakeholder nominated by the Company the amount the Company certifies is payable before being entitled to dispute whether or not that amount is payable;
 - b. that this Agreement shall remain effective notwithstanding any act, matter, event or omission which might otherwise operate to discharge, impair or otherwise affect the liability of the Customer or the liability under this Guarantee and any failure of any Guarantor to sign this Agreement and even if we and/or any of us execute in the Company's favour any later agreement, guarantee and/or security whatsoever;
 - c. that any payment which is subsequently avoided by any law relating to insolvency shall be deemed not to have been paid;
 - d. that we sign both in our personal capacity and as Trustee of every trust of which we are trustee; and
 - e. to notify the Company within seven days of any change in the Customer's structure, management and/or position including:
 - i. any sale or disposition of any part of the business of the Customer;
 - ii. any change in director, shareholder, management, partnership and/or trusteeship;
 - iii. any new charge, mortgage and/or security given to any supplier and/or financier;

- iv. any involvement in any franchised business in any capacity.

Acknowledgment of Current Debt

11. I/We acknowledge that the Customer is indebted to the Company in the sum noted above as at the date noted above and we acknowledge and agree that our guarantee under this Agreement is unlimited.

Credit Limit

12. I/We agree that any credit granted by the Company to the Customer is at the Company's discretion and shall not limit our joint and several liability to the Company.

Charge

13. I/We agree to charge in the Company's favour all of my/our estate and interest in any real or personal property that I/we own at present and in the future with the amount of my/our indebtedness hereunder until discharged, such indebtedness to include the entire Guaranteed Monies.
14. I/We agree that this Agreement secures the repayment of the Guaranteed Monies owed by the Customer to the Company.

Attorney

15. I/We irrevocably appoint any solicitor for the Company from time to time as our attorney to give effect to our obligations arising under this Agreement.

Personal Property Securities Act

16. I/We agree that for the avoidance of doubt, the security interest(s) created by this Agreement, in favour of the Company, constitutes a security interest pursuant to the *Personal Property Securities Act 2009* (Cth).
17. I/We agree to waive any right or entitlement to receive notice of the registration of any security interest(s) created by this Agreement on the Personal Property Securities Register.

Service of Notices

18. I/We agree to accept service of notices of any document required to be served, including any notice under this Agreement or the *Personal Property Securities Act 2009* (Cth) of any originating process, by prepaid post at the address nominated in this application or any other address later notified to the Company by me/us or my/our authorised representative.

Jurisdiction

19. I/We agree that this Agreement and any claim or dispute between the Company, the Customer and/or me/any of us shall be governed by the law applicable in the State of Western Australia and we agree to submit to the non-exclusive jurisdiction of the appropriate Court nominated by the Company in the capital city of that State.

Variation

20. I/We authorise the Company to give time or any other indulgence or consideration to the Customer in respect of compliance with its obligations to the Company, even if giving time or any other indulgence or consideration has the effect of increasing my/our liability under this Agreement.
21. I/We agree that this Agreement will not be avoided, released or affected by the Company making any variation

or alteration in the terms of its agreement(s) with the Customer, even if such variations or alterations have the effect of increasing my/our liability under this Agreement.

Severability

22. I/We agree that any part of this Agreement shall be severable without affecting any other part of this Agreement should any part of it be not enforceable.

Costs and Stamp Duty

23. I/We agree that the Company is at liberty from time to time to charge the account of the Customer with all costs, charges and expenses, legal or otherwise that the Company incurs in connection with:

- a. The account of the Customer;
- b. This Agreement;
- c. Any other security in respect of the indebtedness of the Customer to the Company;
- d. any stamp duty applicable to this Agreement;
- e. any charge created pursuant to this Agreement;
- f. the exercise of attempted exercise of any right, power or remedy conferred on the Company under or by virtue of this Agreement

and such amounts will form part of the Guaranteed Monies.

24. I/We agree to pay to the Company any and all costs and disbursements incurred in recovering or attempting to recover the Guaranteed Monies including debt collection costs or commission payable to any commercial or mercantile collection agency and legal costs on an indemnity basis.

Read and Understood

25. I/We have read and understood this document before signing it.

26. I/We understand that I/we may be required to pay someone else's debt and warrant that I/we have read and understand this Agreement and its terms, and if necessary, sought independent professional advice prior to executing this Agreement.

Privacy Act

27. I/We agree to the terms of the Privacy Statement pursuant to the *Privacy Act 1998 2012* contained in this Agreement.

Privacy Statement

28. This privacy statement is made pursuant to the Privacy Act and provides information about the Personal Information that the Company collects, and the ways in which it uses that Personal Information.

29. The Company may collect Personal Information about the Customer and/or Guarantor(s) for the Company's Primary Purposes.

30. The Customer and/or Guarantor(s) consent to the Company collecting, using and disclosing Personal Information (including Sensitive Information) for both its Primary Purposes and purposes other than its Primary Purposes.

31. The Company may collect, and may already have collected, Information from the Customer and/or Guarantor(s), other Credit Providers, Credit Reporting Bodies and other third parties for the purposes of its functions and activities including credit, sales, marketing and administration. If the Information was not collected by the Company it may restrict or impede upon the Company trading with, extending credit to, continuing to extend

credit to or extending further credit to the Customer and/or Guarantor(s) or their related bodies corporate. Further, if the Customer chooses not to provide Personal Information, the Company may not be able to provide the Customer with credit account facilities and/or assess persons to be a guarantor(s) of the credit facility.

32. The Customer and/or Guarantor(s) consent to the Company obtaining and making disclosure of Information about the Customer and/or Guarantor(s) from and to a Credit Reporting Body and/or another Credit Provider for any or all of the following purposes: Commercial Credit Purpose, Consumer Credit Purpose Credit Guarantee Purpose or another related purpose.

33. The Company notifies the Customer and/or Guarantor(s) that it may use and/or disclose Credit Eligibility Information under section 21G of the Privacy Act.

34. The Company may provide Personal Information and disclose default information about the Customer and/or Guarantor(s) to any or all of the Credit Reporting Bodies referred to below. The Customer and/or Guarantor(s) consent to such disclosure.

a. Dun & Bradstreet
w: www.dnb.com.au
e: PACaustral@dnb.com.au
t: 1300 734 806

b. Veda Advantage
w: www.veda.com.au/contact
m: PO Box 964 North Sydney NSW 2059
t: 02 9278 7333

c. National Credit Insurance Brokers
w: www.nci.com.au
m: PO Box 3315 Rundle Mall, SA 5000
t: 1800 885 820

35. The Customer and/or Guarantor(s) hereby acknowledge that they consent to the Company disclosing Information to the Company's employees, subsidiaries, employees, agents and related bodies corporate, past, present or prospective Credit Providers of the Customer and/or Guarantor(s) or their related bodies corporate, including for the purpose of that person considering whether to offer to act as Guarantor or offer security for that credit, and/or overseas recipients and recipients who do not have an Australian link. The Company does not disclose Information to overseas recipients.

36. A full copy of the Company's privacy policy may be obtained from the Company's website or by making a request in writing directed to the Company. The Company's privacy policy has more information on how the Company and the above Credit Reporting Bodies manage Personal Information and how the Customer may access, correct and make complaints about its Personal Information.

37. The Customer and/or Guarantor(s) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to the Company within 14 days of receipt of this statement that its terms are not accepted, continuing to trade with the Company after receipt of this statement or, if the Customer and/or Guarantor(s) are directors or Guarantors of the Customer, by not taking steps to prevent the Customer from continuing to trade with the Company after receipt of this statement.

38. The terms of this privacy statement operate concurrently with any pre-existing privacy statement, authorisation or

- notification, whether contained in our credit application, terms and conditions of trade or otherwise. This privacy statement shall prevail to the extent of any inconsistency
39. For the purposes of this privacy statement, the following definitions apply:
- a. **Privacy Act** means the Privacy Act 1988 Act 2012 (as amended).
 - b. **Primary Purposes** means assessment of a credit application, reviewing existing credit terms, assessing Credit Worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes and direct marketing
 - c. **Information** means Personal Information, Sensitive Information, Credit Eligibility Information, Credit Reporting Information and

- d. **Credit Information**, both severally and collectively.
- Commercial Credit Related Purpose, Consumer Credit Related Purpose, Credit Eligibility Information, Credit Guarantee Purpose, Credit Information, Credit Provider(s), Credit Reporting Code, Credit Reporting Body(ies), Personal Information, Credit Reporting Information and Sensitive Information** each have the same meaning as under the Privacy Act.
- e. **Creditworthiness Information** means information that is both positive (eg. payment information) and negative (eg. defaults or serious credit infringements).

Signed sealed and delivered by the Guarantor(s):

GUARANTOR 1:

GUARANTOR SIGNED: GUARANTOR NAME:

DATE:

WITNESS SIGNED: WITNESS NAME:

GUARANTOR 2:

GUARANTOR SIGNED: GUARANTOR NAME:

DATE:

WITNESS SIGNED: WITNESS NAME:

GUARANTOR 3:

GUARANTOR SIGNED: GUARANTOR NAME:

DATE:

WITNESS SIGNED: WITNESS NAME: