

To: the EPH GROUP (“the Supplier”)

In consideration of the Supplier having agreed at the request of the persons named as guarantors in the schedule to this guarantee and indemnity (together called the Guarantor) to supply and/or continue to supply the Customer (with Goods and/or services) named in the Application for a Commercial Credit Account, the Guarantor covenants and agrees with the Supplier as follows:

1. The Guarantor unconditionally guarantees to the Supplier the due and punctual payment by the Customer for all Goods and/or Services supplied by the Supplier to the Customer.
2. The Guarantor agrees that the Guarantor’s obligations under this guarantee and indemnity are unconditional irrespective of any other matter.
3. (a) The Guarantor unconditionally indemnifies the Supplier against any loss the Supplier suffers because:
 - (i) the liability to pay any sum the payment of which is guaranteed under this guarantee and indemnity (Guaranteed Money) is unenforceable in whole or part as a result of lack of capacity, power or authority or improper exercise of power of authority;
 - (ii) a liquidation or insolvency event occurs in respect of the Customer; or
 - (iii) the Guaranteed Money is not or has never been recoverable from the Guarantor or from the Customer because of any other circumstance whatsoever including, without limitation, any transaction relating to the Guaranteed Money being void, voidable or unenforceable and whether or not the Supplier knew or should have known anything about that transaction.(b) The Guarantor as principal debtor agrees to pay to the Supplier on demand a sum equal to the amount of any loss described in clause 3(a).
4. This guarantee and indemnity is a continuing guarantee and indemnity, which will not be discharged except by complete performance of all the Customer’s obligations to the Supplier.
5. The Guarantor agrees to pay and indemnify the Supplier against all stamp duty (if any) in respect of this guarantee and indemnity.
6. The Supplier can at any time at its absolute discretion and without giving any notice to the Guarantor refuse further credit or supply of Goods and/or Services to the Customer.
7. The Supplier may assign the whole or any part of the benefit of this guarantee and indemnity, whether by way of security or otherwise. The liability of the Guarantor will not be affected by the assignment of the benefit of this guarantee and indemnity.
8. If a claim is made that all or part of a payment, obligation, settlement, transaction, conveyance or transfer in connection with the Guaranteed Money is void or voidable under a law relating to insolvency or the protection of creditors or for any other reason and the claim is upheld, conceded or compromised, then the Supplier is entitled immediately as against the Guarantor to the rights in respect of the Guaranteed Money to which it would have been entitled if all or part of that payment, obligation, settlement, transaction, conveyance or transfer had not taken place.
9. As long as the Guaranteed Money remains unpaid, the Guarantor may not, without the consent of the Supplier:
 - (a) in reduction of the Guarantor’s liability under this guarantee and indemnity, raise a defence, set-off or counterclaim otherwise available to the Guarantor, the Customer or a co-surety or co-indemnifier against the Supplier or claim a set-off or make a counterclaim against the Supplier.
 - (b) make a claim or enforce a right against the Supplier and/or against its estate or property;
 - (c) prove in competition with the Supplier if a liquidation or insolvency event occurs in respect of the Customer whether in respect of an amount paid by the Guarantor under this guarantee and indemnity, in respect of other amount (including the proceeds of realisation of any security) applied in reduction of the Guarantor’s liability under this guarantee and indemnity, or otherwise; or
 - (d) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee or a share in it now or subsequently held for the Guaranteed Money or other money payable under this guarantee and indemnity.
10. This guarantee and indemnity will be construed and have effect in accordance with the laws of a State or Territory as nominated by the Supplier and the Guarantor agrees to submit to the jurisdiction of the courts of that State or Territory.
11. The Guarantor will pay to the Supplier all costs, expenses and disbursements incurred by the Supplier including, without limiting the generality of the foregoing, debt collection costs, agency fees and commissions, legal costs on an indemnity basis relating to the enforcement of this guarantee and indemnity.
12. The Guarantor hereby charges to the Supplier all its estate and interest in any land and in any other asset (including personal property) in which the Guarantor now has any legal or beneficial interest, or in which the Guarantor may later acquire any such interest by way of security with payment of all monies owing under this Guarantee. The Guarantor further agrees that immediately upon demand being made upon the Guarantor by the Supplier, the Guarantor shall deliver to the Supplier such a bill or instrument of encumbrance, in registrable form as the Supplier may require to be executed by the Guarantor. The Guarantor also consents to the Supplier lodging a caveat in respect of any land in which the Guarantor has an interest, including executing a mortgage. In the event that the Guarantor should neglect or fail to deliver the required instruments or securities, the Guarantor hereby, appoints the Supplier to be the Guarantor’s lawful attorney for the purpose of executing and registering such instruments.
13. In order to further secure payment of all monies which the Guarantor may become liable to pay the Supplier, the Guarantor charges all of the Guarantor’s personal property both presently owned by the Guarantor and that which the Guarantor may hereafter acquire. The

Guarantor further agrees that immediately upon demand being made upon the Guarantor by the Supplier, the Guarantor shall deliver to the Supplier such a bill or instrument of encumbrance in registrable form as the Supplier may require to be executed by the Guarantor. In the event that the Guarantor should neglect or fail to deliver the requested instrument or security, the Guarantor hereby appoints the Supplier to be the Guarantor's lawful attorney for the purpose of executing and registering such instruments. The charge referred to herein constitutes a security interest (as defined in section 12 of the Personal Property Securities Act 2009) ("the Act") insofar as it relates to the Guarantor's personal property, which may be registered by the Supplier on the register as defined in section 10 of the Act. Pursuant to section 275(6) of the Act, the Guarantor agrees it will not disclose to an interested person any of the matters described in section 275 (1) of the Act without prior approval of the Supplier. To the extent permitted by law, the Guarantor waives its rights to receive any notification under section 115(1)(a)-(r) inclusive of the Act.

14. This Deed will terminate on the date stated in a written notice by the Supplier to the Customer. Even when the Customer and/or the Guarantor do not owe any money to the Supplier, the Supplier is not obliged to discharge or remove any Guarantor; charge or other security if in its opinion that within a reasonable time:
- (a) The Customer might become indebted to the Supplier;
 - (b) The Guarantor might become indebted to the Supplier;
 - (c) A payment made to the Supplier might be void or voidable for any reason (including the Bankruptcy Act 1966 or Corporations Act 2001).
15. This guarantee and indemnity is in addition to and not in substitution for any other guarantee or security given in favour of the Customer and will not merge with or be affected by any other guarantee or security now or in the future given or held in favour of the Customer.
16. The Supplier may give information about the Guarantor to any credit reporting agency to obtain a consumer credit report about the Guarantor, and/or to allow the credit-reporting agency to create or maintain a credit information file containing information about the Guarantor. The Guarantor acknowledges and agrees that this form constitutes notice of disclosure of the Customer's/Guarantors credit information to a credit-reporting agency as required under the *Privacy Act 1988* (Cth). This information (which may be given before, during or after the provision of the guarantee) may include:
- (a) the Guarantor's identity particulars;
 - (b) the Supplier having sought a credit report in connection with the Guarantor having offered to act as a Guarantor in respect of credit applied for by, or provided to, the Customer;
 - (c) the Guarantor's liability to make payments which have been notified to the Guarantor and which are overdue and or for which debt collection recovery action has commenced;
 - (d) that credit provided by the Supplier has been paid or otherwise discharged;
 - (e) cheques drawn by the Guarantor which have been dishonoured more than once; and
 - (f) any other information permitted to be included in a credit information file under the *Privacy Act 1988* (Cth).

The Guarantor agrees that the Supplier may obtain from a credit-reporting agency a consumer credit report containing information about the Guarantor for the purpose of assessing whether to accept the Guarantor as a Guarantor for credit applied for by, or provided to, the Customer. The Guarantor agrees that this agreement commences from the date of this Guarantee and continues until the credit covered by the Customer(s) application ceases. The Guarantor agrees that the Supplier may obtain information about the Guarantor from a business, which provides information about the commercial credit worthiness of persons for the purpose of assessing the credit worthiness of the Guarantor.

The Guarantor agrees that the Supplier may exchange information (including a credit report) relating to the Guarantor's creditworthiness with other credit providers:

- (a) to assess an application by the Guarantor for credit;
- (b) to notify other credit providers of a default by the Guarantor;
- (c) to exchange information with other credit providers as to the status of this Guarantee where the Guarantor is in default with other credit providers;
- (d) to assess the Guarantor's creditworthiness; and
- (e) to provide a reference to another credit provider or to receive a reference from another credit provider in relation to assessing an application by the Guarantor for credit. The Guarantor understands that the information exchanged can include anything about the Guarantor's commercial and credit: credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the *Privacy Act 1988* (Cth).

The Guarantor agrees that the Supplier may obtain a consumer credit report containing information about the Guarantor from a credit-reporting agency for the purpose of assessing any Guarantee made by the Guarantor from time to time.

The Guarantor agrees that the Supplier may obtain a consumer credit report about the Customer and Guarantor from a credit-reporting agency for the purpose of collecting overdue payments relating to the Guarantee.

The Guarantor is aware that the Guarantor may request access to the Guarantors personal information held by the supplier.

17. When this guarantee and indemnity is executed or intended to be executed by two or more persons:
- (a) each of those persons is not released from liability if this guarantee and indemnity ceases to bind any one or more of them as a continuing security;
 - (b) if one or more persons has not signed this guarantee and indemnity, the other person or persons having executed the guarantee and indemnity will not be released from liability but will be bound by it as a continuing security;
 - (c) a demand or notice given under this guarantee and indemnity if given to any one or more of those persons is deemed to have been given to all of them; and
 - (d) the expression "Guarantor" includes all of those persons jointly and each of them severally.

DEED OF GUARANTEE AND INDEMNITY (continued)

18. In this guarantee and indemnity, unless the contrary intention appears:

- (a) words denoting the singular includes the plural and vice versa;
- (b) a reference to "Guaranteed Money" includes any and all other money payable under this guarantee and indemnity;
- (c) a reference to "Company", "Supplier", "Guarantor" and "Customer" includes their executors, administrators, successors and permitted assigns as the case requires;
- (d) where there is more than one Guarantor, the liability and obligations of the guarantors are joint and several;
- (e) a reference to "insolvency event" includes but is not limited to an application being made to wind up the Customer or a meeting is convened for the purpose of considering a resolution for winding up or becomes bankrupt or enters into any arrangement or composition with its creditors, makes or offers to make any arrangement or composition with its creditors or if a resolution is passed to place the company into external administration (including the appointment of a controller, administrator, receiver or liquidator).

Independent Legal Advice:

The Guarantor acknowledges and warrants that the Guarantor has executed this guarantee and indemnity voluntarily, has read it and understood its true nature and effect (including but not limited to Section 7 of the Credit Terms) and is aware of its rights to obtain independent legal and/or financial advice.

EXECUTED AS A DEED

Note: Each witness must be over 18 years of age who is not themselves a guarantor.

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| _____ | _____ |
| (Signed Sealed and Delivered by the Guarantor) (Signature) | (In the presence of Witness) (Signature) |
| _____ | _____ |
| (Full name of Guarantor) (Please print Name) | (Full name of Witness) (Please print Name) |

| | |
|--|--|
| _____ | _____ |
| (Signed Sealed and Delivered by the Guarantor) (Signature) | (In the presence of Witness) (Signature) |
| _____ | _____ |
| (Full name of Guarantor) (Please print Name) | (Full name of Witness) (Please print Name) |

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|--|--|
| _____ | _____ |
| (Signed Sealed and Delivered by the Guarantor) (Signature) | (In the presence of Witness) (Signature) |
| _____ | _____ |
| (Full name of Guarantor) (Please print Name) | (Full name of Witness) (Please print Name) |

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|--|--|
| _____ | _____ |
| (Signed Sealed and Delivered by the Guarantor) (Signature) | (In the presence of Witness) (Signature) |
| _____ | _____ |
| (Full name of Guarantor) (Please print Name) | (Full name of Witness) (Please print Name) |

Dated this _____ day of _____ 20