

Deed of Personal Guarantee and Indemnity



To: Cleary Bros (Bombo) Pty Ltd (ABN 28 000 157 808) (Cleary Bros)
39 Five Islands Road (P.O. Box 210) Port Kembla NSW 2505

WARNING: THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE.

Guarantors: _____ [insert guarantor(s) name(s)]

Debtor: _____ [insert Customer Name/Partnership/Sole Trader]

I, the undersigned, in consideration of you having at my request agreed to allow time to pay and agreed to supply and/or to continue to supply the Applicant as identified in this Application for Credit with goods and/or materials and/or services from time to time agree with you, Cleary Bros, as follows:

1. I guarantee to you the payment by the Debtor for all goods and/or materials and/or services as you have supplied or as you will supply from time to time to it and notwithstanding that I shall not have notice of any neglect or omission on the Debtor's part to pay for such goods and/or services according to the terms agreed on between you and it.
2. This guarantee shall be a continuing guarantee to you for the whole of the Debtor's indebtedness or liability to you in respect of goods and/or materials and/or services supplied or to be supplied to it or upon any other account howsoever or whensoever arising.
3. You shall be at liberty without discharging me from liability hereunder to grant time or other indulgence to the Debtor in respect of goods and/or materials and/or services supplied by you to it and to accept payment from the Debtor in cash or by means of negotiable instruments and to treat me in all respects as though I were jointly liable with the Debtor as debtors to you instead of being merely surety for the Debtor and in order to give full effect to the provisions of this guarantee I hereby waive all rights inconsistent with such provisions and which I might otherwise as surety be entitled to claim and enforce.
4. You may at any time or times at your absolute discretion and without giving any notice whatsoever to me refuse further credit and/or supplies of goods and/or materials and/or services to the Debtor and may grant to the Debtor or to any drawers acceptors or endorsers of bills of exchange promissory notes or other securities received by you from the Debtor or on which the Debtor may be liable to you any time or other indulgence and compound with it or them respectively without discharging or impairing my liability under this guarantee.
5. Where this guarantee is given by two or more persons then it shall be enforceable against us jointly and each of us severally notwithstanding that any negotiable or other securities referred to herein or to which it shall relate or be applicable shall at the time of proceedings being taken against us or any of us under this guarantee be outstanding or in circulation and it is expressly declared that notwithstanding the fact that this instrument of guarantee may be intended or expressed to be executed and given by more than one person the same shall in fact be a valid and effectual instrument of guarantee binding against such person or persons as shall execute the same forthwith upon their execution and shall continue to be binding as against such person or persons notwithstanding the fact that any proposed or contemplated party shall not in fact execute the same.
6. I acknowledge that you have informed me, in accordance with the Privacy Act 1988 (Cth) as amended, that certain personal information, including an opinion about the Debtor and me, are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies.
7. I agree to the you obtaining from a business which provides information about the commercial credit worthiness of persons, information concerning my commercial activities or credit worthiness and using it for the purpose of assessing whether to accept me as guarantor.
8. I agree that you may give to, and seek from, any credit providers, reports and information that has a bearing on my credit worthiness, credit standing, credit history or credit capacity for the purposes of:
 - (a) assessing an application for credit or commercial credit;
 - (b) notifying other credit providers of a default;
 - (c) exchanging information with other credit providers as to the status of my account with you;
 - (d) notifying other credit providers that I am in default with you;
 - (e) assessing my credit worthiness or commercial credit worthiness; and/or

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- (f) assessing whether to accept me as guarantor(s) or to continue supplying credit to the Debtor.
- 9. I authorise you to access my credit information file and credit reports and seek from a credit reporting agency, a credit report containing personal information about me to assess whether to accept the me as a Guarantor(s) for credit applied for by, or provided to, the Debtor. I agree that these authorisations will continue to have effect throughout the period during which credit or commercial credit is provided to or sought by the Debtor or while any moneys are owed by the me or the Debtor to you on any account under this or any other Guarantee or any terms and conditions for the supply of goods or services by you to the Debtor.
- 10. This guarantee shall not be determined by the death or bankruptcy of the guarantor but shall be binding upon his executors, administrators and assigns.
- 11. All dividends compositions and payments received by you from the Debtor whether in liquidation or otherwise shall be taken to be applied by you as payments in gross and my rights to be subrogated to you in respect thereof shall not arise until you have received full payment for the whole of the Debtor's indebtedness and liability to you.
- 12. Any document notice or demand under or relating to this guarantee may be served in any manner provided in Section 170 of the Conveyancing Act 1919.
- 13. In this guarantee, words importing the singular number include the plural and vice versa.

IMPORTANT: this Deed of Personal Guarantee and Indemnity must be completed and signed by all Directors, Sole Traders and Business Partners in the presence of Independent Witnesses (not Spouses/Partners or Family Members). Spouses/Partners of all Directors, Sole Traders and Business Partners must also sign below as Guarantors in the presence of Independent witnesses where there is joint ownership of personal assets.

Executed as a Deed

Dated: _____

I, _____, whose signature appears below, certify that I have carefully read and understand the terms and conditions in this guarantee and agree to abide by those terms and conditions. In particular, I understand that if the Debtor fails to make any required payments to Cleary Bros, Cleary Bros may recover the amount of those payments from me personally.

I/We certify that I/We have had the opportunity of taking independent legal advice in relation to the meaning and effect of this guarantee.

SIGNED SEALED AND DELIVERED BY:

Signature of Guarantor:
Print name and address:
.....

Signature of Guarantor:
Print name and address:
.....

Signature of Witness:
Print name and address:
.....

Signature of Witness:
Print name and address:
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