



- 3 The Guarantor will pay to the Supplier on demand any part of the Debt that the Customer fails to pay on the due date, whether or not the Supplier has demanded payment from the Customer.
- 4 If all or any part of the Debt is not or ceases to be recoverable from the Customer for any reason so that all or any part of the Debt is not recoverable from the Guarantor as surety, then as separate, additional and severable agreements the Guarantor:
- (a) Unconditionally indemnifies the Supplier against all loss, damage, costs and expenses whether direct or consequential which the Supplier incurs because of any of these matters; and
  - (b) Will pay the amount of the loss, damage, costs of expenses to the Supplier on demand.
- This indemnity applies whether the relevant transactions were void from the beginning or were subsequently avoided, and even if any of the relevant facts were or should have been known to the Supplier.
- 5 This Guarantee is a continuing guarantee and a continuing indemnity for the whole of the Debt and is irrevocable. It will not be discharged by any settlement of account or intervening payment while any part of the Debt remains owing.
- 6 To give effect to this Guarantee the Supplier may act as though the Guarantor were a principal debtor. The Guarantor waives any rights as surety that may at the time be inconsistent with the provisions of this Guarantee or that would restrict the Supplier's rights under it.
- 7 Where this Guarantee is given by more than one person, the obligations of the Guarantor under this Guarantee take effect as joint and several obligations and references to the Guarantor take effect as references to all those persons or any of them. No Guarantor who executes this Guarantee will be released from liability under this Guarantee because:
- (a) Any other Guarantor named in this Guarantee does not execute this Guarantee; or
  - (b) This Guarantee ceases to be binding as a continuing security on any other Guarantor; or
  - (c) The Supplier releases any other Guarantor from liability under this Guarantee.
- 8 The Supplier may from time to time without discharging the Guarantor from liability under this Guarantee and without notice to or the consent of the Guarantor:
- (a) Grant time or any concession or indulgence to the Customer;
  - (b) Compound, deal or compromise with or release the Customer in relation to all or any part of the Debt; or
  - (c) Postpone the exercise of or enforce or refrain from enforcing any right, power, remedy or other security of or available to the Supplier in respect of the Debt.
- 9 This Guarantee will at all times be valid and enforceable against the Guarantor despite:
- (a) The winding up, bankruptcy or death of the Customer or any other Guarantor;
  - (b) The fact that no notice, claim or demand for payment has been given to or made on the Customer, or that no action has been taken against the Customer for payment;
  - (c) The fact that any negotiable instrument or other security is outstanding or in circulation at the time proceedings are taken against the Guarantor under this Guarantee; or
  - (d) Any other matter which, but for this provision, would cause the release of the Guarantor from this Guarantee under the law relating to sureties.
- 10 The Guarantor will pay interest on amounts due and payable but unpaid under this Guarantee at the rate specified in the Supplier's terms and conditions of hire from time to time. This interest will accrue on a daily basis and the Supplier may capitalise it on the last day of each month without notice to the Guarantor.

- 11 If any payment made to the Supplier by or on behalf of the Customer in respect of the Debt is subsequently avoided or set aside for any reason, that payment will be deemed not to have discharged or affected the Guarantor's liability under this Guarantee. In that event, the Supplier will be restored to the position in which it would have been if the payment had not been made.
- 12 Until the Supplier receives all of the Debt, the Guarantor will not without the Supplier's written consent:
- (a) Claim the benefit or seek the transfer of any guarantee, indemnity or security the Supplier holds for the Debt; or
  - (b) If the Customer is subject to any insolvency administration, lodge any proof of debt or similar claim for any debt or liability owed by the Customer to the Guarantor, nor enforce any security the Guarantor holds from the Customer. The Guarantor will hold the debt, liability, right of proof or security in trust for the Supplier and will, at its request, exercise its rights to any of them as the Supplier directs.
- 13 The Guarantor hereby grants the Supplier a security interest over all the Guarantor's present and after acquired personal property during the continuance of this Guarantee, to secure all money payable under this Guarantee, and agrees to execute any additional documents that may be required by the Supplier to attach and perfect this security interest. The Guarantor waives the right to receive a verification statement.
- 14 As further security for all money payable under this Guarantee, the Guarantor grants the Supplier a mortgage over all real property of the Guarantor and will permit the Supplier to place a caveat on the title of any real property that the Guarantor owns and, if and when the Supplier requests the Guarantor to do so, execute in favour of and deliver to the Supplier a registrable mortgage over all or any of the Guarantor's real property in the form and containing the powers and provisions the Supplier reasonably requires. The Guarantor will pay all costs associated with the preparation and execution of the mortgage and do everything necessary to assist the Supplier to register the mortgage, including obtaining the consent of any prior mortgagee to the registration of the mortgage. The Guarantor hereby irrevocably appoints the Supplier as its attorney for the purpose of executing such registrable mortgage.
- 15 If the Guarantor provides any security in support of his obligations under this Guarantee, the Supplier may retain the security for seven (7) months after the date of payment in full or other discharge of the Debt.
- 16 A certificate signed by an officer of the Supplier stating an amount payable by the Customer or any other matter concerning the Debt is sufficient evidence of the amount or matter unless the Guarantor proves it is incorrect.
- 17 This Guarantee binds the Guarantor's legal personal representatives and successors and enures for the benefit of the Supplier's successors, assigns and transferees.
- 18 This Guarantee is governed by and to be interpreted in accordance with the laws of New Zealand.
- 19 In this Guarantee "**insolvency administration**" includes, without limitation:
- (a) In the case of a company, the appointment of a liquidator, provisional liquidator or voluntary administrator;
  - (b) In the case of an individual, becoming or being declared bankrupt or entering into a deed of arrangement with creditors under any applicable law; and
  - (c) In any case:
    - (i) The appointment of a trustee, receiver, and manager or similar officer to the company or individual, or of an agent for a mortgagee in respect of any property;
    - (ii) Making an assignment for the benefit of or entering into a composition or arrangement with creditors; or
    - (iii) Becoming or being deemed or declared insolvent under any applicable law or being unable to pay debts as they fall due.

20 The expression “**this Guarantee**” means the guarantee and the indemnity given by the Guarantor under this document.

**EXECUTED AS A DEED** the \_\_\_\_\_ day of \_\_\_\_\_ 2020

**Signed by** [ \_\_\_\_\_ ] in the presence of: \_\_\_\_\_

Witness to signature:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

**Signed by** [ \_\_\_\_\_ ] in the presence of: \_\_\_\_\_

Witness to signature:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

**Signed by** [ \_\_\_\_\_ ] in the presence of: \_\_\_\_\_

Witness to signature:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

**THE GUARANTOR IS ADVISED TO SEEK INDEPENDENT LEGAL ADVICE PRIOR TO THE EXECUTION OF THIS GUARANTEE.**