

**GUARANTEE AND INDEMNITY**

To: ESCARE HOLDINGS PTY LTD ACN 065 386 110 of 55-57 Ogilvie Avenue, Echuca, VIC, 3564 in the state of Victoria (thereinafter call the “supplier”)

IN CONSIDERATION of you having at our request agreed to supply or to continue to supply goods previously provided to for or on behalf of:

\_\_\_\_\_ (company/business applying for credit)

I / We,

\_\_\_\_\_ (Director/Partner/Sole Trader)

\_\_\_\_\_ (Director/Partner/Sole Trader)

\_\_\_\_\_ (Director/Partner/Sole Trader)

\_\_\_\_\_ (Director/Partner/Sole Trader)

(“Guarantors”)

**Jointly and severally Covenant and Agree with the Supplier it successors and assigns as follows:**

1. We, the guarantors named above (and referred to as “we” or “us”, and for this purpose the plural includes the singular), request that you supply the customer on the terms set out in the Terms and Conditions and we request that you allow the customer credit on the terms set out in the Terms and Conditions.
2. In consideration of you agreeing on any occasion to make any supply to the customer and/or agreeing to allow the customer any credit we:
  - (a) guarantee that the customer will perform all its obligations to you in any contract for supply or credit that comes into being on the terms set above (“contract”).
  - (b) will pay you on demand any amount which you are entitled to recover from the customer pursuant to any contract irrespective of whether you have first demanded payment from the customer or whether you have first incurred any expense or exercised or exhausted your legal rights against the customer; and
  - (c) indemnify you against all loss and damage arising from or in connection with you having entered into any contract as requested, including but not limited to principal, interest, costs, expenses, taxes, legal and accountancy costs, consultancy costs, court or tribunal filing fees and all other reasonably incurred expenses whatsoever, whether from the customer’s failure to perform its obligations under it or from the terms of supply or credit being or becoming unenforceable against the customer.
3. Our liability will not be affected by:

- (a) you granting the customer or any guarantor time or any other indulgence, any delay by you in acting, or you agreeing not to sue the customer;
  - (b) any failure of any guarantor to sign this document; or
  - (c) any purported transfer or assignment by the customer of its rights.
4. We agree that:
- (a) our liability and indemnity is a principal obligation enforceable against each of us in addition to the liability of the customer and is not affected by the law of guarantees;
  - (b) the guarantee provided by us covers any level of credit that you provide to the customer in the ordinary course of your business;
  - (c) you may assign your rights under this guarantee without our consent;
  - (d) you may retain all money received including dividends from the customer's bankrupt estate, and need allow us a reduction in our liability under our guarantee only to the extent of the amount received;
  - (e) we will not seek to recover money from the customer to reimburse us for payments made to you until you have been paid in full;
  - (f) we will not prove in the bankruptcy or winding up of the customer for any amount which you have demanded from us; and
  - (g) we must pay you all money which you refund to the customer's liquidator or trustee in bankruptcy as preferential payments received from the customer.
  - (h) if any of the customer's obligations to you are unenforceable against the customer, then this clause is to operate as a separate indemnity and we indemnify you against all loss and damage resulting from your inability to enforce performance of those obligations. The Guarantor must pay Cadell the amount of the loss and damage resulting from the unenforceability.
  - (i) If there is more than one of us, this guarantee binds us separately, together and in any combination.
5. We charge all our estate, real and personal, present and future, in your favour to better secure our obligations to you in respect of any credit you allow us or pursuant to any contract between us.
6. You may, at any time, register a financing statement on the Personal Properties Securities Register for any security interest arising out of or evidenced by this document and we waive the right to receive notices under section 157(1) of the Personal Property Securities Act ("the PPSA").
7. We will sign any documents and do anything necessary to enable you to register a financing statement and to enforce your rights and perform your obligations under the PPSA. In particular, if we are a natural person or persons we will provide you with our date of birth and a certified copy of a driver licence issued by an Australian state (or other evidence acceptable to you) to confirm our date of birth (provided that you must keep our date of birth and any evidence provided to confirm it secure and confidential except as otherwise agreed).
8. We will deal with you only on the basis that, in accordance with section 275(6)(a) of the PPSA, neither of us will disclose information of the kind mentioned in subsection 275(1).

9. We hereby authorise you to provide our information, including “personal information” to any credit reporting agency or “credit provider” at any time in connection with this Agreement for purposes including but not limited to the following:
  - (a) to obtain a credit report containing personal information about us;
  - (b) to assess our credit-worthiness;
  - (c) to assess our ability to meet our obligations pursuant to in respect of any credit you allow us or pursuant to any contract between you and us;
  - (d) to facilitate collection of any monies that we owe you; and/or
  - (e) to exchange information with any credit reporting agency or credit provider regarding the performance or non-performance of our obligations in respect of any credit that you allow us.
10. For these purposes we agree that “personal information” means personal information within the meaning of the Privacy Act 1988 (Cth) as amended from time to time (which we acknowledge may include:
  - (a) our full name including any known aliases, gender, date of birth, current and previous addresses, current or last known employer;
  - (b) our driver licence number(s) and copy of any driver licence;
  - (c) details of our application for credit and account with you including the amount of credit applied for (where applicable);
  - (d) details of cheques drawn by us for more than \$100.00 which have been dishonoured more than once; and
  - (e) that any credit provided to us by you has been paid or otherwise discharged;
  - (f) details relating to our credit history and/or eligibility for credit;
  - (g) any information which you have about any application for credit made by us; and/or
  - (h) any information as to the nature in which the credit account between you and us has been conducted).
11. We also agree that for these purposes “credit provider” means a credit provider within the meaning of the Privacy Act 1988 (Cth), and also includes any trade references that are not credit providers within the meaning of section 6G the Privacy Act 1988 (Cth).
12. We will do all things reasonably necessary to give effect to our guarantee and indemnity as contemplated above.

Guarantor 1

Given Name(s), Surname \_\_\_\_\_

Signature of Guarantor \_\_\_\_\_

Witness for Guarantor 1

Given Name(s), Surname \_\_\_\_\_

Signature of Witness \_\_\_\_\_

Guarantor 2

Given Name(s), Surname \_\_\_\_\_

Signature of Guarantor \_\_\_\_\_

Witness for Guarantor 2

Given Name(s), Surname \_\_\_\_\_

Signature of Witness \_\_\_\_\_

Guarantor 3

Given Name(s), Surname \_\_\_\_\_

Signature of Guarantor \_\_\_\_\_

Witness for Guarantor 3

Given Name(s), Surname \_\_\_\_\_

Signature of Witness \_\_\_\_\_