

## BACKGROUND

This Guarantee and Indemnity (**Guarantee**) relates to the Credit Application submitted by the customer named below (**Customer**) to William Adams Pty. Ltd. ACN 009 569 493 (**Company**).

Customer Name \_\_\_\_\_ ACN/ABN/ARSN \_\_\_\_\_

Trading Name (if different from above) \_\_\_\_\_ ABN \_\_\_\_\_

This Guarantee is between the Company and the person(s) stated below (**Guarantor(s)**):

Full name \_\_\_\_\_ Date of Birth / /

Residential Address \_\_\_\_\_ Driver's Licence No. \_\_\_\_\_

Full name \_\_\_\_\_ Date of Birth / /

Residential Address \_\_\_\_\_ Driver's Licence No. \_\_\_\_\_

## TERMS OF GUARANTEE AND INDEMNITY

1. The Guarantor(s) jointly and severally unconditionally and irrevocably guarantee to the Company the due and punctual: (a) payment by the Customer of all monies actually or contingently owing now or in the future to the Company by the Customer either alone or jointly or severally with another person on any account whatsoever (**Amounts Due**), including without limitation in respect of goods or services supplied (or to be supplied) to, or equipment rented (or to be rented) by, the Customer; and (b) performance by the Customer of all of its obligations contained or implied in any contract or agreement with the Company (**Customer Obligations**), including without limitation all obligations contained in the Company's Credit Application Terms and Conditions, [Conditions of Quotation and Sale](#) and [Rental Terms](#).
2. If the Customer defaults in payment of the Amounts Due, the Guarantor(s) must pay that money to, or as directed by, the Company, in full without set-off, counterclaim or deduction, immediately on demand. The Company has absolute discretion as to the manner in which it applies money it receives under the Guarantee.
3. This Guarantee is a continuing guarantee and indemnity for all Amounts Due and all Customer Obligations.
4. The Guarantor(s)' obligations are principal obligations and are not ancillary or collateral to any other right or obligation. The Company may enforce the Guarantor(s) obligations without first being required to proceed against the Customer, exhaust any remedy it may have against the Customer, or enforce any security it may hold with respect to the Amounts Due or the Customer Obligations.
5. The liability of the Guarantor(s) is absolute and unconditional, and not affected by anything which, but for this clause, might abrogate, prejudice, avoid or affect it at law or in equity, including without limitation: (a) if the Company grants any extension of time or other indulgence to the Customer or varies the terms of the Customer's account (even if this increases the Guarantor(s)' liability under this Guarantee; (b) by the release of any Guarantor or if this Guarantee is or becomes unenforceable against one or more Guarantors; (c) any payment by the Customer being later avoided by law, whether or not the Guarantor(s) have been given notice of these matters.
6. Until the Amounts Due have been irrevocably paid, and the Customer Obligations performed in full, the Guarantor(s) agree: (a) in the event of any insolvency event of the Customer, that the Guarantor(s) will not, without the Company's prior written consent, lodge any proof of debt or similar claim for any debt or liability to the Guarantor(s) on any account whatsoever, nor enforce any security held by the Guarantor(s) in respect of the Customer and shall hold any such debt, liability or security and any rights or benefits in respect thereof on trust for the Company; (b) on request by the Company, to lodge a proof of debt or similar claim in any such administration and enforce any such security and execute all such documents that the Company may require to enable the Company to have and receive the benefit of or arising from such proof, claim or security; (c) that the Guarantor(s) will not be entitled to share in any security held or money received by the Company or, without the prior written consent of the Company, exercise any right of subrogation to the Company in respect of any security or money; (d) to not take any steps to enforce a right or claim against the Customer in respect of any money paid by the Guarantor(s) to the Company under this Guarantee; (e) to not exercise any rights as surety in competition with the Company; and (f) that the Guarantor(s)' liability under this Guarantee is that of principal debtor.
7. If an amount paid by the Customer to the Company is later avoided or the Company considers that it must, or should (acting reasonably) by way of compromise, pay that amount to another person under any law, the Company's rights under this Guarantee will be reinstated as if the payment had not been made.
8. The Guarantor(s) waive, in favour of the Company, all rights whatsoever against the Company and the Customer and any other person, estate and other assets so far as necessary to give effect to anything contained in this Guarantee.
9. The Guarantor(s) indemnify the Company against all costs, claims, actions and liabilities of whatever nature (either actual or contingent), including legal costs on an indemnity basis, the Company suffers or incurs in connection with or arising in any way from: (a) a breach by the Customer of the Credit Application Terms and Conditions, the [Conditions of Quotation and Sale](#), the [Rental Terms](#) and any other agreement between the Customer and the Company; (b) the business relationship between the Customer and the Company; or (c) the preparation, enforcement or discharge of this Guarantee.
10. If there is more than one Guarantor, they enter into this Guarantee jointly and severally and the Company in its discretion may at any time proceed against any or all of them in respect of the Guarantor(s)' obligations.
11. This Guarantee binds each of the persons executing it from when they execute it even if one or more of the persons named in this Guarantee does not execute or is not or ceases to be bound by it.

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12. The Guarantor(s) must give written notice to the Company of any change to any details contained in this Guarantee within 5 days from the change occurring.
13. A certificate signed by an authorised officer of the Company stating any amounts owing by the Customer or Guarantor(s) to the Company will be conclusive evidence of that indebtedness.
14. As security for the obligations and liabilities of the Guarantor(s), each Guarantor charges all of its legal and beneficial interest (present and future) in any and all real property in favour of the Company. On the Company's request, each Guarantor must at its cost execute any documents and do all things required by the Company to more fully document or better secure this charge on such terms as the Company sees fit or to register a charge or security interest in respect of any of the Guarantor's real property. Each Guarantor also consents to the Company lodging caveats in respect of any of the Guarantor's real property.
15. If a Guarantor fails to deliver any document requested by the Company, that Guarantor appoints the Company or an authorised officer of the Company to be its attorney for the purpose of executing and registering such documents.
16. The Company may recover from the Guarantor(s) the costs incurred by the Company in registering, maintaining and enforcing security interests created or contemplated by the Guarantee.
17. Any demand or notice to be given to the Guarantor(s) under this Guarantee will be deemed to have been given if it is in writing and hand delivered or sent by ordinary prepaid post to the Guarantor(s)' address shown on this form (or any replacement address the Guarantor(s) have provided to the Company in writing) and any demand or notice is deemed to have been received by the Guarantor(s) on the day of hand delivery or, if posted, on the second business day after it is posted.
18. The Company does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the Company.
19. This Guarantee is governed by the laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.
20. Each Guarantor consents and authorises the Company to obtain from any person information about the Guarantor(s) which the Company may require for the purpose of assessing whether to accept the Guarantor(s) as a guarantor for the credit applied for by, or provided to, the Customer. The Guarantor(s) further irrevocably authorise the Company to provide to any third party information about the Guarantor(s) in response to credit references and enquiries or by way of information exchange with credit reference agencies, details of this Guarantee and any subsequent dealings that the Guarantor(s) may have with the Company as a result of this deed being enforced by the Company.
21. The Company complies with the privacy principles imposed by law in relation to the collection and disclosure of information regarding individuals. A copy of the Company's Privacy Policy can be obtained on request or by visiting [www.williamadams.com.au](http://www.williamadams.com.au).

## GUARANTOR(S) ACKNOWLEDGEMENT AND SIGNING

By signing below as Guarantor(s), I/we certify that I/we understand the terms of this Guarantee and Indemnity. In particular, I/we understand that if the Customer fails to make any required payments to the Company, the Company may recover the amount of these payments from me/us personally. In such case, the Company may, amongst other recovery rights, take a charge over any real property I/we own.

**I/we certify that I/we have had the opportunity of taking independent legal advice in relation to the meaning and effect of, and enter into freely, this Guarantee and Indemnity.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_ Year \_\_\_\_\_

### EXECUTED AS A DEED

**Signed, sealed and delivered by Guarantor in the presence of**

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



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



\_\_\_\_\_  
Name of Guarantor (print)

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Address of Witness

**Signed, sealed and delivered by Guarantor in the presence of**

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



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



\_\_\_\_\_  
Name of Guarantor (print)

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Address of Witness