

DATED <<Date>>

DEED OF GUARANTEE AND INDEMNITY

Between

(1) << Name of Guarantor >>

And

(2) << Name of Lender >>

THIS DEED IS MADE the day of

BETWEEN:

- (1) <<Name of Guarantor>> (the “Guarantor”) of <<Registered Address>>, and
- (2) <<Name of Lender>> (the “Lender”) of << Registered Address >>

BACKGROUND

- (1) The Lender has agreed to loan sums to the Borrower pursuant to the Loan Agreement.
- (2) The Lender has requested credit support in respect of the Borrower’s liability to the Lender from time to time under the Loan Agreement, and the Guarantor has accordingly agreed to enter into this Guarantee and Indemnity.

IT IS AGREED:

1. Definitions and Interpretation

Borrower	Shall mean <<Name of Borrower>> Limited, of <<Registered Address>>.
Guaranteed Obligations	Shall mean all present and future payment obligations of the Borrower, incurred or owing by the Borrower to the Lender under the Loan Agreement.
Loan Agreement	Shall mean a Loan Agreement between the Lender and the Borrower, dated on or about the date of this Agreement.
Maximum Amount	Shall mean an amount of £<<state maximum sum payable under this Guarantee and Indemnity>>.
Person	Shall include an individual firm, lender, corporation or unincorporated body of persons.
Security	Shall mean any mortgage, charge, pledge, lien, negotiable and other instrument guarantee, indemnity bond and all other types of security whatsoever.

- 1.1 Where the context so requires, the words "he", "him" and "his" shall include the plural and vice versa, and words importing the masculine gender shall extend to include the other genders.
- 1.2 A reference to any person in this guarantee shall include his successors in title and assigns and shall notwithstanding any change in the constitution of any company or partnership or into or the amalgamation of such company or partnership or the dissolution of all or part of its undertaking extend to any such person or persons.
- 1.3 Clause headings and sub-headings shall not be construed as to affect the construction or meaning of any provision of this guarantee, and shall not affect the operation of any rule of construction.
2. **Guarantee and Indemnity**
- 2.1 In consideration of the Loan Agreement, the Guarantor hereby guarantees the performance of the Guaranteed Obligations of the Borrower. The Guarantor will, on demand, pay the amount of the Guaranteed Obligations of the Borrower that the total amount recoverable from the Guarantor shall not exceed the Maximum Amount.
- 2.2 The Guarantor as a separate obligation to the Lender shall guarantee and indemnify the Lender against all claims, demands, expenses, and liabilities, including but not limited to, costs and disbursements which the Guarantor shall become liable to, arising out of or in connection with the breach by the Borrower of the Guaranteed Obligations, save that the maximum amount recoverable from the Guarantor shall not exceed the Maximum Amount.
3. **Commencement**
- This guarantee shall take effect from the date of its execution by the Guarantor and shall constitute an irrevocable obligation of the Guarantor.
4. **Certification**
- A certificate signed by any of the following persons shall be deemed to be a certificate to the Lender to:-
- 4.1 the amount at any time outstanding under the Loan Agreement;
- 4.2 the fact that an amount is due to the Lender;
- 4.3 the amount of any costs and charges incurred by or on behalf of the Lender such as legal fees and expenses in connection with the guarantee;
- 4.4 the fact that the Borrower is in breach of the Guaranteed Obligations.
- 4.5 The Guarantor shall be deemed to be satisfied as to the facts stated in such certificate.

5. **Interest**

The Guarantor shall pay interest on the amount owing under this Agreement at the rate of << >> % per annum from time to time, such interest to accrue

owing under this Agreement at the rate of << >> base lending rate from time to time

6. **Continuing Security**

This guarantee is a continuing security (as defined below) and shall continue in full force and effect until the Lender by the Borrower

only to termination as mentioned above and shall continue in full force and effect from time to time owing to the Guaranteed Obligations.

7. **Lender's Protections**

7.1 This guarantee shall remain in full force and effect notwithstanding the death, bankruptcy, liquidation, change of name or style of the Guarantor or the Borrower or of any partner or

and effect notwithstanding the death, change in the constitution or in the Borrower (or any retirement or death of any further partner in either the Borrower or the Guarantor) shall remain in full force and effect to all the Guaranteed Obligations.

7.2 The Lender shall not be required to exhaust all its remedies against the Borrower in the event of default against the Guarantor

exhausted all its remedies against the Borrower prior to enforcing its rights against the Guarantor

7.3 This guarantee shall remain in full force and effect notwithstanding

effect notwithstanding

7.3.1 any intermediate payment of the Guaranteed Obligations, whether in whole or in part

Guaranteed Obligations, whether in whole or in part

7.3.2 any neglect, default or failure to pay due under the Loan Agreement

of the Lender in enforcing payment of the Guaranteed Obligations; or

7.3.3 any amendment or variation of the Loan Agreement which the Lender has agreed to from or against the Borrower

termination of any right or remedy which the Lender has agreed to from the date of this Agreement have

7.3.4 any amendment or variation of the Loan Agreement or any of the terms or conditions thereof

termination of the Loan Agreement or any of the terms or conditions thereof; or

7.3.5 the release or discharge of the Guarantor, whether or not the Lender

security or the release of any security or the release of any security shall be given to the Guarantor; or

7.3.6 by the neglect, default or failure to pay any security or guarantee at any time hereunder

or to take any action with respect to the Loan Agreement or guarantee which it may be required to take

7.4 The Guarantor shall remain liable notwithstanding any invalidity, illegality, unenforceability or discharge of the Loan Agreement or any obligation of the Borrower in connection with the Loan Agreement, such liability or obligation shall nevertheless be assumed by the Guarantor as though the same had been incurred or assumed by the Guarantor as the principal obligor.

withstanding any invalidity, illegality, discharge of the Loan Agreement or any obligation of the Borrower in connection with the Loan Agreement, such liability or obligation shall nevertheless be assumed by the Guarantor as though the same had been incurred by the Guarantor as the sole or principal obligor.

8. **No Competition**

8.1 The Guarantor hereby agrees that no security in favour of the Lender shall be created without the

under that the Borrower has created no security in favour of the Lender as long as any of the

- Guaranteed Obligation.
- 8.2 Until the Guaranteed Obligation is paid or discharged in full (which expression shall not include any dividend in a liquidation on formal basis of more than one hundred per cent) the Lender waives all rights of subrogation and will not require repayment of any monies due from the Borrower to the Lender by any set-off or counterclaim against the Borrower or claim against the Borrower with the Lender in the event of insolvency of the Borrower. In the event of any benefit of any share in any other company owned or controlled by the Lender, and in the event of the Lender's standing such waiver, it shall hold the same on trust for the Lender.
9. **Payments to Liquidator**
- In the event of any statutory requirement to pay any sum to a liquidator, such sum when paid by the Lender shall be recoverable from the Borrower within seven days after demand in writing is accepted by the Guarantor on the condition that the Lender shall have the express condition that the Lender shall have the right to recover payment of such sum from the Lender directing the Lender to pay such sum when paid by the Lender to be repaid by the Guarantor within seven days after demand in writing is accepted by the Lender. Such sum shall be treated and repaid or given by the Lender upon the condition that the Lender shall have the right to recover payment of such sum from the Lender as provided herein.
10. **Discharge and Substitution**
- The Guarantor's liability hereunder shall not be discharged, reduced or affected by any compromise or arrangement entered into by the Borrower under the Companies Act 1985 or any statutory modification or enactment relating to liquidation or compromise or arrangement. Any such liability is transferred to the Guarantor and the expression the "Borrower" in this Agreement shall take effect as if it referred to the Guarantor. Where by virtue of any compromise or arrangement a person assumes all or any part of the liability hereunder shall not be discharged, reduced or affected by any compromise or arrangement and the expression the "Borrower" in this Agreement shall take effect as if the person so assuming the liability were the Guarantor.
11. **Guarantor's Warranties**
- The Guarantor hereby warrants that:
- 11.1 it has the full corporate power and authority to enter into this Agreement and to perform the acts required hereunder;
- 11.2 the execution of this Agreement by the Guarantor and the performance by the Guarantor of its obligations hereunder do not and shall not violate any other agreement to which the Guarantor is a party or by which it is otherwise bound; and
- 11.3 when executed and signed by the Guarantor, this Agreement shall constitute the legal, binding and enforceable obligation of the Guarantor, enforceable against it according to its terms.

- 15.2 No failure to exercise any right or remedy provided under this Agreement shall prevent any full or partial waiver of such right or remedy or in part thereof.
- 15.3 No single or partial remedy under this Agreement shall preclude or restrict the availability of any such right or remedy.
- 15.4 Unless specifically provided otherwise, remedies arising under this Agreement are cumulative and do not exclude any remedy provided by law.
16. **Severability**
- Each of the provisions of this Agreement shall be severable from the others and if at any time one or more of such provisions is illegal, invalid or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.
17. **Assignment by the Lender**
- The Lender may assign, transfer or otherwise dispose of all or any part of this Agreement to any third party without notice to the Guarantor, and the Guarantor agrees to participate in the benefit of such assignment.
18. **Notice of Demand**
- 18.1 Any notice or demand in connection with this Agreement shall be in writing and shall be delivered personally to the Guarantor, or sent by post to the Guarantor, in the case of the Lender, or shall be sent by fax.
- 18.2 Any notice or demand shall be deemed to have been received:-
- 18.2.1 If posted, on the day following the day of posting, and
- 18.2.2 If delivered personally, on the day of actual delivery, and
- 18.2.3 If sent by fax, on the day of the first batch thereof.
19. **Applicable Law and Jurisdiction**
- This agreement and any dispute or claim (whether or not arising out of or in connection with it or its subject matter or formation) shall be governed by and construed in accordance with the law of England and Wales.

IN WITNESS OF WHICH the parties have signed this Deed on the day and year first above written.

EXECUTED as a Deed by
<<Guarantor Name>> **LIMITED**

acting by:

.....
Director

.....
Director/Secretary

EXECUTED as a Deed by
<<Lender name>> **LIMITED**

acting by:

.....
Director

.....
Director/Secretary

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