

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 under any other loan facilities, 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, and under any other present or future loan facilities provided by the Lender to the Borrower. To avoid doubt it is declared that this shall include all liabilities and obligations of the Borrower to the Lender, and not just those liabilities and obligations which arise after this Agreement comes into effect.
-------------------------------	--

Loan Agreement	Shall mean a Loan Agreement between the Lender and the Borrower, dated on or about the date of this Agreement
-----------------------	---

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 admits, the singular shall include the plural and vice versa, and words imputing one gender shall include the other genders.

1.2 A reference to any party shall include its successors in title and assigns and this guarantee shall be enforceable notwithstanding any change in the

- constitution of any party with any other by any other person
- 1.3 Clause headings and construction or meaning only, and shall not affect the
2. **Guarantee and Indemnity**
- 2.1 In consideration of the Guarantor hereby guaranteeing the Guaranteed Obligations of the Borrower, the Guarantor will, on demand, pay the
- 2.2 The Guarantor as a separate obligation to the Lender shall indemnify and keep indemnified the Lender against all claims, demands, expenses, and liabilities, costs and disbursements which the Lender shall become liable to, arising out of or in connection with the breach by the Guarantor of its Guaranteed Obligations.
3. **Commencement**
- This guarantee shall take effect from the date of execution and irrevocable obligation of the Guarantor on its execution.
4. **Certification**
- A certificate signed by any person shall be conclusive evidence to:-
- 4.1 the amount at any time owing to the Lender;
- 4.2 the fact that an amount is owing to the Lender;
- 4.3 the amount of any costs and charges incurred by or on behalf of the Lender such as in connection with the Agreement;
- shall for the purposes of the Agreement be conclusive 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 on the basis of 360 days in a year.
6. **Continuing Security**
- This guarantee is a continuing security (as defined below) and shall cover the obligations of the Borrower in respect of the Guaranteed Obligations from time to time owing to the Lender by the Borrower.

7. Lender's Protections

- 7.1 This guarantee shall remain in full effect notwithstanding the death, bankruptcy, liquidation, change in the constitution or in the name or style of the Borrower (or any retirement or death of any partner or any further partner in either the Guarantor or the Borrower) and shall extend to all the Guaranteed Obligations.
- 7.2 The Lender shall not be deemed to have exhausted all its remedies against the Borrower in the event of default by the Borrower prior to enforcing its rights against the Guarantor.
- 7.3 This guarantee shall remain in full effect notwithstanding
- 7.3.1 any intermediate payment of any Guaranteed Obligations, whether in whole or in part;
- 7.3.2 any neglect, delay or omission by the Lender in enforcing payment of any Guaranteed Obligations; or
- 7.3.3 any amendment, variation, discharge, termination of any right or remedy which the Lender may have prior to the date of this Agreement have been made;
- 7.3.4 any amendment, variation, discharge, termination of the Loan Agreement or any of the terms or conditions thereof; or
- 7.3.5 the release of any security or the release of any asset which may be given to the Guarantor; or
- 7.3.6 by the neglect, delay or omission by the Lender to take any action with respect to any security or guarantee which it may have prior to the date of this Agreement.
- 7.4 The Guarantor shall remain liable notwithstanding any invalidity, illegality, unenforceability or discharge of any liability or obligation of the Borrower in connection with the Loan Agreement, and such liability or obligation shall nevertheless be assumed by the Guarantor as though the same had been incurred or assumed by the Guarantor and the Guarantor was the sole or principal obligor.

8. No Competition

- 8.1 The Guarantor hereby agrees that the Borrower has created no Security in favour of the Lender and agrees that no such Security will be created without the prior written consent of the Lender, as long as any of the Guaranteed Obligations remain outstanding.
- 8.2 Until the Guarantee is paid or discharged in full (which expression shall not include any dividend in a liquidation on formal terms of more than one hundred per cent) the Guarantor as between the Lender and the Borrower waives all rights of subrogation and will not exercise any right of repayment of any monies due from the Borrower to the Lender or claim any set-off or counterclaim against the Lender in the event of default by the Borrower or claim any benefit of any share in any other asset of the Borrower by the Lender, and in the event of insolvency of the Borrower, notwithstanding such waiver, it shall hold the same on trust for the Lender.

S

9. **Payments to Liquidator**

In the event of any statutory liquidation of the Borrower, any sum paid by the Lender to pay any sum to a liquidator shall be recoverable from the Borrower within seven days after demand in writing is accepted by the Guarantor on the express condition that the Lender shall have the right to recover payment of

on the Lender directing the Lender to pay such sum when paid by the Lender to be repaid by the Guarantor within seven days. Such sum shall be treated and repaid or given by the Lender upon the condition without prejudice to the Lender's rights as provided herein.

A

10. **Discharge and Substitution**

The Guarantor's liability hereunder shall not be discharged, reduced or affected by any compromise or arrangement made with the Borrower under the Companies Act 1985 or any statutory modification or enactment relating to liquidation or compromise or arrangement of such liability is transferred to another person by the expression the "Borrower" in the agreement with the Borrower, the liability of the Borrower shall be discharged, reduced or affected by the expression the "Borrower"

discharged, reduced or affected by any compromise or arrangement made with the Borrower under Section 425 of the Companies Act 1985 or any statutory modification or enactment thereof or by provisions or arrangements made where by virtue of any such compromise or arrangement no power to the Lender or on any part of this guarantee shall take effect as if the person. 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 the expression shall take effect as if the

M

11. **Guarantor's Warranties**

The Guarantor hereby warrants that:

- 11.1 it has the full corporate power to enter into and perform the acts required by this Agreement;
- 11.2 the execution of this Agreement does not constitute a breach of any other agreement to which the Guarantor is otherwise bound; and
- 11.3 when executed and signed by the Guarantor, this Agreement shall constitute the legal, binding and enforceable obligation against it according to its true meaning and intent;
- 11.4 it shall pay all sums due to the Lender under this Agreement.

to enter into this Agreement and to perform the acts required by this Agreement; the execution of this Agreement by the Guarantor and the performance by the Borrower under do not and shall not violate any other agreement to which the Guarantor is a party or by which it is otherwise bound; and 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 true meaning and intent.

P

12. **Set Off Against the Lender**

All monies payable hereunder by the Lender to the Guarantor shall not be set off against any monies owing by the Lender to the Guarantor or payment hereunder of monies owing by the Guarantor to the Lender that monies may be owing by the Guarantor to the Lender or such other indebtedness of the Guarantor to the Lender.

at any right of set-off in respect of any monies payable hereunder by the Guarantor and if the Borrower is indebted to the Lender on any account, the Lender may demand payment of such accounts notwithstanding any set-off or counterclaim of the Borrower on another account, as if

L

13. **Withholdings**

All payments to be made by the Guarantor to the Lender in funds free of any deduction for any bank transfer

ender hereunder shall be made to the Lender in funds free of any deduction for any bank transfer

E

charges, taxes, levies, in accordance with the conditions or restrictions with respect to such deduction or withholding. The Guarantor shall ensure that after the making of such deduction or withholding, the net amount equal to the amount which would have been received had no such deduction or withholding been required to be made.

fees, deductions, withholdings, the Guarantor is obliged by law to make any such deduction or withholding, the amount due from the Guarantor shall be increased to the extent necessary to ensure that after the making of such deduction or withholding, the Lender receives a net amount equal to the amount which would have been received had no such deduction or withholding been required to be made.

14. Termination

The Guarantor shall be entitled to terminate this guarantee at a date not less than 30 days after the receipt by the Lender of written notice (the "Termination Notice"). Upon the receipt of such notice, all obligations and liabilities incurred and all duties and responsibilities of the Guarantor shall terminate on the date of the Termination Notice hereunder:-

The Guarantor shall be entitled to terminate this guarantee at a date not less than 30 days after the receipt by the Lender of written notice (the "Termination Notice"). Upon the receipt of such notice, all obligations and liabilities incurred and all duties and responsibilities of the Guarantor shall terminate on the date of the Termination Notice hereunder:-

14.1 in respect of all liabilities incurred by the Borrower prior to the Termination Date; and

14.1 in respect of all liabilities incurred by the Borrower prior to the Termination Date, with interest accrued up to the Termination Date charged by the Lender against the Borrower.

14.2 in respect of all liabilities incurred by the Borrower on or after the Termination Date, arising from the commitment or engagement entered into by the Borrower prior to the Termination Date;

14.2 in respect of all liabilities incurred by the Borrower on or after the Termination Date, arising from the commitment or engagement entered into by the Borrower prior to the Termination Date, which might arise or become due to the Lender in connection with any transaction, dealing or engagement entered into either:

14.2.1 prior to the Termination Date;

14.2.2 pursuant to any transaction, dealing or engagement entered into by the Borrower prior to the Termination Date; and

14.2.2 pursuant to any transaction, dealing or engagement entered into by the Borrower prior to the Termination Date, which might arise or become due to the Lender in connection with any transaction, dealing or engagement entered into either:

14.3 for all legal and other costs and expenses incurred by the Lender in enforcing or seeking to enforce its rights under this Agreement.

14.3 for all legal and other costs and expenses which the Lender may incur in enforcing or seeking to enforce its rights under this Agreement, including such liabilities as aforesaid.

15. Variation and Waiver

15.1 Any variation of this Agreement shall be in writing and executed by or on behalf of the parties to the Agreement.

15.1 Any variation of this Agreement shall be in writing and executed by or on behalf of the parties to the Agreement.

15.2 No failure to exercise any right or remedy provided under this Agreement shall prevent any future exercise of such right or remedy.

15.2 No failure to exercise any right or remedy provided under this Agreement shall prevent any future exercise of such right or remedy or constitute a waiver of such right or remedy or an estoppel in part thereof.

15.3 No single or partial exercise of any right or remedy shall preclude or restrict the exercise of any other such right or remedy.

15.3 No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the exercise of any other such right or remedy.

15.4 Unless specifically provided otherwise, the rights and remedies arising under this Agreement are cumulative and do not exhaust the rights and remedies available by law.

15.4 Unless specifically provided otherwise, the rights and remedies arising under this Agreement are cumulative and do not exhaust the rights and remedies available 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 shall be held to be illegal, invalid or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

Each of the provisions of this Agreement shall be severable from the others and if at any time one or more of such provisions shall be held to be 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 part of its rights and obligations under this Agreement, in whole or in part, to any third party, without notice to the Guarantor, and the Guarantor shall be bound by the terms of this Agreement as assigned.

ties to participate in the benefit of

18. **Notice of Demand**

18.1 Any notice or demand in connection with this Agreement shall be delivered personally to the Guarantor, or by post to the Guarantor, in each case to his address as set out in the Schedule.

agreement shall be in writing and sent by post to the Guarantor, in the Lender, or shall be sent by fax.

18.2 Any notice or demand in connection with this Agreement shall be deemed to have been received:-

r shall be deemed to have been

18.2.1 If posted, on the day following the day of posting, and

y following the day of posting, and

18.2.2 If delivered personally, on the day of actual delivery, and

actual delivery, and

18.2.3 If sent by fax, on the day of transmission of the fax.

patch thereof.

19. **Applicable Law and Jurisdiction**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (whether or not arising in contract, tort or otherwise) shall be governed by and construed in accordance with the law of England and Wales.

ut of or in connection with it or its actual disputes or claims) shall be law of England and Wales.

IN WITNESS OF WHICH the parties have hereunto set their hands and seals 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

© Simply-docs CO.G&I.10 – Deed of Guarantee and [REDACTED] n)