

Guarantee

Dated

#insert party name and ABN/ACN/ARBN# ("Guarantor")

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Guarantee

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Guarantee

Details

Deed poll date	
Parties	Guarantor (as described below)
Guarantor	Name #insert full name# ABN/ACN/ARBN #insert# Address #insert# Attention #insert#
Settlement Participant	Name #insert full name# ABN/ACN/ARBN #insert# Address #insert address#
<Choice: If process agent required (see clause 12)>	
Process Agent	Name #insert full name# ABN/ACN/ARBN #insert# Address #insert Process Agent's address (including floor and suite number, if applicable)# <End choice>
Governing law	New South Wales
Recitals	<p>A The Settlement Participant wishes to be eligible to be classified as a Custodial Settlement Participant under the ASX Settlement Operating Rules.</p> <p>B The Guarantor satisfies the financial resources eligibility criteria applicable to a Custodial Settlement Participant under the ASX Settlement Operating Rules.</p> <p>C The Settlement Participant is #describe relationship between the Settlement Participant and the Guarantor eg a wholly-owned subsidiary# of the Guarantor.</p> <p>D To enable the Settlement Participant to be eligible to be classified as a Custodial Settlement Participant under the ASX Settlement Operating Rules, the Guarantor has agreed to give a guarantee of the Settlement Participant's obligations to each Beneficiary on the terms of this guarantee.</p>

Guarantee

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

ASX Settlement Operating Rules means the “ASX Settlement Operating Rules” of ASX Settlement Pty Ltd (ABN 49 008 504 532) as varied (or renamed) from time to time.

Beneficiary means a person identified in Corporations Regulation 7.11.32(2)(a) to (g).

Controller has the meaning it has in the Corporations Act.

Costs includes charges and expenses, including those incurred in connection with advisers.

Custodial Settlement Participant has the meaning it has in the ASX Settlement Operating Rules.

Default Rate means, on any day, the rate 2% per annum above the 2 month Bank Bill Swap Mid Rate on the due date for payment (as made available to the public by ASX Benchmarks Pty Limited, or any other person who takes over the administration of that rate) or if that rate is not available, another rate set by the Beneficiary in good faith.

Details means the section of this guarantee headed “Details”.

Guaranteed Money means all amounts which at any time are or may become actually or contingently payable to a Beneficiary under Corporations Regulation 7.11.32 by the Settlement Participant.

Guarantor means the person so described in the Details.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved; or
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that

person, which is preparatory to or could result in any of (a), (b) or (c) above; or

- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which it can be reasonably deduced it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Process Agent means the person so described in the Details.

Security Interest means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and includes any agreement to create any of them or allow them to exist.

Taxes means taxes, levies, imposts, charges and duties imposed by any authority (including stamp and transaction duties and any goods and services tax) together with any related interest, penalties, fines and expenses in connection with them.

1.2 References to certain general terms

Unless the contrary intention appears, in this guarantee:

- (a) a reference to a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (c) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (d) a reference to a document (including this guarantee) or rules includes any variation or replacement of it;
- (e) the word “law” includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (f) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (g) the word “person” includes an individual, a firm, a body corporate, an unincorporated association and an authority;

- (h) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (j) a reference to the Corporations Act is a reference to the Corporations Act 2001 (Cwlth) and a reference to the Corporations Regulations is to the Corporations Regulations 2001 (Cwlth).

1.3 Next day

If an act under this guarantee to be done by a party on or by a given day is done after 5.00 pm Sydney time on that day, it is taken to be done on the next day.

1.4 Number

The singular includes the plural and vice versa.

1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this guarantee.

2 Benefit

2.1 Benefit

This guarantee is executed as a deed poll. Accordingly, each Beneficiary has the benefit of, and is entitled to enforce, this guarantee even though it is not a party to, or is not in existence at the time of execution and delivery of this guarantee.

2.2 Beneficiary's independent rights

Each Beneficiary may enforce its rights under this guarantee independently from each other Beneficiary.

2.3 Beneficiaries bound

Each Beneficiary and any person claiming through or under a Beneficiary is bound by this guarantee.

2.4 Production

The Guarantor acknowledges that each Beneficiary may request production by the Settlement Participant of this guarantee. The Settlement Participant must arrange production on request. However, the Guarantor need only execute one original counterpart of this guarantee.

3 Guarantee

3.1 Guarantee

The Guarantor unconditionally and irrevocably guarantees to each Beneficiary the due and punctual payment by the Settlement Participant of the Guaranteed Money in respect of that Beneficiary.

The Guarantor agrees to pay the Guaranteed Money on demand from the Beneficiary as if it were the principal debtor if the Settlement Participant does not pay the Guaranteed Money on the due date and in accordance with the Corporations Regulations and applicable law.

3.2 Extent of guarantee

The guarantee in clause 3.1 (“Guarantee”) is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Guaranteed Money. The Guarantor waives any right it has of first requiring the Beneficiary to commence proceedings or enforce any other right against the Settlement Participant or any other person before claiming from the Guarantor under this guarantee.

4 Interest

The Guarantor agrees to pay interest on any amount payable by it under this guarantee which is not paid on the due date for payment.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days. The rate of interest applying to each daily balance is the Default Rate.

The Guarantor agrees to pay interest under this clause on demand from the Beneficiary.

5 Reinstatement of rights

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with this guarantee or the Guaranteed Money is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Beneficiary is immediately entitled as against the Guarantor to the rights in respect of the Guaranteed Money to which it was entitled immediately before the transaction; and
- (b) on request from the Beneficiary, the Guarantor agrees to do anything (including signing any document) to restore to the Beneficiary any Security Interest (including this guarantee) held by it from the Guarantor immediately before the transaction.

The Guarantor’s obligations under this clause are continuing obligations, independent of the Guarantor’s other obligations under this guarantee and continue after this guarantee ends.

6 Rights of the Beneficiary are protected

Rights given to the Beneficiary under this guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing any arrangement under which the Guaranteed Money is expressed to be owing;
 - (ii) releasing the Settlement Participant or giving the Settlement Participant a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Settlement Participant's obligations;
 - (iv) releasing, losing the benefit of, or not obtaining any Security Interest or negotiable instrument;
 - (v) by which a person becomes a Guarantor after the date of this guarantee;
 - (vi) by which the obligations of any person who guarantees any of the Settlement Participant's obligations (including under this guarantee) may not be enforceable;
 - (vii) by which any person who was intended to guarantee any of the Settlement Participant's obligations does not do so, or does not do so effectively;
 - (viii) by which a person who is a co-surety or co-indemnifier for payment of the Guaranteed Money is discharged under an agreement or by operation of law;
 - (ix) by which any Security Interest which could be registered is not registered;
- (b) a person dealing in any way with a Security Interest, guarantee, indemnity, judgment or negotiable instrument;
- (c) the death, mental or physical disability or Insolvency of any person including the Guarantor or the Settlement Participant;
- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by the Beneficiary or any other person;
- (f) an assignment of rights in connection with the Guaranteed Money;
- (g) the receipt of a dividend after Insolvency of any person.

7 No merger

This guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, or Security Interest, or other right or remedy to which the Beneficiary is entitled; or
- (b) a judgment which the Beneficiary obtains against the Guarantor, the Settlement Participant or any other person in connection with the Guaranteed Money.

The Beneficiary may still exercise its rights under this guarantee as well as under the judgment, Security Interest, right or remedy.

8 Guarantor's rights are suspended

As long as there is any Guaranteed Money, the Guarantor may not, without the Beneficiary's consent:

- (a) reduce its liability under this guarantee by claiming that it, the Settlement Participant or any other person has a right of set-off or counterclaim against the Beneficiary; or
- (b) exercise any legal right to claim to be entitled to the benefit of another guarantee, indemnity, or Security Interest that secures amounts including the Guaranteed Money or any other amount payable under this guarantee (for example, the Guarantor may not try to enforce or require the enforcement of any Security Interest the Beneficiary has taken that secures amounts including the Guaranteed Money); or
- (c) claim an amount from the Settlement Participant under a right of indemnity; or
- (d) claim an amount in the Insolvency of the Settlement Participant.

9 Payments

9.1 Manner of payment

The Guarantor agrees to make payments under this guarantee:

- (a) in full without set-off or counterclaim and without any deduction in respect of Taxes unless prohibited by law; and
- (b) if the payment relates to the Guaranteed Money, in the currency in which the payment is due, and otherwise in Australian dollars in immediately available funds.

9.2 Currency of payment

The Guarantor waives any right it has in any jurisdiction to pay an amount other than in the currency in which it is due. However, if the Beneficiary receives an amount in a currency other than that in which it is due:

- (a) it may convert the amount received into the due currency (even though it may be necessary to convert through a third currency to do so) on the day and at such rates (including spot rate, same day value rate or value tomorrow rate) as it reasonably considers appropriate. It may deduct its usual Costs in connection with the conversion; and
- (b) the Guarantor satisfies its obligation to pay in the due currency only to the extent of the amount of the due currency obtained from the conversion after deducting the Costs of the conversion.

9.3 Withholding tax

If the Guarantor is required to deduct an amount in respect of Taxes from a payment under this guarantee, then:

- (a) the Guarantor agrees to deduct the amount (and any further amount it is required to deduct from any further payment due under clause 9.3(b), pay them to the relevant authority in accordance with applicable law and give the original receipts to the Beneficiary); and
- (b) the amount payable is increased so that, after making the deduction and further deductions applicable to additional amounts payable under this clause, the Beneficiary is entitled to receive (at the time the payment is due) the amount it would have received if no deductions had been required.

However, the Guarantor is not required to pay an additional amount under paragraph (b) if the deductions under paragraph (a) would not be required if the Beneficiary (or a person acting on its behalf):

- (i) provided the Guarantor, its agent or any tax authority with their name, address, registration number, Australian tax file number, Australian business number or similar details or any relevant tax exemption or similar details; or
- (ii) ensured that any third party complied with any other statutory requirements (such as making a declaration of non-residence or similar claim) for any relevant tax exemption.

9.4 Suspense account

The Beneficiary may place in a suspense account any payment it receives from the Guarantor for so long as it thinks prudent and need not apply it towards satisfying the Guaranteed Money or other money payable under this guarantee.

10 Representations and warranties

The Guarantor represents and warrants to each Beneficiary that the Guarantor satisfies the financial resources eligibility criteria applicable to a Custodial Settlement Participant under the ASX Settlement Operating Rules.

11 Notices

11.1 To the Beneficiaries

All notices or other communications to Beneficiaries in connection with this guarantee are valid if made by an advertisement published in The Australian Financial Review or any other newspaper circulating in Australia generally.

11.2 To the Guarantor

A notice by a Beneficiary to the Guarantor must be:

- (a) given by the Beneficiary if the Beneficiary is an individual or otherwise by a director, secretary, or officer of the Beneficiary;
- (b) in writing, specifying, in the case of a demand, the Guaranteed Money in respect of which the demand is made; and
- (c) left at the address set out in the Details; or
- (d) sent by prepaid post (airmail, if appropriate) to the address set out in the Details.

However, if the Guarantor has notified a changed address, then communications must be to that address.

11.3 When effective

Communications takes effect from the time they are received or taken to be received or given under clause 11.4 (“When taken to be received”) (whichever happens first) unless a later time is specified.

11.4 When taken to be received

Communications are taken to be received if sent by post, three days after posting (or seven days after posting if sent from one country to another). If a notice is actually received after 5.00 pm in the place of receipt or on a non-business day in that place, it is to be taken to have been received at 9.00 am on the next business day in the place.

A communication to Beneficiaries by an advertisement which is published more than once, is taken to be given on the day it is first published.

11.5 Written acknowledgment

The Guarantor must give written acknowledgment of receipt of a notice immediately on receipt.

12 General

12.1 Ranking

The Guarantor's obligations under this guarantee rank at least equally with all other unsecured and unsubordinated obligations of the Guarantor, other than obligations preferred by mandatory provisions of law.

12.2 Prompt performance

If this guarantee specifies when the Guarantor agrees to perform an obligation, the Guarantor agrees to perform it by the time specified. The Guarantor agrees to perform all other obligations promptly.

12.3 Partial exercising of rights

If the Beneficiary does not exercise a right or remedy fully or at a given time, the Beneficiary may still exercise it later.

12.4 No liability for loss

The Beneficiary is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy.

12.5 Remedies cumulative

The Beneficiary's rights and remedies under this guarantee are in addition to other rights and remedies given by law independently of this guarantee.

12.6 Survival of obligations

Any indemnity, reimbursement, payment or similar obligation in this document given by the Guarantor:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing; and
- (b) is independent of the Guarantor's other obligations under this document or any other document; and
- (c) continues after this document, or any obligation arising under it, ends.

12.7 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Guarantor in connection with this guarantee with the result that the Beneficiary's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

12.8 Governing law

This guarantee is governed by the law in force in the place specified in the Details. The Guarantor and the Beneficiary submit to the non-exclusive jurisdiction of the courts of that place.

<Choice 1: Guarantor has a permanent establishment in the jurisdiction of the governing law>

12.9 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party being delivered to or left at that party's address for service of notices under clause 11 ("Notices"). **<End choice 1>**

<Choice 2: If a foreign Guarantor, ie the Guarantor has no permanent establishment in the jurisdiction of the governing law>

12.10 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left for that party with its Process Agent.

12.11 Appointment of agent for service

The Guarantor irrevocably appoints the Process Agent to receive any document referred to in clause 12.10 ("Serving Documents"). The Guarantor agrees to ensure that the Process Agent deposits with the Guarantor a letter of acceptance of its appointment as process agent under this guarantee addressed to the Guarantor on or before signing this guarantee. If for any reason that person ceases to be able to act as such, the Guarantor must immediately appoint another person within the place specified as the governing law in the Details to receive any such document. **<End choice 2>**

EXECUTED as an irrevocable deed poll.

Guarantee

Signing page

DATED: _____

SIGNED, SEALED AND)
DELIVERED by #**ATTORNEY**)
NAME (UPPERCASE)# as attorney)
for #**COMPANY NAME**)
(UPPERCASE) # under power of)
attorney dated #insert date# in the)
presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....
By executing this deed the attorney
states that the attorney has received
no notice of revocation of the power
of attorney

OR

EXECUTED by #**COMPANY**)
NAME (UPPERCASE)# in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cwlth) by)
authority of its directors:)

.....)
Signature of director)

.....)
Name of director (block letters))

.....
Signature of director/company
secretary*

*delete whichever is not applicable

.....
Name of director/company secretary*
(block letters)

*delete whichever is not applicable