

IMPORTANT: This is a legal document pursuant to which the person(s) named as *Guarantor* below agree to guarantee the performance by the *Client* of all obligations (including the payment of monies) now or in future owed to *Us*.

This *Guarantee & Indemnity* relates to the obligations of _____ ("*the Client*")

This Deed of Personal Guarantee & Indemnity is made on the date specified below between *Us* and the person(s) named below ("*the Guarantor*").

1. Definitions

1.1 In these terms and conditions:

- (a) "*Client*" means the party named as the *Client* above;
- (b) "*Deed*" and "*Guarantee & Indemnity*" mean this Deed of Personal Guarantee & Indemnity;
- (c) "*Guarantor*" means the person or persons named below who have signed this *Deed* and includes their executors and administrators; and
- (d) "*Our*", "*Us*" or "*We*" means National Freight Management Pty Limited ACN 084 615 136, its successors and assigns.

2. Warranties

- 2.1 The *Guarantor* warrants that they have either obtained legal advice in relation to this *Guarantee & Indemnity* or have had a reasonable opportunity to obtain such advice and have elected not to.
- 2.2 The *Guarantor* warrants that this *Guarantee & Indemnity* is given in consideration for *Us*, at the request of the *Guarantor*, supplying and continuing to supply goods and/or services to the *Client*.
- 2.3 The *Guarantor* warrants that they have received and understand *Our* current Terms & Conditions of Trade prior to signing this *Guarantee & Indemnity*.

3. Guarantee & Indemnity

- 3.1 The *Guarantor* hereby guarantees to *Us* the due and punctual payment of all monies which are now owing, or which may in future become owing, by the *Client* to *Us* in respect of the supply of goods or services by *Us* and the performance of all the obligations of the *Client* pursuant to any agreement with *Us* including, without limitation, any Credit Agreement or other agreement incorporating the AUSGMS - Terms & Conditions of Trade (as varied from time to time). The *Guarantor* hereby indemnifies *Us* from and against all losses, costs, expenses and disbursements of whatever nature incurred or payable by *Us* directly or indirectly in connection with exercise of *Our* rights under this *Deed* (including, without limitation, legal fees on a solicitor-client basis, collection agency costs, stamp duty and registration fees). The *Guarantor's* liability under this clause is unlimited.
- 3.2 The *Guarantor* hereby charges all their right, title and interest in any real property or other assets capable of being charged that they, or any of them, own or hereafter own either solely or jointly, in *Our* favour as security for the performance of the *Guarantor's* obligations pursuant to this *Guarantee & Indemnity* and authorises *Us* to register a Caveat over the title of any such property in the event of a default by the *Client* under any agreement with *Us*.
- 3.3 This *Guarantee & Indemnity* is continuing and irrevocable and the obligations of the *Guarantor* are absolute and unconditional in all circumstances. This *Guarantee & Indemnity* shall remain in full force and until *We* execute a release in writing.
- 3.4 This *Guarantee & Indemnity* continues despite the payment of any part of any monies and despite any time or other concession or compromise extended by *Us* to the *Client* or any other person. If any payment received or recovered by *Us* is avoided by law such payment shall be deemed not to have discharged the liability of the *Guarantor*, and the parties shall each be restored to the position in which they would have been had the payment not been made.
- 3.5 The *Guarantor* may not set off against or deduct from any monies payable under this *Deed* any sums owed or claimed to be owed by *Us* to the *Client* or the *Guarantor*.
- 3.6 This *Guarantee & Indemnity* will not be affected by *Our* neglect or omission to enforce any of *Our* rights or releasing any security in whole or in part or if the *Client* or *Guarantor* dies or becomes of unsound mind or bankrupt or being a Company goes into liquidation or any other obligation of the *Client* for any reason becoming unenforceable in whole or in part.
- 3.7 This *Guarantee & Indemnity* is a principal obligation and is not to be treated as ancillary or collateral to any obligation to the intent that this *Guarantee & Indemnity* will be enforceable notwithstanding that any agreement and other obligations arising between *Us* and the *Client* are in whole or part unenforceable for any reason.
- 3.8 The *Guarantor* further agrees that so far as any money remains owing to *Us* under this *Deed*, the *Guarantor* shall not do any of the following things without *Our* prior written consent: (a) attempt to reduce the *Guarantor's* liability under this *Guarantee & Indemnity*; (b) make any claim or enforce any right against *Us*; or (c) prove any debt in competition with *Us* if the *Client* is placed into liquidation or receivership.
- 3.9 We need not first exercise its rights against the *Client* before exercising its rights hereunder against the *Guarantor*.
- 3.10 If there is more than one (1) *Guarantor* named in this *Deed* this *Deed* is binding on each of them jointly and severally.

- 3.11 This *Deed* shall be enforceable against any and all persons named as, and who have signed as, *Guarantor* notwithstanding that any other person(s) named as *Guarantor* have not executed this *Deed*.

4. Personal Property Securities Act

- 4.1 In this clause '*attaches*', '*financing statement*', '*financing change statement*', '*personal property*', '*security agreement*', '*security interest*' and '*verification statement*' have the meanings given to them by the *PPSA*. "*PPSA*" means the *Personal Property Securities Act 2009* (Cth).
- 4.2 The *Guarantor* hereby charges all of the *Guarantor's* right, title and interest in the *Guarantor's* personal property as security for the performance of the *Guarantor's* obligations under this *Deed*
- 4.3 The *Guarantor* acknowledges and agrees that: (a) this *Deed* constitutes a *security agreement* for the purposes of the *PPSA*, (b) a *security interest* exists in all of the *Guarantor's* existing and future personal property (and their proceeds), and (c) *We* have not agreed to postpone the time the *security interest attaches* to the *Guarantor's* personal property.
- 4.4 The *Guarantor* shall: (a) promptly sign all documents and provide any further information that *We* may reasonably require to register a *financing statement* or *financing change statement* in relation to a *security interest* granted to *Us* under this *Deed* or any other document required to be registered under the *PPSA*, and (b) on demand reimburse *Us* for all costs and expenses incurred in registering a *financing statement* or *financing change statement*.
- 4.5 The *Guarantor* irrevocably appoints *Us* and each of *Our* directors as the *Guarantor's* true and lawful attorney for the purpose of performing all acts and signing all documents necessary to give effect to this clause.
- 4.6 Any requirement under the *PPSA* on *Our* part to give a notice to the *Guarantor* shall not, to the extent that the requirement may be contracted out of (including, without limitation, under Section 115(1) of the *PPSA*), apply to this *Deed*. Further, to the extent that the *Guarantor* may waive the right to receive a notice under the *PPSA* (including, without limitation, notice in relation to a *verification statement* under Section 157(1) of the *PPSA*), the *Guarantor* waives that right.
- 4.7 The *Guarantor* irrevocably authorises and licenses *Us* to enter upon the *Guarantor's* property or premises, without notice, and without being in any way liable to the *Guarantor*, if *We* have cause to exercise any of *Our* rights under Section 123 of the *PPSA*, and the *Guarantor* shall indemnify *Us* from any claims made by any third party as a result of such exercise.
- 4.8 The parties agree to treat information of the kind referred to in Section 275(1) of the *PPSA* as confidential. Neither party will disclose, send or make available any of the information referred to in Section 275(1) of the *PPSA* to any person except as required by law or the Agreement. The parties acknowledge and agree that this clause 4.8 constitutes a confidentiality agreement pursuant to Section 275(6) of the *PPSA*.

5. Privacy Consent

- 5.1 The *Guarantor* irrevocably authorises *Us* to: (a) obtain from any third party any information *We* require for assessing this *Guarantee & Indemnity*, and (b) provide to any third party, in respect to credit references and enquiries about the *Guarantor* or by way of information exchange with credit reporting agencies, details of this *Guarantee & Indemnity* and any subsequent dealings that *Us* may have with the *Guarantors* as a result of any enforcement of this *Deed*.
- 5.2 The *Guarantor* acknowledges and agrees that the information referred to in clause 5.1 may be used by *Us* for any purpose in connection with the assessing of the creditworthiness of the *Guarantor* and any enforcement of the *Guarantee & Indemnity*.

6. General

- 6.1 The terms in the *Deed* may not be varied, waived, discharged or released, except with the prior written consent of the parties.
- 6.2 This *Deed* shall be governed by and constructed pursuant to the laws of the State or Territory in which *We* have *Our* principal place of business.
- 6.3 The parties agree that a construction of this *Deed* that results in all provisions being enforceable is to be preferred to a construction that does not so result. Notwithstanding, if a provision of this *Deed* is illegal or unenforceable:
 - (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
 - (b) in any other case, the whole provision is severed, and the remainder of the *Deed* continues in force.

Executed as a Deed by:

Guarantor (1)

Date: ____ / ____ / ____

Signature: X

Full Name: _____

Date of Birth: _____

Home Address: _____

State: _____ P/C: _____

Witness

Signature: X

Full Name: _____

Guarantor (2)

Date: ____ / ____ / ____

Signature: X

Full Name: _____

Date of Birth: _____

Home Address: _____

State: _____ P/C: _____

Witness

Signature: X

Full Name: _____

Signed on behalf of

Signature: X

Full Name: _____

Witness: X

Witness Name: _____