



ACN 141 112 094
ABN 61 141 112 094
Address: 135 Learmonth St, Alfredton Vic 3350
Ph : 03 5334 2611
Fax : 03 5334 2677
Email : admin@southernspreaders.com.au

CREDIT ACCOUNT APPLICATION

COMPANY DETAILS:

Company Name (Customer Name) : _____

Trading As: _____

Type of Business: _____

Australian Company Number (ACN): _____

Australian Business Number (ABN): _____

Business Established: _____ Years _____ Months _____

BUSINESS ADDRESS:

Street Address: _____

Suburb: _____ Postcode: _____

Postal Address: _____

Suburb: _____ Postcode: _____

Phone Number: _____ Fax Number: _____

Web Address : _____

Estimated Monthly Purchases: _____

Purchasing Contact Person:

_____ Email: _____

Address: _____

Telephone No: _____ Fax No: _____

Accounts Contact Person: _____ Email: _____

Address: _____

Telephone No: _____ Fax No: _____



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TRADE REFERENCES

Please list four (4) companies for trade references:

Name of Company: _____

Person to Contact: _____

Telephone No: _____ Fax No: _____

Name of Company: _____

Person to Contact: _____

Telephone No: _____ Fax No: _____

Name of Company: _____

Person to Contact: _____

Telephone No: _____ Fax No: _____

Name of Company: _____

Person to Contact: _____

Telephone No: _____ Fax No: _____

DIRECTORS NAMES:

1. Given Names: _____ Surname: _____

Suburb: _____ Postcode: _____

Date of Birth: _____ Driver's Licence No: _____

2. Given Names: _____ Surname: _____

Suburb: _____ Postcode: _____

Date of Birth: _____ Driver's Licence No: _____

Terms & Conditions of sale

Southern Spreaders P/L Goods are only available for purchase upon the terms and conditions set out below.

Interpretation

1. In terms and conditions:
 - (1) **"Southern Spreaders"** means Southern Spreaders Pty. Ltd. A.C.N. 141 112 094 trading as Southern Spreaders Pty Ltd (its successors and assigns) which is the seller of the Goods;
 - (2) **"Purchaser"** means the purchaser of the Goods;
 - (3) **"Goods"** means the products and, if any, the services sold or provided by Southern Spreaders to the Purchaser;
 - (4) **"GST Act"** and **"GST"** are given the meanings referred to in a New Tax System (Goods and Services Tax) Act 1999.
 - (5) **"PPSA"** means the Personal Property Securities Act 2009 (Cth) (as amended);
 - (6) Nothing in these terms and conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying, any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010) and which by law cannot be excluded, restricted or modified.

General

2. (1) The Goods and all other products or services provided by Southern Spreaders are provided subject to these terms and conditions. These terms and conditions and any terms and conditions incorporated herein by virtue of clause 3 hereto shall prevail over all other terms and conditions of the Purchaser or otherwise to the extent of any inconsistency.
- (2) These terms and conditions may not be modified or amended without the expressed written consent of Southern Spreaders endorsed by the Managing Director of Southern Spreaders P/L.

Additional Terms and Conditions

3. From time to time Southern Spreaders may provide additional or extended warranties in respect of certain goods and/or services. Where such additional or extended warranties are provided to a Purchaser in writing they will be incorporated into these terms and conditions provided that in the event of any inconsistency between these terms and conditions and the terms of any additional or extended warranty, the provisions of the additional or extended warranty shall prevail.

Southern Spreaders quotations.

4. Unless previously withdrawn, Southern Spreaders quotations are open for acceptance within the period stated therein or, when no period is stated, with 14 days only of the quotation date. Southern Spreaders reserves the right to refuse any order based on any quotation within 7 days of receipt of the order.

Packing

5. The cost of any special packing and packing materials used in relation to the Goods shall be at the Purchaser's expense notwithstanding that such cost may have been omitted from any quotation.

Shortage

6. The Purchaser waives any claim for shortage of any Goods delivered if a claim in respect thereof has not been lodged with Southern Spreaders within (7) seven days from the date of receipt of the Goods by the Purchaser.

Specifications, etc: Catalogues, etc: Quantities

7. All specifications, (including but not limited to: drawings, particulars of weights, volumes, capacities, dimensions, load factors) are approximate only and any deviation shall not be taken to vitiate any contract with Southern Spreaders or form any claim against Southern Spreaders. The descriptions, illustrations, and performances contained in catalogues, price lists and other advertising matter do not form part of the contract of sale of the Goods. Where specifications, drawings or other particulars are supplied by the Purchaser, Southern Spreaders price is made on estimates of quantities required. Should there be any adjustments in quantities above or below the quantities estimated by Southern Spreaders and set out in a quotation, then any such increase or decrease shall be adjusted on a unit rate basis according to unit prices set out in the quotation.

Performance, Capacities, Chemicals, Liquids, Application Methods, Environmental Effects

8. Any performance, volumes, and/or capacity figures given by Southern Spreaders are estimates only. Southern Spreaders shall be under no liability for damages for failure to obtain such figures unless specifically guaranteed in writing and any such written guarantee shall be subject to the recognised tolerances applicable to such figures. The suitability of chemicals and other liquids for any application and the application methods and the environmental effects shall be the sole decision and responsibility of the Purchaser and the user of the Goods. Southern Spreaders gives no warranty as to the suitability of any chemicals or other liquids for any application, nor the application methods nor the environmental effects, which may result from the use of the Goods. Southern Spreaders shall be under no liability for damages arising out of the use of any chemicals, liquids, or mixtures in the Goods nor for any application, nor for the application methods nor for the environmental effects, which may result from the use of the Goods.

Delivery/Service Times

9. The delivery times and service times made known to the Purchaser are estimates only and Southern Spreaders shall not be liable for late delivery, non-delivery or delay and under no circumstances shall Southern Spreaders be liable for any loss, damage or delay occasioned by the Purchaser or its customers arising from the late or non-delivery or late installation of the Goods.

Loss or damage in transit

10. Southern Spreaders is not responsible for any loss or damage to Goods in transit. Southern Spreaders shall render the Purchaser such assistance as may be necessary to press claims on carriers provided that the Purchaser shall have notified Southern Spreaders and the carriers immediately the loss or damage is discovered on receipt of Goods and shall lodge a claim on the carrier within three days of the date of receipt of the Goods. Insurance of Goods in transit is the responsibility of the Purchaser.

Limit of Liability

11. (1) Southern Spreaders liability for Goods manufactured by it is limited to:
 - (a) where the law implies consumer guarantees into these terms and conditions pursuant to Part 3.2 Division 1 of Schedule 2 to the Competition and Consumer Act 2010 (Cth) ("consumer guarantees") which cannot be excluded and Southern Spreaders breaches a consumer guarantee, the loss and damage the Purchaser is entitled to at law which cannot be excluded by these terms and conditions; and, in all other cases
 - (b) making good any defects by repairing the same or at Southern Spreaders option by replacement within a period not exceeding either 1000 hours or twelve calendar months, whichever comes first, after the Goods have been dispatched provided that:
 - (i) the defects have arisen solely from faulty materials or workmanship;
 - (ii) the Goods have not received maltreatment inattention or interference;
 - (iii) accessories of any kind used by the Purchaser are manufactured or approved by Southern Spreaders;
 - (iv) where applicable, the seals on the Goods remain unbroken;
 - (v) there has been no improper adjustment, calibration or operation;
 - (vi) the use of accessories including consumables, hardware or software (not manufactured by Southern Spreaders) has been approved in writing by Southern Spreaders;
 - (vii) no contamination or leakage has been caused or induced;
 - (viii) any modification to the Goods have been authorised in writing by Southern Spreaders;
 - (ix) there has been no failure to comply with the requirements of all present or future laws or regulations relating to the Goods and/or the use and/or the operation of the Goods; and
 - (x) there has been no use or operation of the Goods outside of the physical, electrical or environmental specifications of the Goods;
 - (xi) there has been no inadequate or incorrect site preparations;
 - (xii) there has been no inadequate or improper maintenance of the Goods;
 - (xiii) it has not been caused by fair wear and tear; and
 - (xiv) firstly the Goods have been thoroughly inspected and any damage (from whatever cause) to the Goods (and in particular – the structure, welding, seams, bolts, booms) has been repaired prior to the Goods being operated, used driven or moved and on each occasion the tanks are filled; and
 - (xv) there has been no failure to comply with the requirements of all present or future laws or regulations relating to the Goods and/or the use and/or the operation of the Goods; and
 - (xvi) there has been no failure to maintain a record of hours of operation (which record shall contain full details of all inspections, repairs and maintenance) and produce same to Southern Spreaders at the time of the claim;
 - (xvii) the defective Goods or any damaged part of the Goods are promptly returned free of cost to Southern Spreaders or a representative of Southern Spreaders;
 - (xviii) all warranty related repairs have been carried out with the prior authorisation of Southern Spreaders;
- (2) If Goods or any part thereof are not manufactured by Southern Spreaders, in particular engines, engine accessories, transmissions, transfer cases, differentials, tyres, tubes, batteries, radios and UHF's, the guarantee of the manufacturer thereof shall be accepted by the Purchaser and is the only guarantee given to the Purchaser in respect of the Goods or that part provided always that



this clause does not seek to exclude the consumer guarantees;

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- (3) In the case of hydraulic systems, Southern Spreaders shall replace defective parts in accordance with clause 11(1) of these conditions, provided that the failure of the part was not related to contamination within the system, Southern Spreaders shall not be liable for labour in the case of repairing hydraulic system defects;
 - (4) Southern Spreaders will not accept liability for damage attributed to fair wear and tear including but not limited to fair wear and tear to nozzles, chains, belts, filters, brake pads, polyethylene bushes and liquid pump valves, valve O-rings, diaphragms and seals;
 - (5) Southern Spreaders shall not be liable for and the Purchaser releases Southern Spreaders from any claims in respect of faulty or defective design of any Goods supplied unless such a design has been wholly prepared by Southern Spreaders and the responsibility for any claim has been specifically accepted by Southern Spreaders in writing and in any event Southern Spreaders liability hereunder shall be strictly limited to the replacement of defective parts in accordance with paragraph 11(1) of these conditions provided always that this clause does not seek to exclude the consumer guarantees;
 - (6) Except as provided herein, all express and implied warranties, guarantees and conditions under statute or general law as to the merchantability, description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are hereby expressly excluded and Southern Spreaders shall not be liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of the Goods or arising out of Southern Spreaders negligence or in any other way whatsoever;
 - (7) The benefit of any warranty provided under these terms and conditions shall only be available to the Purchaser and shall not be transferable by the Purchaser;
 - (8) The warranties provided under these terms and conditions do not extend to second hand or used Goods that may be sold by Southern Spreaders.
12. Southern Spreaders liability for breach of a consumer guarantee is hereby limited (in the case of goods and services not used for personal, domestic or household purposes) to:
- (1) in the case of Goods, any one or more of the following:
 - (a) the replacement of the Goods or the supply of equivalent Goods;
 - (b) the repair of the Goods;
 - (c) the payment of the cost of replacing the Goods or acquiring the equivalent Goods;
 - (d) the payment of having the Goods repaired; or
 - (2) in the case of services;
 - (a) the supplying of the services again; or
 - (b) the payment of the cost of having the services supplied again.

Prices

13. (1) Unless otherwise stated in writing by Southern Spreaders, all prices quoted by Southern Spreaders are inclusive of GST for supplies within Australia and exclusive of GST for exports outside of Australia. Prices quoted are those ruling at the time of quotation or the date the price is given and are based on rates of freight, insurance, customs, duties, taxes, exchange, shipping expenses, sorting and stacking charges, cartage, cost of materials and other charges affecting the cost of production ruling on that date and any alterations thereto either before acceptance of or during currency of the contract shall be to the Purchaser's account.
- (2) For the purpose of 38-185 of the GST Act, the day upon which the seller gives the invoice for the supply shall be the date of the invoice.

Payment

14. (1) The purchase price in relation to the Goods and the cost of the service shall be payable without deduction and or set off and payment thereof shall be made on or before the thirteenth day of the month following the delivery of the Goods or performance of the services unless other terms of payment are expressly stated in writing.
- (2) A decreasing or increasing adjustment and or the issuing of an adjustment note, pursuant to Division 21 and Division 29-C of the GST Act, shall not, in any way, constitute a release, waiver, and or forgiveness of the debt incurred by the Purchaser.

Interest on overdue payments

15. If Southern Spreaders is not paid for any Goods or services on the due date specified in this agreement without prejudice to any other right or remedy, all outstanding money shall bear interest at the rate set, pursuant to the Penalty Interest Rates Act, Victoria, 1986, as such money, together with interest shall be recoverable forthwith from the Purchaser.

Rights in relation to Goods.

16. (1) At all times until the Debts have been paid in full the Purchaser shall be responsible for any loss or damage occasioned to the supplied Goods howsoever occasioned on a strict liability basis and shall indemnify Southern Spreaders against any such loss or damage and shall insure and keep insured the Goods in the name of both the purchaser and Southern Spreaders against such loss or damage to the full extent of the purchase price and shall provide a copy of such Insurance Policy to Southern Spreaders.
- (2) The Purchaser shall have the right to resell Goods but only as fiduciary agent and trustee for Southern Spreaders by way of bona fide sale at full market value and in the ordinary course of its business.
- (3) Until all the Debts have been paid in full:
 - (a) the Purchaser shall take custody of the Goods as trustee, fiduciary agent and bailee for Southern Spreaders;
 - (b) the Purchaser shall keep the Goods separate from any other goods and properly marked, stored, protected and insured;
 - (c) the Purchaser must hold all of the money it receives ("**Proceeds**"):
 - (i) from the sale of any property into which Goods supplied have been incorporated; and
 - (ii) from the sale of Goods or provision of services including the Goods supplied by the Southern Spreaders as bailee, fiduciary agent and trustee for Southern Spreaders, but the Purchaser need not hold on trust any money exceeding the amount of the Debts at the time the money is received.
 - (d) The Purchaser expressly acknowledges that it is bound by the fiduciary obligation created in the preceding paragraph and acknowledges that:
 - (i) it must hold the Proceeds on trust for Southern Spreaders;
 - (ii) it must place the whole of the Proceeds in an account separate from its own moneys (the "**Proceeds Account**");
 - (iii) it must maintain the Proceeds Account separate from its own moneys at all times.
 - (iv) it must maintain proper records for the Proceeds Account.
 - (v) it must not assign or encumber any book debts arising from sales made in circumstances set out in clauses 16(c)(i) and (ii) or do any other act in derogation of Southern Spreaders legal or beneficial interests; and
 - (vi) it must account to Southern Spreaders on demand for all moneys standing to the credit of such account.
 - (e) For the purposes of identification of different consignments of Goods purchased from Southern Spreaders and receipt of Proceeds, the Purchaser agrees that the principle of "Last In, First Out" shall be applied to any items that cannot be distinguished.
 - (f) Southern Spreaders may trace the Proceeds in equity.
- (4) Southern Spreaders may at any time, without notice to the Purchaser and without prejudice to any other rights which it may have against the Purchaser, terminate any contract connected with the Goods and the bailment referred to in clause 16(3) and enter upon any premises owned or occupied by the Purchaser where Southern Spreaders reasonably believes the Goods may be stored, and repossess the Goods without liability for any damaged caused, and subsequently dispose of the Goods at Southern Spreaders discretion if:
 - (a) the Debts are not paid in accordance with these terms and conditions or any other contract or arrangement between Southern Spreaders and the Purchaser; or
 - (b) Southern Spreaders receives notice of or reasonably believes that:
 - (i) a third person may attempt to levy execution against the Goods; or
 - (ii) the Purchaser is insolvent (within the meaning of the Corporations Act 2001) or bankrupt; or
 - (iii) the Purchaser has entered into any arrangement or composition with its creditors, gone into liquidation, or has appointed a receiver, a receiver and manager or administrator.
- (5) If after repossession under clause 16(4) Southern Spreaders sells the Goods, Southern Spreaders shall account to the Purchaser for any proceeds of sale (less expenses of repossession and sale) that exceeds the amount of the outstanding Debts.
- (6) If any Goods belonging to Southern Spreaders are disposed of by the Purchaser or an insurance claim is made in respect of them, Southern Spreaders shall be entitled to trace the sale or insurance proceeds, which proceeds shall be held by the Purchaser in a separate bank account on trust for Southern Spreaders.
- (7) The Purchaser agrees and acknowledges that in the event it sells Goods to a third party on account, it will include in its terms and conditions of sale a provision under which the Purchaser retains title to the Goods until such time that the total amount due in respect of the Goods and all monies owing to the Purchaser have been paid in full by that third party debtor. The Purchaser also agrees and acknowledges that in these instances, it will register its PMSI in accordance with the PPSA in respect of its security interest in the Goods.

PPSA provisions

17. (1) The Purchaser acknowledges that these terms and conditions constitute a security agreement for the purposes of section 20 of the PPSA and that a security interest exists in all Goods (and any associated Proceeds from their sale) previously supplied by Southern Spreaders to the Purchaser (if any) and in all in future Goods (and any associated Proceeds from their sale) that may be supplied to the Purchaser by Southern Spreaders.
- (2) The Purchaser acknowledges that Southern Spreaders has a first ranking purchase money security interest ("**PMSI**") (as defined in section 14 of the PPSA) in the Goods and the Purchaser must not jeopardise such ranking (whether by act or omission).
- (3) The Purchaser acknowledges that it has received value as at the date of first delivery of the Goods and has not agreed to postpone the time for attachment of the security interest (as defined in the PPSA) granted to Southern Spreaders under these terms and conditions.
- (4) The Purchaser will execute documents and do such further acts as may be required by Southern Spreaders to register the security interest granted to Southern Spreaders under these terms and conditions under the PPSA.
- (5) Until ownership of the Goods passes, the Purchaser must not give to Southern Spreaders a written demand or allow any other person to give Southern Spreaders a written demand requiring Southern Spreaders to register a financing change statement under the PPSA in respect of Southern Spreaders interest in the Goods.



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- (6) The Purchaser must indemnify Southern Spreaders and on demand reimburse Southern Spreaders for all costs and expenses incurred by Southern Spreaders in respect of these terms and

conditions including but not limited to Southern Spreaders registering its security interest in the Goods, lodging, discharging or amending any financing statement or financing change statement, or otherwise complying with the PPSA.

- (7) The Purchaser agrees (other than as provided in these terms and conditions) not to sell, lease, mortgage, deal with, dispose of or create or attempt to create any other security interest in or affecting the Goods unless and until the Purchaser's Debts have been satisfied.
- (8) The Purchaser waives its rights under the following provisions of Chapter 4 of the PPSA:
- (a) to receive a notice on enforcement action against liquid assets (section 121(4)),
 - (b) to receive a notice to seize collateral (section 123);
 - (c) to receive a notice of disposal of Goods by Southern Spreaders purchasing the Goods (section 129);
 - (d) to receive a notice to dispose of Goods (section 130);
 - (e) to receive a statement of account following disposal of Goods (section 132(2));
 - (f) to receive a statement of account if no disposal of Goods for each 6 month period (section 132(4));
 - (g) to receive notice of any proposal of Southern Spreaders to retain Goods (section 135(2));
 - (h) to object to any proposal of Southern Spreaders to either retain or dispose of Goods (section 137(2));
 - (i) to redeem the Goods (section 142);
 - (j) to reinstate the security agreement (section 143);
 - (k) to receive a notice of any verification statement (section 157(1) and section 157(3));
- (9) The rights Southern Spreaders may have under the PPSA are supplementary and in addition to those set out in these terms and conditions and do not derogate from the rights and remedies of Southern Spreaders under these terms and conditions or under any other statute or under general law.
- (10) The Purchaser must give 10 business days prior written notice of any proposed change in the Purchaser's name or other identifying characteristics and details.

Purchasers property

18. Any property of the Purchaser under Southern Spreaders custody or control shall be entirely at the Purchaser's risk as regards loss or damage caused to the property or by it.

Storage

19. Southern Spreaders reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Purchaser within (14) fourteen days of a request by Southern Spreaders for such information.

Returned Goods

20. Southern Spreaders shall not be under any obligation to accept Goods returned by the Purchaser and will do so only on terms to be agreed in writing in each individual case.

Goods sold

21. All Goods to be supplied by Southern Spreaders shall be described on the purchase order agreed by Southern Spreaders and the Purchaser and the description on such purchase order modified as so agreed shall prevail over other descriptions including any Purchaser's specification or enquiry.

Cancellation

22. No order may be cancelled except with the consent in writing and on terms, which will indemnify Southern Spreaders against all losses.

No waiver

23. The failure of any party to enforce the provisions of these terms and conditions or to exercise any rights expressed in these terms and conditions shall not be a waiver of such provisions or rights and shall not affect the enforcement of this agreement. The exercise by any party of any of its rights expressed in this agreement shall not preclude or prejudice such party from exercising the same or any other rights it may have irrespective of any previous action taken by that party.

Force Majeure

24. If by reason of any fact, circumstance, matter or thing beyond the reasonable control of Southern Spreaders is unable to perform in whole or in part any obligation under these terms and conditions then Southern Spreaders shall be relieved of that obligation under these terms and conditions to the extent and for the period that it is so unable to perform and shall not be liable to the Purchaser in respect of such inability.

Passing of risk

25. Risk in the Goods shall pass to the Purchaser upon delivery of the Goods to the Purchaser or collection of the Goods by the Purchaser's agent or carrier as the case may be.

Exclusion of liability

26. To the extent permitted by law Southern Spreaders shall not be liable to the Purchaser in contract or in tort arising out of, or in connection with, or relating to, the performance of the Goods or any breach of these conditions or any fact, matter or thing relating to the Goods or error (whether or not it is negligent or a breach of contract) in information supplied to the Purchaser or a user before or after the date of the Purchaser's or user's use of the Goods and Southern Spreaders shall be under no liability for damages arising out of the use of any chemicals, liquids, or mixtures in the Goods, nor for any application, not for the application methods nor for the environmental effects, which may result therefrom or from the use of the Goods.

Exclusion of representations and arrangements

27. To the extent permitted by law the terms and conditions supersede and exclude all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of the Goods or any part thereof including, but without limiting the generality of the foregoing, those relating to the performance of the Goods or any part thereof or the results that ought to be expected from using the Goods.

Place of contract

28. The contract for sale of the Goods and the provision of the services is made in the State of Victoria and the Purchaser agrees to submit all disputes arising with Southern Spreaders to the courts of such State and any court competent to hear appeals therefrom.

Directors Guarantee

29. The Directors shall sign the Directors Guarantee and Indemnity which forms part of this Credit Account Application.



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Guarantee and Indemnity

IN CONSIDERATION OF SOUTHERN SPREADERS PTY. LTD. A.C.N. 141 112 094 of 135 Learmonth Street, Alfredton, VIC (hereinafter called the "Credit Provider"), granting credit to:

Business Name.....

of (Address)

(hereinafter called the "customer")

I/We, (Name(s))

of (Address)

(hereinafter called the "Guarantor(s)") IN CONSIDERATION of the Credit Provider having agreed, at the Guarantor's request, subject to the Credit Provider having this Guarantee, to enter into the annexed Credit Facility (hereinafter called "the Credit Facility") with the Company named therein as the Credit Receiver (hereinafter called "the Credit Receiver") HEREBY COVENANT AND AGREE with the Credit Provider and the Guarantee and Indemnity WITNESSETH as follows:-

1. The Guarantor(s) HEREBY JOINTLY AND SEVERALLY UNCONDITIONALLY GUARANTEE to the Credit Provider the due and punctual payment by the Credit Receiver of all money, interest and other monies payable or recoverable from the Credit Receiver under or pursuant to or in connection with the Credit Facility and the due and punctual performance and observance of all terms, conditions and obligations contained or implied in the Credit Facility and on the part of the Credit Receiver to be performed and observed.
2. The Guarantor(s) HEREBY INDEMNIFY and undertake to keep the Credit Provider indemnified in respect of any failure by the Credit Receiver to make any payment or perform or observe any term, condition or obligation referred to in Clause 1 of this Guarantee and Indemnity, such indemnity to include all losses and costs suffered as a result of default of the Credit Receiver and/or any default by me/us under this Guarantee and Indemnity.
3. The liability of the Guarantor(s) shall not be affected by the Credit Provider granting any time or other indulgence to or compounding with the Credit Receiver.
4. This Guarantee shall continue to be binding notwithstanding that the monies owing under the Credit Facility may be assigned or transferred to another person or that the Credit Provider's interest under the Credit Facility may be assigned or transferred to any such person at the time of or subsequent to the aforementioned assignment or transfer and the Guarantor(s) hereby agree to waive each and all of his/her rights as guarantor whether legal, equitable, statutory or otherwise which may at any time be inconsistent with the provisions of this Guarantee and Indemnity or any way restrict the Credit Provider's rights, remedies or recourse.
5. Any demand or notice under this Guarantee may be signed on behalf of the Credit Provider by its solicitors and may be served by delivering the same to the Guarantor(s) to whom such notice or demand is addressed by posting the same to him/her at his/her address appearing herein or as notified to the Credit Provider in writing by the said Guarantor, and, if posted, such demand or notice shall be deemed to have been served on the day following the date of posting PROVIDED HOWEVER that the making of a demand shall not be a condition precedent to the liability of the Guarantor herein.
6. The Guarantor(s) will pay to the Credit Provider all sums of money received by the Credit Provider for the credit of the Credit Receiver and for which the Credit Provider may, in any liquidation or official management of the Credit Receiver, be obliged to account to any liquidator or official manager or other person or may in his discretion so account.
7. This Guarantee shall bind the Guarantor(s) and his/her personal representatives and shall not be in any way affected by the death or bankruptcy of the Guarantor or the winding up of the Credit Receiver.



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- 8. This Guarantee shall be a continuing Guarantee for the purposes of securing the payment of the whole of the monies aforesaid and the performance of the whole of the terms, conditions and obligations as aforesaid notwithstanding any partial payment or performance thereof.
- 9. A Certificate signed by the Credit Provider or by the Solicitors for the Credit Provider as to any sum payable to the Credit Provider pursuant to this Guarantee and Indemnity as at the date set out in such Certificate shall be in all Courts and at all times prima facie evidence of the facts stated therein.

IN WITNESS WHEREOF the Guarantor(s) have hereunto set their hands and seals this _____ day of _____, Two thousand and _____

SIGNED SEALED AND DELIVERED by the _____)
said _____)
in the presence of:- _____)

.....Signature of Witness
.....Full Name
.....Address
..... Occupation

SIGNED SEALED AND DELIVERED by the _____)
said _____)
in the presence of:- _____)

.....Signature of Witness
.....Full Name
.....Address
..... Occupation