

ANNEXURE C
GUARANTEE AND INDEMNITY

By: _____

of _____

("the Indemnifier")

IN FAVOUR OF:

HARRIDAN PTY LTD ACN 010 335 458 of 20 –26 Burchill Street, Loganholme in
the State of Queensland ("the Seller")

IN CONSIDERATION of the Seller entering into the contract of sale of which this Annexure C forms part with the Buyer of the Property more fully described in the contract, the Indemnifier **HEREBY AGREES** with the Seller AND IT IS HEREBY AGREED by and between the parties as follows:

1. The Indemnifier:

- 1.1 Undertakes to indemnify the Seller and keep the Seller indemnified against any failure by the Buyer to perform and observe the terms and conditions of the Agreement whether or not the same are enforceable by the Seller against the Buyer.
- 1.2 Guarantees the Seller that the Buyer will punctually perform and observe all the Buyer's obligations under the Agreement including the due and punctual payment of all monies payable by the Buyer under the Agreement.
- 1.3 Agrees that if at any time any of the obligations of the Buyer or any of the terms and conditions of the said Agreement are not duly and punctually observed and performed, the Indemnifier will on demand observe and perform the same and pay all the Seller's costs (as between solicitor and own client) and expenses arising out of or in connection with the non-observance or non-performance by the Buyer of the Agreement or of this indemnity and guarantee.
- 1.4 Insofar as the Obligations of the Indemnifier are those of a guarantor the Indemnifier agrees that this guarantee shall be a continuing guarantee and that the liability of the Indemnifier shall not be affected by any matter or thing whatsoever and in particular and without in any way limiting the generality of the foregoing shall not be affected by:
 - 1.4.1 the giving or granting to the Buyer or to any other person of any time, credit, consideration, forbearance or other indulgence;
 - 1.4.2 the invalidity or unenforceability either in whole or in part of the Agreement;

- 1.4.3 the variation of any of the terms of the Agreement by agreement between the Seller and the Buyer or any other agreement or arrangement from time to time between the Seller and the Buyer;
- 1.4.4 the release or discharge (wholly or partially) of the Buyer or of any indemnifier whether by operation of law or in any manner otherwise than by full and complete performance by the Buyer of all the obligations to be performed and observed by it or the Seller's inability for any reason to sue the Buyer upon the Agreement or recover any amounts due thereupon from the Buyer;
- 1.4.5 the death, mental incapacity, bankruptcy, assignment for the benefit of creditors, arrangement with creditors, winding up, reconstruction, official management, receivership, liquidation, striking off or other demise of the Buyer or any indemnifier;
- 1.4.6 the Seller becoming a party to or bound by any compromise, assignment of property, scheme of arrangement, composition of debts, or scheme of reconstruction by or relating to the Buyer or any indemnifier or any other person;
- 1.4.7 any transaction or arrangement or agreement whether in respect of the Agreement or otherwise that may take place between the Seller and the Buyer, the Seller and any indemnifier or the Buyer and any indemnifier;
- 1.4.8 the Seller failing or neglecting to exercise or waiving or deferring any or all of its rights or remedies under the Agreement;
- 1.4.9 any lack of capacity or power by the Buyer to enter into the Agreement or by any indemnifier to enter into this Deed of Guarantee and Indemnity;
- 1.4.10 any act or omission on the part of the Seller or any person acting on behalf of the Seller contrary to the interests of the Indemnifier;
- 1.4.11 the obtaining of any judgment against the Buyer or an indemnifier;
- 1.4.12 any actual or alleged set off, defence, counter-claim or other deductions on the part of the Buyer or any indemnifier;
- 1.4.13 any reason that one or more of the persons named herein as Indemnifier may never execute the same or that the execution of this Deed of Guarantee and Indemnity by one or more of such persons (other than the person sought to be made liable hereunder) is or may become unenforceable, void or voidable;
or
- 1.4.14 any other event, act, omission, mistake, laches or default of the Seller or any person whereby the Indemnifier's liability to the Seller would, but for this provision, have been affected or discharged.

- 1.5 Agrees that if any payment made or other obligation performed or to be performed by the Buyer under the Agreement is avoided set aside or otherwise rendered ineffective by statute or otherwise by operation of law such payment or performance as the case may be shall be deemed not to have discharged the obligations of the Indemnifier hereunder and the Indemnifier will forthwith upon the same being so avoided set aside or rendered ineffective make the said payment or perform the said obligations as the case may be.
- 1.6 Agrees that this indemnity and guarantee is in addition to and not in substitution for any other security which the Seller may hold with respect to the Agreement and that it may be enforced without recourse having first been made to such security and without any steps or proceedings having been taken against the Buyer.
- 1.7 Agrees that all monies received by the Seller from or on account of the Buyer including any dividends paid in the bankruptcy or winding up of the Buyer or in the course of any other administration of the affairs of the Buyer on the belief that the Buyer is unable to pay the debts of the Buyer as they fall due and any sums resulting from the realisation or enforcement of any other security capable of being applied by the Seller in reduction of the indebtedness of the Buyer shall be regarded for all purposes as payments in gross without any right on the Indemnifier's part to stand in the Seller's place or claim the benefit of any money so received until the Indemnifier has paid the total indebtedness of the Buyer to the Seller hereunder.
- 1.8 Agrees that the Indemnifier shall be in respect of all sums paid by the Indemnifier hereunder and in respect of any other rights which may accrue howsoever to the Indemnifier in respect of any sum so paid rank and be entitled to enforce the same only after all the monies hereby secured shall have been duly paid and satisfied and that in the event of the bankruptcy or winding up of the Buyer or in the course of any other administration of the affairs of the Buyer on the belief that the Buyer is unable to pay the debts of the Buyer as they fall due the Indemnifier will not prove in the same in competition with the Seller and that the Indemnifier hereby waives in the Seller's favour all rights whatsoever against the Buyer so far as may be necessary to give effect to anything in this indemnity and guarantee contained.
- 1.9 Agrees that every covenant and obligation hereunder is given and undertaken by the Indemnifier as a joint and several covenant and obligation and where there are two or more persons executing this guarantee and indemnity each of them shall be bound jointly and severally.

- 1.10 Agrees that this indemnity and guarantee shall enure for the benefit of the Seller, its successors and assigns and shall be binding on the Indemnifier and the Indemnifier's personal representatives, successors and assigns.
- 1.11 Agrees that this indemnity and guarantee shall be governed and construed in accordance with the laws of the State of Queensland, that the service of any court proceedings in any such action or the giving of any notice under or pursuant to this indemnity and guarantee may be effected by posting a copy of such proceedings or such notice by prepaid post addressed to the Indemnifier at the Indemnifier's address shown herein and that such copy proceedings or notice shall be deemed conclusively to have been received by the Indemnifier on the day after the date upon which it has been posted.
- 1.12 Agrees to pay the Seller upon demand its costs on a Solicitor and own client basis of and incidental to the enforcement or attempted enforcement by the Seller of any of its rights under this granted indemnity.
- 1.13 Agrees that the singular shall include the plural and vice versa; a reference to any gender shall include all genders; a reference in the case of a corporation to winding up shall include official management receivership or scheme of arrangement; and reference to a person includes a reference to a corporation and vice versa.

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED)
 by _____)
 as Indemnifier in the presence of:)

Witness

SIGNED SEALED AND DELIVERED)
 by _____)
 as Indemnifier in the presence of:)

Witness