



Overseas Transport Systems

O.T.S. (Overseas Transport Systems) Australia Pty Ltd ABN 12 109 331 562
T 1300 665 294 Toll Free Australia
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Guarantee & Indemnity 1/2

(1) GUARANTOR

To O.T.S. (Overseas Transport Systems) Australia Pty Ltd ABN 12 109 331 562 of 12b International Drive Tullamarine, Victoria, Australia 3043 (in this Guarantee and Indemnity referred to as the 'Supplier')

(2) GUARANTOR(S) DETAILS

(in this Guarantee and Indemnity referred to as 'Guarantor' or 'you' or 'your')

GUARANTOR NAME (1)

ADDRESS

TELEPHONE

FAX MOBILE

GUARANTOR NAME (2)

ADDRESS

TELEPHONE

FAX MOBILE

GUARANTOR NAME (3)

ADDRESS

TELEPHONE

FAX MOBILE

(3) CUSTOMER

(In this Guarantee and Indemnity, referred to as the Customer)

CUSTOMER NAME

ADDRESS

ACN NUMBER

TELEPHONE

FAX EMAIL

COMPANY SIGNATURE

4. Interpretation

- 4.1 Except where otherwise defined in this Guarantee and Indemnity, capitalised expressions in this Guarantee and Indemnity have the same meaning as defined in the Supply Agreement.
4.2 If there is more than one guarantor, the liability of each Guarantor under this Guarantee and Indemnity shall be joint and several.

5. Guarantee & Indemnity

- 5.1 The Guarantor acknowledges that the Supplier has or will enter into an agreement to supply the Customer on the terms set out in the application form (Application Form) and terms and conditions (Terms and Conditions) (together the Supply Agreement) at the request of the Guarantor.
5.2 In consideration of the Supplier agreeing to supply the Customer and at the Guarantor's request, the Guarantor:
(a) unconditionally and irrevocably guarantees to the Supplier that the Customer will perform all of its obligations under or in connection with the Supply Agreement (including, without limitation, the payment of any sums payable to the Supplier); and
(b) as a separate and independent principal obligation, indemnifies (and must keep indemnified) the Supplier from and against all and any liabilities, losses, claims, damages, demands, costs, and expenses whatsoever which the Supplier or its agents may incur by reason of any breach of or default by the Customer under or in connection with the Supply Agreement (including, without limitation, the payment of all and any sums payable to the Supplier in connection with the Supply Agreement).

6. Failure to Perform

- 6.1 If the Customer defaults in the payment of any money under the Supply Agreement, the Guarantor must on demand immediately pay the Supplier the outstanding amount. Any amounts owing under the Supply Agreement will be recoverable against the Guarantor as a liquidated debt.
6.2 If the Customer fails to perform or observe any of its other obligations under the Supply Agreement, the Guarantor must on demand immediately perform the obligation.

7. Solvency

The Guarantor warrants to the Supplier that the Guarantor is solvent and has the ability to pay all of its debts now and as and when they fall due and the Guarantor reasonably expects this to continue.

8. Nature of Guarantee And Indemnity

- 8.1 Continuing Security
This Guarantee and Indemnity is a continuing security and remains in full force until a final written release is given by the Supplier.
8.2 Recourse to Guarantor
The Supplier is not required to take any action under the Supply Agreement prior to enforcing its rights and obligations under this Guarantee and Indemnity.
8.3 Matters not Affecting Guarantor's Liability
The Guarantor's liability under this Guarantee and Indemnity is not discharged or affected by:
(a) the granting of time, forbearance or other concession by the Supplier to the Customer or any Guarantor;
(b) any delay or failure by the Supplier to take action against the Customer or any Guarantor;
(c) a part performance or partial release of the Customer or any Guarantor or a compromise or settlement with the Customer or any Guarantor;
(d) a variation, novation, renewal or assignment of this Guarantee and Indemnity by the Supplier, whether or not this increases the liability of the Customer or the Guarantor's liability under this Guarantee and Indemnity;
(e) a variation, novation, renewal or assignment of this Supply Agreement by the Supplier, whether or not this increases the liability of the Customer or the Guarantor's liability under this Guarantee and Indemnity;
(f) the termination of this Guarantee and Indemnity;
(g) the fact that the Supply Agreement or this Guarantee and Indemnity is wholly or partially void, voidable or unenforceable;
(h) if there are 2 or more Guarantors named, the fact that this Guarantee and Indemnity is not executed by all Guarantors;



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Guarantee & Indemnity 2/2

- (i) If there are 2 or more Guarantors named, the unenforceability of this Guarantee and Indemnity against 1 or more of the Guarantors; or
(j) the exercise or purported exercise by the Supplier of our rights under the Supply Agreement or this Guarantee and Indemnity.

9. Guarantor not to Claim Rights

Until the Guarantor's liability under this Guarantee and Indemnity is discharged the Guarantor may not, without the Supplier's consent:

- (a) claim the benefit of or seek the transfer (in whole or in part) any other guarantee, indemnity or security held or taken by the Supplier;
(b) make a claim or enforce a right against the Customer or any other guarantor or against the estate or any of the property of any of them (except for our benefit); or
(c) raise a set-off or counterclaim available to the Guarantor or the Customer against the Supplier in reduction of the Supplier's liability under this Guarantee and Indemnity.

10. Payment Avoided

The Guarantor's liability is not discharged or affected by a payment to the Supplier which is later avoided by law.

11. Indemnity

11.1 Indemnity on Disclaimer

If a liquidator or trustee in bankruptcy disclaims the Supply Agreement or this Guarantee and Indemnity, the Guarantor indemnifies the Supplier against any resulting loss.

11.2 Guarantor not to Prove in Liquidation or Bankruptcy

Until the Supplier has received all money payable to it by the Customer:

- (a) the Guarantor must not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment for the benefit of creditors of the Customer; and,
(b) the Guarantor must hold any claim it has and any dividend it receives on trust for the Supplier.

12. Costs and Expenses

12.1 The Guarantor agrees to pay or reimburse the Supplier on demand for the Supplier's costs, charges and expenses of making, enforcing and doing anything in connection with this Guarantee and Indemnity, including all costs actually payable by the Supplier to its legal representatives (whether under a costs agreement or otherwise).

12.2 The Guarantor agrees to pay or reimburse the Supplier on demand for all taxes (except income tax) which are payable in connection with this Guarantee and Indemnity or any payment, receipt or other transaction contemplated by it.

12.3 Money paid to the Supplier by the Guarantor must be applied first against payment of costs, charges and expenses under this clause and then against other obligations under this Guarantee and Indemnity.

12.4 This clause is in addition to the obligations of the Guarantor under any other provision of this Guarantee and Indemnity, including clauses 5 and 6.

13. Assignment

The Supplier may at any time assign the benefit of the Supply Agreement or this Guarantee and Indemnity. If the Supplier assigns the Supply Agreement or this Guarantee and Indemnity, the benefit of this Guarantee and Indemnity extends to the assignee and continues concurrently for the benefit of the Supplier and the assignee. Unless required by law, the Supplier is not required to notify the Guarantor in writing of an assignment under this clause.

14. Credit Enquiries

The Guarantor irrevocably authorises the Supplier and its agents to make such enquiries as the Supplier deems necessary to investigate the credit worthiness of the Guarantor from time to time. The Guarantor agrees to do such things as may be required to enable the Supplier to make enquiries under this clause.

15. Counterparts

This Guarantee and Indemnity may be executed in any number of counterparts, which may be faxed or scanned emailed copies. Each counterpart is an original but the counterparts together are one and the same instrument.

16. Jurisdiction

This Guarantee and Indemnity is governed by and construed in accordance with the laws of Victoria and the parties hereby agree to submit to the jurisdiction of the courts of that State and the Federal Court of Australia.

17. Acknowledgment and Execution

This Guarantee and Indemnity is to be interpreted as complying with all applicable laws. If anything in this agreement is unenforceable, illegal or void then it is severed to the extent required to make it enforceable, and the rest of this agreement remains in force.

18. Acknowledgment and Execution

The Guarantor acknowledges that it has read and understood this Guarantee and Indemnity and the Supply Agreement.

Warning To Guarantor: This is an important document under which you are undertaking significant monetary obligations and OTS recommends that you obtain independent legal advice and make your own enquiries into the debtor's financial position before signing

EXECUTED AS A DEED
EXECUTED BY AN INDIVIDUAL

SIGNED BY GUARANTOR 1:

IN THE PRESENCE OF (WITNESS 1):

SIGNATURE OF WITNESS 1:

DATED / /

SIGNED BY GUARANTOR 2:

IN THE PRESENCE OF (WITNESS 2):

SIGNATURE OF WITNESS 2:

DATED / /

SIGNED BY GUARANTOR 3:

IN THE PRESENCE OF (WITNESS 3):

SIGNATURE OF WITNESS 3:

DATED / /

Executed by:

O.T.S. (Overseas Transport Systems) Australia Pty Ltd ABN 12 109 331 562
(In accordance with section 127 of the Corporations Act 2001):

NAME OF DIRECTOR:

SIGNATURE OF DIRECTOR:

COMPANY SECRETARY:

SIGNATURE OF COMPANY SECRETARY