

TERMS AND CONDITIONS
1. DEFINITIONS

- 1.1. **"Agreement"** means these terms and conditions, the Fee Schedule and it includes any quotation or estimate given outside of these terms and conditions.
- 1.2. **"Claim"** means any actual, present or future claim, demand, action, suit or proceeding of any nature and however arising, direct or indirect, in contract, tort or otherwise.
- 1.3. **"Client"** means you and any of your employees, agents or service providers.
- 1.4. **"Commission"** means the rate of commission listed in the Fee Schedule.
- 1.5. **"Debtor"** means the party who owes the Client a Debt(s)
- 1.6. **"Debt(s)"** means the outstanding amount that the Client is owed by the Debtor that Strathmores is engaged to collect on the Client's behalf.
- 1.7. **"Fee Schedule"** means Strathmores' Schedule of Fees and Commissions payable by the Client to Strathmores, as amended from time to time.
- 1.8. **"Liability"** means any loss, liability, cost, payment, damages, debt or expense (including, but not limited to reasonable legal fees).
- 1.9. **"Placement"** means the date you engage Strathmores to collect a Debt(s).
- 1.10. **"Privacy Act"** means *Privacy Act 1988* and associated legislation.
- 1.11. **"Price"** means the price of the Services including any other charges Strathmores is entitled to under the Agreement.
- 1.12. **"Outstanding Debts"** means all amounts unpaid by the Client to Strathmores as payable under the Agreement and in accordance with the relevant terms herein.
- 1.13. **"Security interest"** means a security interest within the meaning of the *Personal Property Securities Act 2009*.
- 1.14. **"Services"** means debt recovery services which may include, but are not limited to, conducting telephone demands, making written demands, instructing agents, locate debtors, instructing solicitors, receiving Debts and any other services required to collect the Debt that you are owed by a Debtor.
- 1.15. **"Strathmores"** means Strathmores Collections Pty Ltd ACN 611 253 626.

2. ACCEPTANCE

- 2.1. The Client is taken to have accepted, and is immediately bound, jointly and severally, by the Agreement if the Client engages Strathmores to act.
- 2.2. The Client appoints Strathmores to act as its agent to undertake Services to recover Debts that it refer to us from time to time.

3. STRATHMORES' OBLIGATION AS YOUR AGENT

- 3.1. The Client appoints Strathmores to provide Services in accordance with this agreement.
- 3.2. The Client authorises Strathmores to accept funds from Debtors and to hold it in Strathmores' Trust Account.
- 3.3. If Strathmores thinks that it is unethical or uncommercial to pursue the Debt, it may, at any time, notify the Client in writing that it:
 - 3.3.1. Recommends that the recovery of the Debt or the Debtor be discontinued; and/or
 - 3.3.2. Suspend or stop carrying out the Services in relation to that Debt or Debtor.
- 3.4. As part of the Services, Strathmores may instruct a solicitor with your approval. Strathmores will assist the solicitor as required should legal proceedings be commenced. The solicitor may pay Strathmores for any services which are provided by Strathmores to the solicitor.

4. THE CLIENT'S OBLIGATIONS AND AUTHORISATIONS

- 4.1. You, as the Client shall;
 - 4.1.1. not settle or compromise any Debt without first notifying Strathmores in writing;
 - 4.1.2. notify Strathmores if you receive payment of any Debt whether in part or in whole;
 - 4.1.3. notify Strathmores immediately should a Debtor make contact with you;
 - 4.1.4. undertake to comply with any request made by Strathmores to provide further information, documents or evidence, in a timely manner, that Strathmores requires to pursue a Debt.
 - 4.1.5. keep Strathmores informed of any change to the balance outstanding of a Debt;
 - 4.1.6. maintain accurate records in relation to all Debts and any amounts repaid in relation to those Debts.
- 4.2. The Client authorises Strathmores to use its confidential information to assist Strathmores to perform its obligations under the Agreement and in undertaking the Services.

5. FEES AND COMMISSIONS

- 5.1. The Client agrees to pay to Strathmores the applicable fees and Commission, in accordance with Strathmores' Fee Schedule. Strathmores will charge the Client commission at the rate stipulated in the Fee Schedule.
- 5.2. Payment of all fees and Commissions is seven (7) days from the date of an invoice.
- 5.3. Quotations made by Strathmores is subject to change.
- 5.4. The Client will become liable to pay Commission to Strathmores, in accordance with this agreement, if any of the following circumstances occur:
 - 5.4.1. Strathmores (including its agents, solicitors or representatives) receive payment (or part payment) of a Debt.
 - 5.4.2. The Client (including, but not limited to, its agents, solicitors, representatives or insurers) receives payment (or part payment) of a Debt.
- 5.5. Minimum commission amounts outlined in the Agreement and the Fee Schedule will be applied to the value of each payment received.
- 5.6. The Client must pay GST on any taxable supply made by Strathmores to the Client under this Agreement. The payment of GST is in addition to any other consideration payable by the Client for a taxable supply.

6. WITHDRAWAL FEE

- 6.1. The Client agrees to pay to Strathmores a Withdrawal Fee ("Withdrawal Fee") if a referred Debt or Debtor is withdrawn by the Client, or this agreement is terminated by either party in accordance with Clause **
- 6.2. The Withdrawal Fee is 20% (plus GST) of the amount of the Debt outstanding at the date of the withdrawal or termination.
- 6.3. A director of Strathmores may agree, in writing, to waive payment of the Withdraw Fee. However, such waiver can only be made by a director of Strathmores and MUST be evidenced in writing and signed by the director.

7. PAYMENT TERMS

- 7.1. The terms of payment are strictly seven (7) days from the date of an invoice.
- 7.2. Should the Client fail to pay an invoice within (7) days Strathmores is entitled to, at its discretion, charge an administration fee of 10 percent (10%) of the amount of the invoice.

8. SECURITY/CHARGE LIEN

- 8.1. The Client charges in favour of Strathmores all of its estate and interest in any real or personal property that the Client owns at present and in the future with the amount of its indebtedness until discharged.

- 8.2. Strathmores may keep all of the Client's documents and files in relation to a Debts or Debtor in its possession until such time as all invoices payable by the Client under this agreement have been paid in full.

9. TERMINATION

- 9.1. Either party may terminate the Agreement by giving thirty (30) days written notice.
- 9.2. Upon termination, Strathmores is discharged from any further obligations under the Agreement unless stated otherwise.
- 9.3. Upon termination, any amounts and liabilities the Client owes to Strathmores become immediately due and payable to Strathmores.
- 9.4. Upon termination the Client is liable to pay a Withdrawal Fee to Strathmores, in accordance with clause xx of this agreement unless a director of Strathmores agrees in writing to waive payment of the Withdraw Fee.

10. DEFAULT

- 10.1. If an Event of Default occurs Strathmores may, upon its election, immediately terminate the Agreement.
- 10.2. Each of the following is considered an Event of Default, namely:
 - 10.2.1. The Client failing to punctually perform or observe any of the conditions or obligations imposed upon it by this Agreement and such failure remaining unremedied for a period of seven (7) clear days after a notice in writing is served upon the Client by Strathmores specifying the default; or
 - 10.2.2. If Strathmores ascertains that the Client has made any false, inaccurate or misleading statements; or
 - 10.2.3. If the Client is a company, upon the passing of a resolution or making of a court order for winding up, the appointment of a controller, provisional liquidator, receiver, or receiver and manager, or voluntary administrator; or
 - 10.2.4. If the Client breaches any one or more of the terms or conditions of this Agreement.

11. COSTS

- 11.1. The Client must pay for its own legal, accounting and business costs and all costs incurred by Strathmores relating to any default by the Client.
- 11.2. The Client will pay Strathmores' costs and disbursements incurred in pursuing any recovery action/or any other claim or remedy, against the Client, including collection costs, debt recovery fees, commission and legal costs on an indemnity basis. Such costs, disbursements and commission will be due and payable by the Client to Strathmores irrespective of whether pursuit of the recovery action, claim or remedy is successful.

12. SET-OFF

- 12.1. All payments required to be made by the Client under this Agreement will be made free of any set-off, or counterclaim and without deduction or withholding.
- 12.2. Any amount owed by the Client to Strathmores, may be deducted from any monies which may be, or may become, payable to the Client by Strathmores. This includes any amounts that Strathmores may receive from a Debtor, in payment of a Debt. It also includes any amounts that Strathmores holds in its trust account on the Client's behalf.

13. INDEMNITY

- 13.1. The Client agrees to indemnify Strathmores for all and any costs and disbursements incurred in pursuing any Debt or any other claim or remedy, against the Client or Strathmores, including collection costs, debt recovery fees, commission and legal costs on a full indemnity basis. Such costs, disbursements and commission will be due and payable by the Client to Strathmores irrespective of whether pursuit of the recovery action, claim or remedy is successful.
- 13.2. The Client agrees to indemnify Strathmores against all and any losses sustained by Strathmores as a result of any claim(s) or action(s) brought against Strathmores, whether those claim(s) or action(s) are by the Client, a Debtor or any other third party, pursuant to any event arising from or as a result of the Agreement.

14. LIABILITY

- 14.1. Strathmores is not liable for any loss caused to the Client by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond Strathmores' control.
- 14.2. Strathmores is not liable, whether claims are made or not, for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Client.

15. SERVICE OF DOCUMENTS

- 15.1. The Client agrees to accept service of any document required to be served, including any notice under the Agreement, the PPSA or court process, by prepaid post at any address nominated in this Agreement or any other address later notified to Strathmores by the Client or its authorised representative.

16. WAIVER

- 16.1. A waiver of any provision or breach of this Agreement by Strathmores must be made by an authorised officer of Strathmores in writing. A waiver of any provision or breach of this Agreement by the Client must be made by the Client's authorised officer in writing.

17. SEVERANCE

- 17.1. If any provision of this Agreement is not enforceable, all other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.

18. JURISDICTION

- 18.1. The Client acknowledges and agrees that this Agreement will be governed by the laws of Victoria, and the laws of the Commonwealth of Australia which are in force in Victoria.

19. ENTIRE AGREEMENT

- 19.1. This Agreement constitutes the entire Agreement between the parties relating in any way to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this Agreement are merged in this Agreement and are of no further effect.
- 19.2. This Agreement may only be varied, added to or amended with Strathmores' written consent and shall prevail to the extent of any inconsistency with any other document or agreement.

20. PRIVACY/CONFIDENTIALITY

- 20.1. Strathmores may use the Client's confidential information where necessary to assist in the performance of the Services;
- 20.2. Strathmores will not distribute the Client's confidential information unless required to perform the Services, the Agreement or required by law;
- 20.3. Any personal information that is contained in this Agreement will be treated as confidential and will be handled in accordance with the Privacy Act, Australian Privacy Principles and the Privacy Policy of Strathmores. A copy of the Privacy Policy may be requested or can be viewed on Strathmores website "www.strathmores.com.au"

Signed, sealed and delivered by the Client	Signature	
	Name	
	Position	
	Date	

AGREEMENT OF GUARANTEE & INDEMNITY
To: Strathmores Collections Pty Ltd ACN 611 253 626 and its related bodies corporates (Supplier)

Name	Address
Name	Address

(Guarantors) hereby covenant and undertake and if more than one, jointly and severally, as follows:
1. JURISDICTION

1.1. The Guarantors acknowledge and agree that the guarantee & indemnity is governed by the laws of Victoria, and the laws of the Commonwealth of Australia in force in Victoria and submit to the non-exclusive jurisdiction of the Courts of Victoria.

2. CONSIDERATION

2.1. In consideration of Strathmores extending or agreeing to extend credit or further credit to the Client at the Guarantor's request (testified by the Guarantors' execution of this Agreement) for Works undertaken from time to time, the Guarantors guarantee payment to Strathmores of all money which is now or at any time in the future becomes due and payable to Strathmores by the Client on any account or accounts whether now existing or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Client to Strathmores arising out of a relationship of trustee and beneficiary.

3. GUARANTEE AND INDEMNITY

3.1. The Guarantors agree to guarantee and indemnify Strathmores against all losses damages or expenses that Strathmores may suffer as a result, either directly or indirectly, of any failure by the Client to make due payment of any money owing to Strathmores whether for materials sold or otherwise or to observe the terms of any agreement between the Client and Strathmores, including costs on an indemnity basis of any attempt or attempts to recover from the Client or any Guarantor and whether successful or not or whether frustrated by the Client or Guarantor or by operation of law and including costs ordered by a court to be paid by Strathmores to the Client or to any Guarantor, including the costs of lodging and withdrawing caveats and obtaining injunctions or enforcing a security over property given to Strathmores.

3.2. This guarantee and indemnity will be a continuing guarantee and indemnity and will not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by Strathmores to the credit of any account of the Client or the Guarantors, or deemed to be held on trust by the Client for Strathmores, and will be available as a Guarantee and indemnity for the whole of the sums referred to in clauses 3.1 and 3.3 of this guarantee and indemnity.

3.3. Where two or more persons execute this guarantee and indemnity, the guarantees, covenants and obligations in this guarantee and indemnity given or undertaken by the Guarantors will be deemed to bind the Guarantors jointly and each of the Guarantors severally and Strathmores will be entitled to seek payment in full from any one or more of the Guarantors without seeking payment from the other Guarantors.

3.4. Strathmores will have the right to proceed against the Guarantors under the Guarantee & Indemnity, irrespective of default of the Client to pay and with or without notice to the Client, as if the primary liability for any money owing was the Guarantors' own. Further, Strathmores will have the right to proceed against the Guarantors notwithstanding any other rights it may have in relation to the recovery of the amounts hereby guaranteed.

3.5. This guarantee and indemnity will continue in force until such time as Strathmores releases the Guarantors in writing, and notwithstanding the fact that the Guarantors are no longer directors, shareholders or owners of the Client.

4. RIGHT OF SUBROGATION

4.1. In the event any of the Guarantors make any payment in respect to an obligation of the Client whether under a guarantee or indemnity or otherwise, the Guarantors will not exercise any rights of subrogation against any other Guarantors or the Client unless and until Strathmores has been paid in full.

4.2. In the event of the Client going into liquidation, the Guarantors will be prohibited from proving in competition with the Client unless Strathmores has been paid in full.

5. INSOLVENCY OF CLIENT

5.1. No sum of money which the Client pays to Strathmores and Strathmores later pays is obliged to pay, allows in account or is obliged to allow in account to a liquidator, administrator, receiver or trustee in bankruptcy of the Client by reason of the *Corporations Act 2001*, *Bankruptcy Act 1966* or otherwise will, for the purpose of this Guarantee, be considered as discharging or diminishing the Guarantors' liability and this Guarantee and indemnity will continue to apply as if the said sum(s) had at all times remained owing by the Client.

6. COSTS

6.1. Strathmores is at liberty from time to time to charge the account of the Client with charges and expenses, legal or otherwise that Strathmores incurs in connection with the account of the Client and/or this guarantee and indemnity and the same will be part of the monies secured by this Agreement.

6.2. The Guarantors agree to pay Strathmores' costs and disbursements incurred in recovering monies secured by this Agreement, including debt recovery agency fees and legal costs on an indemnity basis.

6.3. The Guarantors appoint as their duly constituted attorney Strathmores' company secretary from time to time to execute in the Guarantors' names and as the Guarantors' act and Agreement any real property mortgage, bill of sale or consent to any caveat Strathmores may choose to lodge against real property that the Guarantors may own in any Land Titles Office in any state or territory of Australia, even though the Guarantors may not have defaulted in carrying out their obligations hereunder.

7. VARIATION

7.1. The Guarantors authorise Strathmores to give time or any other indulgence or consideration to the Client in respect of compliance with its obligations to Strathmores, even if giving time or any other indulgence or consideration has the effect of increasing the Guarantors' liability under this Guarantee and indemnity.

7.2. The Guarantors agree that this Guarantee and Indemnity will not be avoided, released or affected by Strathmores making any variation or alteration in the terms of its Agreement(s) with the Client, even if such variation or alteration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.

8. SEVERANCE

8.1. If any provision of this guarantee and indemnity is not enforceable in accordance with its terms, other provisions which are self-sustaining are and continue to be enforceable in accordance with their terms.

9. SECURITY/CHARGE

9.1. The Guarantors charge in favour of Strathmores all of their estate and interest in any real property that the Guarantors own at present and in the future with the amount of their indebtedness hereunder until discharged, such indebtedness to include all amounts referred to in clauses 3.1 and 3.2.

9.2. The Guarantors charge in favour of Strathmores all of their estate and interest in any personal property that the Guarantors own at present and in the future with the amount of their indebtedness hereunder until discharged, including amounts referred to in clauses 3.1 and 3.2.

9.3. This guarantee and indemnity secures the repayment of all monies owed by the Client whatsoever, and this Agreement constitutes the entire guarantee.

9.4. Where the Guarantors have previously entered into an agreement with Strathmores by which the Guarantors have granted a charge, mortgage or other security over real or personal property, those charges, mortgages or other security interests will continue and co-exist with the obligations and security interests created in this deed and will secure all indebtedness and obligations of the Guarantors under this Agreement. Strathmores may, at its election, vary the terms of such previous charge, mortgages or other securities to reflect the terms herein.

10. PERSONAL PROPERTIES SECURITIES ACT

10.1. For the avoidance of any doubt, the security interest(s) created by this instrument in favour of Strathmores constitutes security pursuant to the Personal Properties and Securities Act 2009.

10.2. The Guarantors waive any right or entitlement to receive notice of the registration of any security interest(s) created by this instrument on the Personal Property Securities Register.

11. SERVICE OF NOTICES

11.1. The Guarantors agree to accept service of any document required to be served, including any notice under this Agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to Strathmores by the Guarantors or the Guarantors' authorised representative.

12. PRIVACY ACT

12.1. The Guarantors agree to the terms of the *Privacy Statement pursuant to the Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* contained in this document.

Dated

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Signed, sealed and delivered by the guarantor
Signature
**Name
Position
Witness Signature**
Witness name
Signed, sealed and delivered by the guarantor
Signature
**Name
Position
Witness Signature**
Witness name