**PAYMENT GUARANTEE**

This Payment Guarantee (the "Guarantee") is made and effective the [DATE],

**BETWEEN: [CREDITOR NAME]** (the "Creditor"), a company organised and existing under the laws of the [STATE/PROVINCE], of [COUNTRY], with its head office located at:

**AND: [GUARANTOR NAME]** (the "Guarantor"), a company organised and existing under the laws of the [STATE/PROVINCE], of [COUNTRY], with its head office located at:

**RECITALS**

This Guarantee is a continuing guarantee given by the Guarantor to the Creditor.

WHERE [NAME OF DEBTOR] (“Debtor”) is simultaneously entering into a set of agreements on the date hereof (the “Agreements”) with the Creditor or its affiliates; and

WHERE the Guarantor for their own interests wish to induce the Creditor to enter into the Agreements; and

WHERE the Creditor has advised the Guarantor that the Creditor will not enter into the Agreements unless, among other things, the Guarantor unconditionally guarantees pursuant hereto the performance of all of the Debtor's obligations arising out of or in connection with the Agreements;

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. **THE GUARANTEE**

The Guarantor acknowledges to be aware of the terms and conditions of the Agreements, and does hereby irrevocably and unconditionally guarantee, without offset or deduction, jointly and severally, the due and punctual payment when due by the Debtor of all monies now or hereafter due to the Creditor pursuant to the Agreements (collectively, “Payment Obligations”) and the prompt and proper performance by the Debtor of all of its obligations to the Creditor pursuant to the Agreements, other than those relating to the payment of money (collectively, “Non-Payment Obligations”) (all such Payment Obligations and Non-Payment Obligations being hereinafter collectively referred to as the “Obligations”). The Guarantor agrees that in the event that the Debtor fails to pay any Payment Obligation or perform any Non-Payment Obligation for any reason whatsoever (including, but not limited to, liquidation, insolvency, bankruptcy, reorganisation, arrangement or readjustment of, or similar proceedings affecting the status, existence, assets or obligations of, the Debtor, or the disaffirmance with respect to the Debtor of any of the Agreements), the Guarantor will promptly pay or perform, as the case may be, such Obligations upon demand of the Creditor. To the fullest extent permitted by law, the obligations of the Guarantor hereunder shall not be affected by (a) any lack in the genuineness, validity, regularity or enforceability of any of the Debtor's obligations under the Agreements; (b) any direction of application by the Debtor or any other party; (c) any other continuing or other guarantee or undertaking or the taking or releasing by the Creditor of any security or any further security in connection with the Agreements; (d) any payment on or *in re*duction of any other guarantee or undertaking; or (e) any dissolution, termination, or increase, decrease or changes of personnel of the Debtor.

1. **WAIVER OF defences**

The Guarantor waives any right to require the Creditor to (a) proceed against the Debtor; (b) proceed against or exhaust any security held from the Debtor, or (c) pursue any other remedy in the Creditor's power whatsoever. The Guarantor waives any defence based on or arising out of any defence of the Debtor other than payment in full and performance of the Obligations, including without limitation any defence based on or arising out of the disability of the Debtor, the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Debtor other than payment in full and performance of the Obligations. The Creditor may, at its election, foreclose on any security held by the Creditor by one or more judicial sales, whether or not every aspect of any such sale is commercially reasonable, or exercise any other right or remedy the Creditor may have against the Debtor, or any security, without affecting or impairing in any way the liability of the Guarantor under this Guarantee, except to the extent the Obligations have been paid or performed. The Guarantor waives any defence arising out of such an election by the Creditor, even if the election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of the Guarantor against the Debtor or any security. The Guarantor waives all presentments, demands for performance, notices of protest, notices of dishonour and notices of acceptance of this Guarantee. The Guarantor assumes all responsibility for keeping informed of the Debtor's financial condition and assets, and of all other circumstances bearing upon the risk of non-payment or non-performance of the Obligations and the nature, scope, and extent of the risks that the Guarantor assumes and incurs under this Guarantee, and agrees that the Creditor shall have no duty to advise the Guarantor of information known to it regarding those circumstances or risks.

1. **GUARANTEE ABSOLUTE AND CONTINUING**

To the fullest extent permitted by law, the Guarantor agrees that its obligations hereunder are absolute and shall not be affected by (a) any failure of the Creditor, inadvertent or deliberate, to protect, secure, insure, perfect or realise upon, or any negligence by the Creditor with respect to, any collateral, security interest or lien which may secure any Obligations or the obligations of the Guarantor hereunder, (b) any amendment, waiver, renewal, compromise, extension, acceleration or other modification of the terms of the Agreements or (c) any other circumstances which might otherwise constitute a legal or equitable defence to or discharge of the obligation of a surety or a guarantor. This is a continuing guarantee of payment with respect to the Payment Obligations and not of collection. A separate action or actions may be brought and prosecuted against the Guarantor whether or not action is brought against the Debtor or whether or not the Debtor be joined in any such action or actions. The Guarantor waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting their liability under this Guarantee. Any payment by the Debtor or other circumstance that operates to toll any statute of limitations as to the Debtor shall also operate to toll the statute of limitations as to the Guarantor. If any Guarantor is a married person, he or she agrees that recourse may be had against his separate property for his obligations under the Guarantee.

1. **ENFORCEABILITY OF GUARANTEE**

In the event that the Creditor shall be stayed or otherwise precluded by any law or rule, or any order of any court, from proceeding against the Debtor with respect to any Payment Obligations, the Guarantor hereby agrees to the fullest extent permitted by law, that for purposes of this Guarantee the Creditor may nevertheless cause such Payment Obligations to become immediately due and payable by the Guarantor by a notice to such effect; and that the Guarantor shall thereupon pay all such Payment Obligations in full or, as the Creditor may direct, purchase all such Payment Obligations owed to the Creditor (without recourse) by paying the full amount thereof to the Creditor in cash.

1. **SUBSEQUENT RECOVERY FROM CREDITOR**

If any claim is ever made upon the Creditor for repayment or recovery of any amount or amounts received by it in payment or on account of any of the Obligations, the Creditor shall promptly notify the Guarantor and extend to the Guarantor reasonable opportunity to defend the same at the expense of the Guarantor, and if the Creditor repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body or (b) any settlement or compromise of any such claim effected in good faith by the Creditor with any such claimant, the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon the Guarantor, and the Guarantor shall be and remain liable to the Creditor hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Creditor.

1. **SUBORDINATION**

Any indebtedness of the Debtor now or hereafter held by the Guarantor is hereby subordinated to the indebtedness of the Debtor to the Creditor, and all such indebtedness of the Debtor to the Guarantor, if the Creditor so requests, shall be collected, enforced, and received by the Guarantor as trustee for the Creditor and be paid over to the Creditor on account of the indebtedness of the Debtor to the Creditor, without affecting or impairing in any manner the liability of the Guarantor under the other provisions of this Guarantee.

1. **WAIVER; MODIFICATION**

No delay on the part of the Creditor in exercising any of its options, powers, or rights, and no partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modification or amendment of this Guarantee, shall be deemed to be made by the Creditor unless the same shall be in writing, duly signed on behalf of the Creditor and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the right of the Creditor or the obligations of the Guarantor in any other respect at any other time.

1. **GOVERNING LAW**

This Guarantee and the rights and obligations of the Creditor and of the Guarantor hereunder shall be governed and construed in accordance with the laws of the [STATE/PROVINCE] of [STATE/PROVINCE], without regard to conflicts of law principles, and shall be binding upon the Guarantor and its successors and assigns, and this Guarantee shall inure to the benefit of and be enforceable by the Creditor and its successors and assigns.

1. **ASSIGNMENT BY CREDITOR**

The Guarantor agrees that the Creditor may assign without notice all or a part of its rights hereunder and the Guarantor agrees, in such case, that any such assignee shall have the rights of the Creditor hereunder and further agrees to perform any such assigned obligations for the benefit of any such assignee.

1. **INVALIDITY AND CONSTRUCTION**

If any provision of this Guarantee contravenes or is held invalid under the laws of any jurisdiction, this Guarantee shall be construed as though it did not contain that provision, and the rights and liabilities of the parties to this Guarantee shall be construed and enforced accordingly. This Guarantee shall be construed as to its fair meaning and not strictly for or against the Creditor or the Guarantor.

1. **NOTICES, DEMANDS**

Any notice, demand or request hereunder shall be in writing and shall be deemed to have been validly given or made upon delivery, if personally delivered, or on the date mailed, if mailed postage prepaid, by first class mail, addressed to the party to be notified at the address set forth after its or his or her name on the signature page hereof or to such other address as any party may hereafter designate for itself or himself or herself by written notice to the other parties in the manner herein prescribed.

1. **JOINT AND SEVERAL OBLIGATIONS**

The obligations hereunder are joint and several, and independent of the obligations of the Debtor, and a separate action or actions may be brought and prosecuted against any or all of the Guarantor whether action is brought against the Debtor or whether the Debtor be joined in any such action or actions; and the Guarantor waives the benefit of any statute of limitations affecting his or her liability hereunder or the enforcement thereof.

1. **WAIVER OF SUBROGATION AND CONTRIBUTION RIGHTS**

The Guarantor hereby irrevocably waives any rights which may be acquired by way of subrogation under this Guarantee or any of the Agreements, by any payment made hereunder or otherwise, including without limitation, the right to take or receive from the Debtor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such subrogation rights. The Guarantor hereby irrevocably agrees, to the fullest extent permitted by law, that they will not exercise any rights which they may acquire by way of contribution, reimbursement, indemnification or exoneration under this Guarantee or any of the Agreements, by any payment made hereunder or otherwise, all of such rights being expressly waived herein, including without limitation, the right to take or receive from any other Guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such contribution rights.

1. **ATTORNEYS' FEES**

The Guarantor agrees to pay reasonable attorneys' fees and all other costs and expenses which may be incurred by the Creditor in the enforcement of this Guarantee.

IN WITNESS WHEREOF, The Guarantor has caused this Guarantee to be duly executed and delivered to the Creditor as of the day and year written below.

CREDITOR GUARANTOR

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title