

13 June 2012

(COPY OF  
LOAN DOCS  
- JAMES

(COPY)



**Bank of Melbourne**

A Division of Westpac Banking  
Corporation  
ABN 33 007 457 141  
Customer Mortgage  
Services  
Level 8  
530 Collins Street  
Melbourne VIC 3000

DX 381 MELBOURNE

Telephone: 1300 883 183  
Facsimile: (03) 9296 4340

Mrs D J Grant  
3 Margaret Grove  
Preston VIC 3072

Dear Mrs Grant,

**Guarantee of Loan Advance to:**

JD Grant Enterprises Pty Ltd ACN 147 769 702 ATF Grant Family Superannuation Fund

**Security Property(s):**

Terrace 22, 170-171 Beach Road, Sandringham, VIC 3191

**Loan Number S.311.0912051.00**

We note that the obligations of the borrower(s) to this loan will be guaranteed by you.

Enclosed are the following documents and note our requirements as follows:-

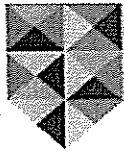
- Guarantee & Indemnity for execution by the guarantor(s). Please sign where indicated and have the signature(s) witnessed. Please note that the Guarantee & Indemnity contains the prescribed Form 9 Information Statement under the National Credit Code: Things you should know about Guarantees. Also enclosed is a copy of the Guarantee & Indemnity for each guarantor.
- Guarantor's Acknowledgment

Please ensure that the Guarantee & Indemnity is returned to Customer Mortgage Services signed by all guarantors and duly witnessed, together with the documents as mentioned above.

Should you have any queries relating to this loan please contact Customer Mortgage Services on 1300 883 183.

Yours Sincerely

Customer Mortgage Services Officer  
VIC Customer Mortgage Services



# Bank of Melbourne

**Bank of Melbourne – A Division of Westpac Banking Corporation  
ABN 33 007 457 141**

**Guarantee and Indemnity by SMSF Beneficiary  
Corporate Trustee Borrower  
Regulated by the Code of Banking Practice**

**Warning**

- You should seek independent legal and financial advice on the effect of this guarantee and indemnity before you agree to sign it.
- You can refuse to sign this guarantee and indemnity.
- There are financial risks involved in signing this guarantee and indemnity (for example, it may become necessary for you to sell your assets so that you can pay us).
- You have the right to limit your liability under this guarantee and indemnity in accordance with the Code of Banking Practice and as allowed by law.
- You can request information about the transaction or facility to be guaranteed (including any existing facility with us to be refinanced by the new facility).
- This guarantee and indemnity covers liability under a future credit contract to the extent the future credit contract (together with all other existing credit contracts secured by this guarantee and indemnity) is within a limit previously agreed in writing by you.

## Guarantee and indemnity

### Details

**Financier:**  
("we")

Bank of Melbourne – A Division of Westpac Banking Corporation  
ABN 33 007 457 141  
Address: Level 8, 530 Collins St  
Melbourne VIC 3000

**Guarantor:**  
("you")

Name(s): Dolores Julie Foti-Grant  
  
ACN/ABN/ARBN  
(if corporation):  
  
Address: 3 Margaret Grove, Preston VIC 3072

**Trustee details:**  
(if guarantor is  
signing as trustee)

Trust name: GRANT FAMILY SUPER FUND INVESTMENTS CUSTODIAN TR  
Trust deed:  
dated: 10/04/2012  
between: GRANT FAMILY SUPER FUND INVESTMENTS PTY LTD  
and JD GRANT ENTERPRISES PTY LTD

**Customer:**

Name(s): JD Grant Enterprises Pty Ltd ACN 147 769 702 ATF Grant Family  
Superannuation Fund  
  
ACN/ABN/ARBN  
(if corporation):  
  
Address: 3 Margaret Grove  
Preston VIC 3072

**Description of guaranteed  
agreement**

RESIDENTIAL LOAN AGREEMENT

**Limit:**

516800

**Date of guarantee and  
indemnity:**

## PROVISIONS

### Key words

The meaning of words printed like this and of some other common key words is explained at the end of this guarantee and indemnity.

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## Purpose of this guarantee and indemnity and extent of the obligations

1.1 This guarantee and indemnity is entered into in consideration of us providing or continuing to provide financial accommodation to the *customer* or not immediately enforcing rights against the *customer* at your request.

1.2 By signing this guarantee and indemnity, you could become liable to pay us:

- (a) under the guarantee in clause 2
- (b) under the indemnity in clause 3
- (c) *costs* and other expenses under clause 4
- (d) interest under clause 5.

However, the maximum amount we can recover from you is set out in the special conditions attached to this guarantee and indemnity. Please read clause 26.4 for further details.

1.3 You are liable for all the obligations under this guarantee and indemnity both separately on your own and jointly with any one or more other persons named in this guarantee and indemnity as guarantor.

## What you undertake in giving this guarantee and indemnity

### Guarantee

2.1 You unconditionally and irrevocably guarantee payment to us of the *guaranteed money*. If the *customer* does not pay the *guaranteed money* on time and in accordance with any arrangement under which it is expressed to be owing, then you agree to pay the *guaranteed money* to us on demand from us (whether or not we have made demand on the *customer*).

2.2 The guarantee in clause 2.1 is a continuing obligation and extends to all of the *guaranteed money*.

2.3 You may have rights under each Code to end, withdraw from, or limit this guarantee and indemnity. Ask your legal adviser about this.

2.4 It is important that you read clauses 4 and 28. They limit your rights as a guarantor.

## Indemnity

3.1 You unconditionally and irrevocably promise to pay us, and you must therefore pay us on demand for, liability, loss or costs we suffer or incur if:

- (a) the *customer* does not, is not obliged to, or is unable to, pay us the *guaranteed money* (or amounts which would have been *guaranteed money* if the *customer* were obliged to pay) in accordance with any arrangement (or what would have been an arrangement if valid) under which it is expressed to be owing (for example because the arrangement is void, illegal, voidable, a breach of trust or not properly executed by the *customer*); or
- (b) you are not obliged to pay us an amount under clause 2; or
- (c) we are obliged, or we agree, to pay an amount to a trustee in bankruptcy or liquidator (or a bankrupt person or insolvent company) in connection with a payment by you or the *customer*. (For example, we may have to, or may agree to, pay interest on the amount.)

You as principal debtor agree to pay us on demand a sum equal to the amount of any such liability, loss or costs and any amount that the *customer* would have been obliged to pay us if the arrangement had been valid and enforceable.

3.2 The obligation in clause 3.1 and the other indemnities in this guarantee and indemnity are continuing obligations, independent of your other obligations under this guarantee and indemnity. They continue even after those other obligations end. Unless you end the guarantee and indemnity under clause 6 or it is ended by law because you have exercised rights under a Code to end the guarantee. It is not necessary for us to incur expense or make payment before enforcing a right of indemnity conferred by this guarantee and indemnity.

3.3 It is important that you read clauses 4 and 28. They contain limitation of your rights as a guarantor.

## Waiver

4. Despite any other provision of this guarantee and indemnity or any right conferred or implied by law or statute, you unconditionally and irrevocably agree that your rights against the *customer* and the *security custodian*, whether by way of right of contribution, subrogation, indemnity or any other equivalent right, arising from or in connection with this guarantee and indemnity are limited to the *property* and, if you pay us any amount under this guarantee and indemnity, you are only entitled to recourse against the *property* and you are not entitled to claim that amount, or any part of that amount, from any other asset of the *customer* or the *security custodian*.

## Additional amounts you must pay

### Our costs and other expenses

5.1 You must pay us for:

- (a) our reasonable *costs* in arranging, administering (including giving and considering consents, variations, discharges and releases, producing title documents or enforcing, attempting to enforce or taking any other action in connection with our rights) and terminating this guarantee and indemnity; and
- (b) all *taxes*, fees, and charges payable in connection with this guarantee and indemnity and any transaction (such as a payment or receipt) under it, and any interest, penalties, fines and expenses in connection with them.

You must pay us these amounts when we ask. We can also debit any of these amounts to any account you have with us even if we do not expressly ask you to pay us.

5.2 You agree to compensate us on demand if we determine that, as a direct or indirect result of the imposition of *GST*, our costs in connection with this guarantee and indemnity are increased. If we:

- (a) reasonably decide that we are liable to pay GST on a supply made in connection with this guarantee and indemnity; and
  - (b) certify that we have not priced the supply to include GST, then you agree to pay us an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.
- 5.3 You indemnify us against, and you must therefore pay us on demand for, liability, loss or costs (including consequential or economic loss) we suffer or incur:
- (a) if you default under this guarantee and indemnity; or
  - (b) in connection with any person exercising, or not exercising, rights under this guarantee and indemnity.
- 5.4 You must pay us an amount equal to any liability, loss or costs (including consequential or economic loss) of a kind referred to in clauses 4.3(a) and (b) suffered or incurred by any of our employees, officers, agents, attorneys or contractors.
- 5.5 If a judgment, order or proof of debt in connection with the *guaranteed money* is expressed in a currency other than that in which the *guaranteed money* is due, then you indemnify us against, and you must therefore pay us on demand for:
- (a) any difference arising from converting the other currency if the exchange rate we use for converting the other currency when we receive a payment in the other currency is less favourable to us than the exchange rate used for the purpose of the judgment, order or acceptance of proof of debt; and
  - (b) the costs of conversion.

You acknowledge that it might be necessary to convert the other currency through more than one currency to determine the exchange rate available to us.

#### Interest

- 6.1 You must pay interest on any amount under clauses 3 or 4 which is due for payment. The

interest accrues daily from (and including) the due date up to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365. You must pay interest owing under this clause 5 on demand from us.

- 6.2 The rate of interest applying to each daily balance is the rate specified by us from time to time or (if no rate is specified) 2% above the highest interest rate applying to the guaranteed money on that day.
- 6.3 Each month (or any other period we choose), we may add to the amount you owe us any interest under this clause 5 which has not been paid. You will then be liable for interest under this clause 5 on the total amount.
- 6.4 If any amount you must pay under this guarantee and indemnity becomes covered by a court order, you must pay interest on that amount as a separate obligation. The interest accrues from and including the date we first ask you for the amount until but excluding the date that amount is paid. This obligation is not affected by the court order. The rate is the rate that applies under clause 5.3 or the rate in the court order (whichever is higher).

#### Your own costs and other expenses

7. You must pay for anything which you must do under this guarantee and indemnity.

#### Changes to rights

##### Reinstatement of rights

8. Under law relating to *insolvency*, a person may claim that a transaction (including a payment) in connection with this guarantee and indemnity or the *guaranteed money* is void or voidable. If a claim is made and upheld, conceded or compromised, then:
- (a) we are immediately entitled, as against you, to the rights in respect of the *guaranteed money* to which we were entitled immediately before the transaction; and
  - (b) on request from us, you agree to do anything (including signing any document) to restore to us any *security interest* we held from you immediately before the transaction.

## Our rights are protected

9.1 Rights given to us under this guarantee and indemnity and your liabilities under it are not affected by any act or omission by us or by anything else that might otherwise affect them under law or otherwise, including:

- (a) the fact that we release the *customer* or give them a concession, such as more time to pay; or
- (b) the fact that the *customer* opens another account with us; or
- (c) the fact that we release, lose the benefit of or do not obtain any security; or
- (d) the fact that we do not register any security which could be registered; or
- (e) the fact that we release any person who guarantees any of the *customer's* obligations; or
- (f) the fact that the obligations of any person who guarantees any of the *customer's* obligations may not be enforceable; or
- (g) the fact that any person who was intended to guarantee any of the *customer's* obligations does not do so or does not do so effectively; or
- (h) the death, mental or physical disability or insolvency of any person including you or the *customer*; or
- (i) changes in the membership, name or business of a firm, partnership, committee or association.

9.2 This guarantee and indemnity does not merge with or adversely affect, and is not adversely affected by, any other guarantee, indemnity, mortgage, charge or other security, or right remedy to which we are entitled.

We can still exercise our rights under this guarantee and indemnity as well as under the judgment, order, other guarantee, indemnity,

mortgage, charge, other security, right or remedy.

## Your rights are suspended

10. As long as any of the *guaranteed money* remains unpaid, you may not, without our consent:

- (a) reduce your liability under this guarantee and indemnity by claiming that you or the *customer* or any other person has a right of set-off or counterclaim against us. Notwithstanding what is said above, you will have a right of set off if a court ordered us to pay you a civil penalty; or
- (b) exercise any legal rights to claim to be entitled to the benefit of another guarantee, indemnity, mortgage, charge or other security given in connection with the *guaranteed money* or any other amount payable under this guarantee and indemnity. (For example, you may not try to enforce any mortgage we have taken to ensure repayment of the *guaranteed money*.); or
- (c) claim an amount from the *customer*, or another guarantor of the *customer's* obligations, under a right of indemnity; or
- (d) claim an amount in the insolvency of the *customer* or another guarantor of the *guaranteed money* (including a person who has signed this guarantee and indemnity with you).

## What you acknowledge and declare

---

11.1 You acknowledge that you are responsible for making yourself aware of the financial position of the *customer* and any other person who guarantees the *guaranteed money*.

11.2 You declare that:

- (a) neither you, nor, if you are a corporation, any director or other person breaches any law or any obligation to another person by signing this guarantee and indemnity and that all necessary authorisations to do so have been obtained; and

- (b) your obligations under this guarantee and indemnity are valid and binding and enforceable in accordance with its terms; and
- (c) if you are a corporation, you benefit by entering into this guarantee and indemnity; and
- (d) all information given by you or on your behalf (such as financial statements) is correct and not misleading; and
- (e) since the date the information was given there has been no change in your financial circumstances which may have a material adverse effect on your ability to meet your obligations under this guarantee and indemnity; and
- (f) you have not withheld information that might have caused us not to enter into any *arrangement with us*; and
- (g) unless otherwise stated in this guarantee and indemnity, you are not signing this guarantee and indemnity as a trustee of any trust or settlement; and
- (h) all declarations made by you in each other *arrangement with us* are correct and not misleading; and
- (i) you have power to carry on your business and you are not in breach of any law or obligation; and
- (j) there is no pending or threatened court or other proceeding affecting you except those in which a decision against you would be insignificant.

11.3 You must tell us whenever anything happens which would mean you could not truthfully repeat all the declarations in clause 10.2.

#### What happens to money we receive?

12.1 We may use any money paid by or for the customer towards meeting any part of the guaranteed money we choose. We may

use any money paid by you under this guarantee and indemnity towards paying any part we choose of the *guaranteed money* or any other amount you owe us under this guarantee and indemnity. This applies even if that part or that amount only falls due after we give a notice of demand.

12.2 We may place in a suspense account any payments we receive from you for as long as we think prudent.

12.3 Subject to clause 11.2, if, at the time we receive the money, any part of the *guaranteed money* is not then due for payment, we may retain an amount equal to that part. We must hold it in an interest bearing account and use it (and any net interest after tax) to pay the *guaranteed money* when it becomes due for payment.

12.4 We must pay any money remaining after the *guaranteed money* is paid either to you or to another person entitled to it. We do not pay you interest on any money remaining after the *guaranteed money* is paid.

12.5 We only credit payments as soon as practicable after we receive them.

#### General

##### **Currency conversions**

13.1 You must make each payment in the currency in which it is due.

13.2 If we receive an amount in a currency other than that in which it is due:

(a) we may convert the amount received into the due currency (to do this it might be necessary to convert through a third currency) on the day and at such rates as we consider appropriate. We may deduct our usual *costs* in connection with the conversion; and

(b) you satisfy your obligation to pay in the due currency only to the extent of the amount of the due currency obtained from the conversion



after deducting the *costs* of the conversion.

#### Payment in full

14.1 You must pay us the *guaranteed money* in full without set-off, counterclaim or deduction.

14.2 If a law requires you to deduct an amount in respect of *taxes* from a payment under an *arrangement with us* with the result that we would not actually receive on the due date the full amount provided for under the *arrangement with us*, then:

- (a) you agree to deduct the amount for the *taxes* (and any further deduction applicable to any further payment due under paragraph (c) below); and
- (b) you agree to pay an amount equal to the amount deducted to the relevant authority in accordance with applicable law and give the original receipts to us; and
- (c) if the amount deducted is in respect of *accountable taxes*, the amount payable is increased so that, after making the deduction and further deductions applicable to additional amounts payable under this clause, we are entitled to receive (at the time the payment is due) the amount we would have received if no deductions had been required.

#### Notices and other communications

15.1 Notices, certificates, consents, approvals and other communications in connection with this guarantee and indemnity must be in writing. If you are a corporation, communications from you must be signed by a director or another person we approve.

15.2 They may be:

- (a) given personally (if they are for you and you are a corporation, to one of your directors; if they are for us, to one of our employees at the address stated in the details or any other address we tell you); or

(b) left at the address last notified; or

(c) sent by prepaid post to the address last notified; or

(d) sent by fax to the fax number last notified;

15.3 They take effect from the time they are received unless a later time is specified in them.

15.4 If they are sent by post, they are taken to be received three days after the date of posting.

15.5 If they are sent by a fax machine that produces a transmission report, they are taken to be received at the time shown in a transmission report that indicates that the whole fax was sent.

#### Our certificates

16. We may give you a certificate about a matter or about an amount payable in connection with this guarantee and indemnity. The certificate is sufficient evidence of the matter or amount, unless it is proved to be incorrect.

#### When must you pay?

17.1 A demand may be made at any time and from time to time. However, if a special condition restricting the time when we can make a demand on you is attached to this guarantee and indemnity, we may only make a demand as set out in that special condition.

17.2 You must pay any amount payable to us under this guarantee and indemnity by 12 noon (local time) on the date which we specify.

#### Prompt performance

18. If this guarantee and indemnity specifies when you must perform an obligation, you must perform it by the time specified. You must perform all other obligations promptly.

#### **You must take further steps**

19. You must do anything we reasonably ask (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed) to bind yourself under this guarantee and indemnity.

#### **How we may exercise our rights**

- 20.1 We may claim against you under this guarantee and indemnity before we enforce other rights or remedies:

- (a) against the *customer* or any other person; or
- (b) under another document such as a guarantee or mortgage, charge or other security.

If we have more than one guarantee and indemnity or security, we may enforce them in any order that we choose.

- 20.2 If we do not exercise a right or remedy fully or at a given time, then we can still exercise it later.

- 20.3 Our rights and remedies under this guarantee and indemnity are in addition to any other rights and remedies provided by law independently of this guarantee and indemnity or by any security (such as a mortgage).

- 20.4 Our rights and remedies under this guarantee and indemnity may be exercised by any of our directors, any of our employees whose job title includes the word "manager" or any other person we authorise.

#### **Dealing with rights under this guarantee and indemnity**

21. We may assign or otherwise deal with our rights under this guarantee and indemnity in any way we consider appropriate. If we do this, you may not claim against any assignee (or any other person who has an interest in this guarantee and indemnity)

any right of set-off or other rights you have against us.

However, you may not assign or otherwise deal with your rights under this guarantee and indemnity unless we consent.

#### **Disclosure of information**

22. Information you provide to us may be disclosed:

- (a) if you consent (you may not unreasonably withhold your consent); or
- (b) if required by any stock exchange or if allowed or required by law; or
- (c) to any person in connection with our exercising rights or dealing with rights or obligations (including preparatory steps such as negotiating with any potential assignee of our rights or other person considering contracting with us in connection with this guarantee and indemnity; or
- (d) to our officers and employees, to receivers and to legal and other advisers; or
- (e) to any of our "related entities" (as defined in the Corporations Act); or
- (f) if the information is generally and publicly available; or
- (g) to the *customer* or to any other person who guarantees payment of any of the *guaranteed money*.

#### **Consents**

23. You must comply with all reasonable conditions in any consent which we give in connection with this guarantee and indemnity.

#### **Variation and waiver**

24. A provision of this guarantee and indemnity, or right created under it, may not be waived varied except in writing signed by the party or parties to be bound.

### Trustee provisions

25. You make the following declarations if you enter into this guarantee and indemnity as trustee of any trust or settlement:

- (a) this guarantee and indemnity is for the benefit of the trust;
- (b) you are the sole trustee of the trust;
- (c) you have authority to enter into this guarantee and indemnity; and
- (d) you have the right to be fully indemnified out of the trust assets for obligations incurred under this guarantee and indemnity;
- (e) no action has been taken or proposed to terminate the trust;
- (f) the copies of the trust deed and other documents relating to the trust have been provided to us and disclose all the terms of the trust; and
- (g) you have not delegated any of your powers as trustee or exercised any power of appointment.

You must tell us whenever anything happens which would mean you could not truthfully repeat all these declarations.

### National Credit Code and Code of Banking Practice

26.1 This clause 26 applies to the extent that a Code applies to this guarantee and indemnity.

26.2 The relevant provisions of the Codes apply to this guarantee and indemnity. The Code gives you the rights to contain information and warnings. This is summarised in the publication "Things You Should Know About Guarantees." The Code of Banking Practice also applies to this guarantee. This means that you have the rights to certain other information..

In all other aspects (so far as you are concerned) we do not have to do anything in relation to, or tell you of anything concerning the debtor's affairs, finances or transactions with us.

It is your responsibility to find them out. The above applies both before and after you sign this document.

26.3 If:

(a) a Code would otherwise make a provision of this guarantee and indemnity illegal, void or unenforceable; or

(b) a provision of this guarantee and indemnity would otherwise contravene a requirement of that Code or impose an obligation or liability which is prohibited by that Code, this guarantee and indemnity is to be read as if that provision were varied to the extent necessary to comply with that Code or, if necessary omitted.

26.4 Despite clause 1, if any guaranteed agreement is one to which a Code applies, the maximum amount we can require you to pay under this guarantee and indemnity in respect of that guaranteed agreement is not more than the sum of:

(a) the debtor's liabilities under that guaranteed agreement and your liability under clause 3 and 2 and;

(b) other liabilities such as interest and our reasonable enforcement expenses reasonably incurred in enforcing this guarantee and indemnity.

26.5 This guarantee and indemnity extends to any guaranteed agreement as varied. However, despite anything else in this guarantee and indemnity, your liabilities are not increased or changed as a result of any change to a guaranteed agreement if under a Code we are required to give notice of the change, give information or documents, or obtain your acceptance to the change and have not done so in compliance with that Code.

### Applicable law and serving documents

27.1 This guarantee and indemnity is governed by the law of the State or Territory where

our address specified in the details is situated. You and we submit to the non-exclusive jurisdiction of the courts of that place.

- 27.2 We may serve any document in a court action (including a writ of summons, other originating process or third or other party notice) on you by delivering it to, or leaving it at, your address set out in the details or such other address as you and we agree at any time. This clause does not prevent any other method of service. If you are incorporated in a jurisdiction outside Australia, you irrevocably appoint the customer (or the first named customer if more than one) as your agent to accept service of any process in connection with this guarantee and indemnity.

#### Limit

##### 28. Limit

Despite any other provision of this guarantee and indemnity or any right conferred or implied by law or statute the maximum amount we can recover from you under this guarantee and indemnity is all amounts payable:

- (a) in connection with the *guaranteed agreement*; plus
- (b) under clauses 5, 6 and 8 of this guarantee and indemnity; plus
- (c) for breach of an obligation you owe (other than an obligation to pay money) under this guarantee and indemnity.

This clause does not limit the amount we can claim from you. This clause limits the amount we can ultimately recover from you. For example, we might claim more than the maximum amount we can recover if you are bankrupt or being wound up and we want to maximise the distribution we receive from your trustee in bankruptcy or liquidator.

#### **YOU MAY END THIS GUARANTEE AND INDEMNITY**

- 29.1 You may end your liability under this guarantee and indemnity at any time if you pay us the outstanding liability of the customer at that time under each guaranteed agreement and all amounts payable by you. For this purpose, the customer's outstanding liability includes any amount which we determine to be a future or contingent liability and includes all liability whether or not we are able to enforce payment by the customer.
- 29.2 You may limit your liability under this guarantee and indemnity by writing a notice to us except that we do not have to accept such a limit if:
- (a) It is below the debtor's liability under the guaranteed agreement at the time plus any interest or fees and charges which may be subsequently incurred in respect to that liability.
  - (b) We are obligated to make further advances or would be unable to secure the present value of an asset which is security for the guaranteed amount.

#### Meaning of words

30. *accountable taxes* means taxes imposed by a relevant country other than those:

- (a) imposed on, or calculated having regard to, our net income, or
- (b) which would not be required to be deducted by you if we provided you with any of our name, address, registration number or similar details or any relevant tax exemption or similar details.

*arrangement* with us means an arrangement (including an agreement or a security interest) under which a debtor/guarantor has or could in the future have obligations to us or any of our "related entities" (as defined in the Corporations Act).

*Code* means each of the National Credit Code and the Code of Banking Practice.

*controller* has the meaning given to it in the Corporations Act.

*costs* includes charges and expenses; and costs, charges and expenses in connection with advisers (in the case of legal advisers on a full indemnity basis or solicitor and own client basis, whichever is higher).

*customer* means each person named in the details as *customer*. If there are more than one, *customer* means each of them separately and every two or more of them jointly. *Customer* includes their successors and assigns.

*debtor/guarantor* means:

- the customer; and
- you and any other person who guarantees payment of any part of the *guaranteed money*; and
- any other person you and we agree is to be a "*debtor/guarantor*" for the purpose of this guarantee and indemnity.

*GST* has the same meaning as in the *A New Tax System (Goods and Services Tax Act 1999)*.

*guaranteed agreement* means the facility agreement named in the Details as guaranteed agreement.

*guaranteed money* means all amounts that:

at any time;

for any reason or circumstance in connection with the agreement which is described in the "Details" section of this guarantee and indemnity, under which we agree to lend money to the *customer*;

whether at law or otherwise;

and whether or not of a type within the contemplation of you, of us or of the *customer* at the date of this guarantee and indemnity;

- are payable, are owing but not currently payable, are contingently owing, or remain unpaid, by the customer to us; or
- we have advanced or paid on the customer's behalf or on the customer's express or implied request; or

- we have paid or are liable to pay as a result of the customer's act or omission; or

- are reasonably foreseeable as likely, after that time, to fall within any of the above paragraphs.

- irrespective of the capacity in which we or the *customer* became entitled to the amount concerned;

- irrespective of the capacity in which we or the *customer* became liable in respect of the amount concerned;

- whether we or the *customer* are liable as principal debtor, as surety, or otherwise;

- whether the *customer* is liable alone, or together with another person;

- even if the *customer* owes an amount or obligation to us because it was assigned to us, whether or not:

- the assignment was before, at the same time as, or after this guarantee or indemnity is executed; or

- we or the *customer* consented to or were aware of the assignment; or

- the assigned obligation was secured;

- even if this guarantee and indemnity was assigned to us, whether or not:

- you consented to or were aware of the assignment; or

- any of the *guaranteed money* was previously not guaranteed;

- if you are a trustee, whether or not you have a right of indemnity from the trust fund.

*including* or *such as*, when introducing an example, does not limit the meaning of the words to which the example relates to that example or to examples of a similar kind.

A person is insolvent if:

- they are (or state that they are) an insolvent under administration or insolvent (each as defined in the Corporations Act); or

- they have had a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver or receiver and manager appointed to any part of their property; or

- they are subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by us); or

- an application or order has been made, resolution passed, proposed put forward, or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above; or

- they are taken (under section 459F of the Corporations Act) to have failed to comply with a statutory demand; or

- they are the subject of any event described in section 459C(2)(b) or section 585 of the Corporations Act (or they make a statement from which we reasonably deduce they are so subject); or

- they are otherwise unable to pay their debts when they fall due; or

- something having a substantially similar effect to any of the things referred to above happens in connection with them under the law of any jurisdiction.

*payable*, in relation to an amount, means an amount which is currently payable or will or may be payable in the future.

*person* includes an individual, a firm, a body corporate, an unincorporated association and an authority.

*property* means the property mortgaged to us by the security custodian.

*relevant country* means any country, or political sub-division of one or more countries, or any federation or association of countries in which you or a debtor/guarantor is either incorporated or is resident or domiciled for any tax purpose or in which you or a debtor/guarantor carry on business or own or lease property or from which, or through

which, any payment under an *arrangement with us* is made.

*security custodian* means the security custodian specified in the *customer's arrangement with us*.

*security interest* means any security interest for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust, power or title retention arrangement. *Security interest* also includes a guarantee and indemnity.

such as see including.

*taxes* means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on our overall net income.

*we* means Bank of Melbourne - A Division of Westpac Banking Corporation (ABN 33 007 457 141) and its successors and assigns.

*you* means each person named in the details as guarantor. If there are more than one, *you* means each of them separately and every two or more of them jointly.

The singular includes the plural and vice versa.

A reference to:

- a document or agreement includes any variation or replacement of it;

- law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them and consolidations, amendments, re-enactments or replacements of any of them);

- anything (including the *guaranteed money*) includes the whole and each part of it;

- the Corporations Act means the Corporations Act 2001 (Cth).

# INFORMATION STATEMENT

## THINGS YOU SHOULD KNOW ABOUT GUARANTEES

This information tells you about some of the rights and obligations of yourself and the credit provider.  
It does not state the terms and conditions of your guarantee.

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### GUARANTEES

#### 1. What is a guarantee?

A promise by you that the person who is getting credit under a credit contract (the "debtor") will keep to all the terms and conditions. If that person does not do so, you promise to pay the credit provider all the money owing on the contract (and any reasonable enforcement expenses) as soon as the money is asked for, up to the limit, if any, stated in the guarantee. If you do not pay, then the credit provider can take enforcement action against you which may result in the forced sale of any property owned by you such as your house.

#### 2. How do I know how much the debtor is borrowing and how the credit charges are worked out?

These details are on the copy of the credit contract or proposed credit contract that you should be given before you sign the guarantee.

#### 3. What documents should I be given?

Before you sign the guarantee you should get-

- the document you are reading now; and
- a copy of the credit contract or proposed credit contract.

**Your guarantee is not enforceable unless you get a copy of the credit contract or proposed credit contract before you sign.**

Within 14 days after you sign the guarantee and give it to the credit provider, the credit provider must give you a copy of:

- the signed guarantee; and
- the credit contract or proposed credit contract (if you do not already have a copy of the contract).

#### 4. Can I get a statement of the amount that the debtor owes?

Yes. You can ask the credit provider at any time for a statement of the amount the debtor currently owes or any amounts credited or debited during a period you specify or any amounts which are overdue and when they became overdue or any amount payable and the date it became due.

The credit provider must give you the requested information:

- within 14 days if all the information requested related to a period 1 year or less before your request is given; or
- otherwise within 30 days.

This statement must be given to you in writing if you ask for it in writing but otherwise may be given orally. You may be charged a fee for the statement.

You are not entitled to more than 1 written statement every 3 months.

#### 5. How can I find out the payout figure?

You can write to the credit provider at any time and ask for a statement of the amount required to pay out the credit contract as at any date you specify. You can also ask for details of the items that make up the amount.

The credit provider must give you the statement within 7 days after you give your request to the credit provider. You may be charged a fee for the statement.

#### 6. What other information can I get?

You can write to the credit provider and ask for a copy of:

- the guarantee; or
- any credit-related insurance contract (such as insurance on mortgaged property) the credit provider has; or

Continued...  
**INFORMATION STATEMENT  
THINGS YOU SHOULD KNOW ABOUT  
GUARANTEES**

- a notice previously given to you, the debtor or the mortgagor under the National Credit Code.

The credit provider must give you the requested copy:

- within 14 days of your written request if the contract came into existence 1 year or less before the request was given to the credit provider; or
- otherwise within 30 days.

The credit provider may charge you a fee.  
Your request can be made any time up to 2 years after the end of the credit contract.

**7. Can I withdraw from my guarantee?**

You can withdraw from your guarantee at any time by written notice to the credit provider if the final credit contract is materially different from the proposed credit contract given to you before you signed the guarantee.

**8. Can I limit my guarantee?**

Yes, if it relates to a continuing credit contract (such as a credit card contract or an overdraft).

In that case you can give the credit provider a notice limiting the guarantee so that it only applies to:

- credit previously given to the debtor; and
- any other amount you agree to guarantee.

**9. Can my guarantee also apply to any future contracts?**

No, unless the credit provider has given you a copy of the proposed new credit contract and you have given your written acceptance.

**10. If my guarantee says I have to give a mortgage, what does this mean?**

A mortgage means that you give the credit provider certain rights over any property you mortgage. If you default under your guarantee, you can lose that property and you might still owe money to the credit provider.

**11. Should I get a copy of my mortgage?**

Yes. It can be part of your guarantee or, if it is a separate document, you will be given a copy of the mortgage within 14 days after your mortgage is entered into.

**12. Is there anything that I am not allowed to do with the property I have mortgaged?**

The law says you cannot assign or dispose of the property unless you have the credit provider's, or the court's, permission. You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.

**13. What can I do if I find that I cannot afford to pay out the credit contract and there is a mortgage over my property?**

See the answer to question 22.

Otherwise you may:

- if the mortgaged property is goods - give the property back to your credit provider, together with a letter saying you want the credit provider to sell the property for you;

- sell the property, but only if the credit provider gives permission first;

OR

- give the property to someone who may then pay all amounts owing under the guarantee or give a similar guarantee, but only if the credit provider gives permission first.

If the credit provider won't give permission you may contact the credit provider's external dispute resolution scheme for help.

You should understand that you may owe money to the credit provider even after mortgaged property is sold.

External dispute resolution is a free service established to provide you with an independent mechanism to resolve specific complaints. Your



credit provider's external dispute resolution provider is Financial Ombudsman Service and can be contacted at :  
Telephone: 1300 780 808  
Internet: [www.fos.org.au](http://www.fos.org.au)  
Post: Financial Ombudsman Service  
GPO Box 3, Melbourne VIC 3001.

**14. Can the credit provider take or sell the mortgaged property?**

Yes, if you have not carried out all of your obligations under your guarantee.

**15. If the credit provider writes asking me where the mortgaged goods are, do I have to say where they are?**

Yes. You have 7 days after receiving the credit provider's request to tell the credit provider. If you do not have the goods you must give the credit provider all the information you have so they can be traced.

**16. When can the credit provider or its agent come into a residence to take possession of mortgaged goods?**

The credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the National Credit Code.

**17. If the debtor defaults, do I get any warning that the credit provider wants to take action against the debtor?**

In most cases both you and the debtor get at least 30 days from the date of a notice in writing to do something about the matter. The notice must advise:

- why the credit provider wants to take action; and
- what can be done to stop it (if the default can be remedied); and

- that if the same sort of default is committed within 30 days of the date of the notice and is not remedied within that period, the credit provider can take action without further notice.

You should immediately discuss any warning notice with the debtor and consider getting independent legal advice and/or financial advice.

However, there will be no warning notice if:-

- there is a good reason to think the debtor committed a fraud to persuade the credit provider to enter into the contract; or
- the credit provider has been unable to locate the debtor after making reasonable efforts to do so; or
- the court says so; or
- there is a good reason to think that the debtor has, or will, remove or dispose of mortgaged goods without the credit provider's consent, or that urgent action is necessary to protect mortgaged property.

**18. When can the credit provider enforce a judgement against me?**

When:

- the credit provider has judgement against the debtor and if the judgement amount has still not been met 30 days after the credit provider has asked the debtor in writing to pay it; or
- the court says so because recovery from the debtor is unlikely; or
- the credit provider has been unable to locate the debtor after making reasonable efforts to do so; or
- the debtor is insolvent.

**19. If the debtor cannot be found and the credit provider intends to take legal action against me do I get any warning?**

You may not. See the answer to question 17.

**20. Can the credit provider take action against me without first taking action against the debtor?**  
Yes, but the credit provider will not be able to enforce any judgement against you except in the circumstances described in the answer to question 18.

**21. How much do I have to pay the credit provider if the debtor defaults?**  
You have to pay what the debtor owes the credit provider, subject to any limit provided in the guarantee, plus the credit provider's reasonable expenses in making you honour your contract of guarantee.

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## **GENERAL**

**22. What can I do if I am asked to pay out the credit contract and I cannot pay it all at once?**

Talk to the credit provider and see if some arrangement can be made about paying.  
If you cannot come to a suitable arrangement, contact your credit provider's external dispute resolution scheme. There are other people, such as financial counsellors, who may be able to help.

**23. If I pay out money for a debtor, is there any way I can get it back?**

You can sue the debtor, but remember, if the debtor cannot pay the credit provider, he or she probably cannot pay you back for a while, if at all.

**24. What happens if I go guarantor for someone who is under 18 when he or she signs a credit contract?**

You are responsible for the full debt if the contract of guarantee has a clear and obvious warning. The warning has to tell you that the courts might not let you sue the debtor if you have to pay out the credit contract for him or her.

**25. Do I have any other rights and obligations?**

Yes. The law does give you other rights and obligations. You should also **READ YOUR GUARANTEE** carefully.

**IF YOU HAVE ANY DOUBTS, OR WANT MORE INFORMATION, CONTACT YOUR CREDIT PROVIDER. YOU MUST ATTEMPT TO RESOLVE YOUR COMPLAINT WITH YOUR CREDIT PROVIDER BEFORE CONTACTING YOUR CREDIT PROVIDER'S EXTERNAL DISPUTE RESOLUTION SCHEME. IF YOU HAVE A COMPLAINT WHICH REMAINS UNRESOLVED AFTER SPEAKING TO YOUR CREDIT PROVIDER YOU CAN CONTACT YOUR CREDIT PROVIDER'S EXTERNAL DISPUTE RESOLUTION SCHEME OR GET LEGAL ADVICE.**

**EXTERNAL DISPUTE RESOLUTION IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. YOUR CREDIT PROVIDER'S EXTERNAL DISPUTE RESOLUTION PROVIDER IS FINANCIAL OMBUDSMAN SERVICE AND CAN BE CONTACTED AT;**

**TELEPHONE: 1300 780 808, INTERNET: [WWW.FOS.ORG.AU](http://WWW.FOS.ORG.AU)**

**POST: FINANCIAL OMBUDSMAN SERVICE, GPO BOX 3, MELBOURNE, VIC 3001.**

**PLEASE KEEP THIS INFORMATION STATEMENT, YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.**

SIGNING PAGE

Warning: If the debtor is under 18 years old, the courts might not let you sue the debtor if you have to pay amounts under this guarantee and indemnity (ie you may not be entitled to an indemnity against the debtor).

EXECUTED as an agreement

IMPORTANT

BEFORE YOU SIGN

- \* READ THIS GUARANTEE AND INDEMNITY AND THE DOCUMENTS FOR THE TRANSACTION OR FACILITY TO BE GUARANTEED.
- \* You should also read the information statement: "Things you should know about Guarantees", if the National Credit Code applies to this guarantee.
- \* You should obtain independent legal advice.
- \* You should also consider obtaining independent financial advice.
- \* You should make your own enquiries about the credit worthiness, financial position and honesty of the debtor

THINGS YOU MUST KNOW

- \* Understand that, by signing this guarantee and indemnity, you may become personally responsible instead of, or as well as, the debtor to pay the amounts which the debtor owes and our expenses in enforcing this guarantee and indemnity.
- \* If the debtor does not pay you must pay. This could mean you lose everything you own including your home.
- \* You may be able to withdraw from this guarantee or limit your liability. Ask your legal adviser about this before you sign this guarantee and indemnity.
- \* You are not bound by a change to the credit contract or by a new credit contract, that increases your liabilities under the guarantee unless you have agreed in writing and have been given written particulars of the change or a copy of the new credit contract document.

Signature of Guarantor

Name of

Dolores Julie Foti-Grant

Witness:

this document

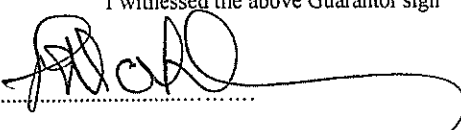
I witnessed the above Guarantor sign

Signature of Witness

Name of Witness

(Please print)

Date of Guarantee  
& Indemnity



Signature of Guarantor

Name of

Guarantor:

Witness:

this document

I witnessed the above Guarantor sign

Signature of Witness

Name of Witness

(Please print)

Simon Watkins  
188 High Street Northcote Vic 3070  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

## Solicitor's Certificate - Advice to Guarantor

### Part A

To: Bank of Melbourne – A Division of Westpac Banking Corporation  
ABN 33 007 457 141  
(Financier)

This certificate is provided by: Simon Watkins  
[insert name of solicitor]  
188 High Street Northcote Vic 3070  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

of GRAY & GRAY  
[insert name of firm]

1. I certify that:

- I am a principal of GRAY & GRAY  
[insert name of firm]
- I am a solicitor holding a current unrestricted practising certificate under the legislation governing solicitors in the state or territory in which I gave the advice to which this certificate relates.
- I have not acted, and am not acting, for the financier in this transaction.

2. I have been asked to interview

DOLORE JULIE FOTI-GRANT  
[insert name of guarantor]  
of 3 MARGARET AVE PRESTON  
[insert address of guarantor]

and

[insert name of guarantor]

of

[insert address of guarantor]

3. I have been provided with the following documents:

- guarantee and indemnity by the guarantor(s) to the financier;

• MARGARET AVE  
LOAN AGREEMENT

[insert details of other documents including the relevant loan agreement].

I have also reviewed any other documents I consider necessary to give the explanations referred to in part B below.

### Part B - Explanations given by the certifying solicitor

4. I certify that in the absence of any other person (other than the translator - if applicable) and before the guarantor(s) signed the documents, I gave legal advice to the guarantor(s) in respect of the documents required to be signed by the guarantor(s) and I explained to the guarantor(s):

- the guarantor's obligation under the document listed in Part A; and
- that, if the debtor defaults in payment or in other obligations to the financier, the guarantor(s) would be liable to make good that default - which could involve all amounts owed by the debtor to the financier under the guaranteed agreement and other documents and substantial arrears of interest; and
- that the giving of a guarantee involves considerable risk, including the risk of losing any security, property and other assets, and requires very careful thought.

## GUARANTOR'S ACKNOWLEDGMENT

TO: Bank of Melbourne - A Division of Westpac Banking Corporation  
ABN 33 007 457 141

LOAN NUMBER: S.311.0912051.00

GUARANTOR/S: ~~James Neil Grant~~

*Dolores Julie Foti-Grant*

BORROWER NAME(S):

JD Grant Enterprises Pty Ltd ACN 147 769 702 ATF Grant Family Superannuation Fund

### SECURITY:

Terrace 22, 170-171 Beach Road, Sandringham, VIC 3191

In relation to the above loan, I/ we acknowledge that I/ each of us has received and read:-

- (a) the Super Fund Home Loan Agreement Offer for the above loan/s; and
- (b) the Terms and Conditions (Super Fund Home Loan) applying to the above loans; and
- (c) a copy of the Guarantee

Subject to the provisions of the Code of Banking Practice (if applicable) and the guarantee terms, I agree that my guarantee will remain in full force until the loan is/loans are repaid.

funds being made available.

Dated: *14* day of *June* *2012*

*D.J. Foti-Grant*  
Guarantor

*[Signature]*  
Guarantor

### Part C - Excluded explanations

5. I informed the guarantor(s) in very clear terms that I was not expressing any opinions nor advising on:
- the viability of the transaction which the debtor was undertaking; or
  - the debtor's ability to make the required payments to the financier; or
  - the client's (guarantor's) ability to make payment to the financier.
6. I further informed the guarantor(s) that if the guarantor(s) was or were in any doubt on those aspects the guarantor(s) should obtain independent financial advice before signing the documents.

### Part D - Statement by the persons signing documents

7. Following the above explanations, the guarantor(s) stated to me:
- that they understood my advice as to the obligations and risks involved in signing those documents;
  - that they were signing these documents freely, voluntarily and without pressure from the debtor or any other person; and
  - \* that they did not have any doubts or questions about any of the matters referred to in paragraph 5 above and did not want independent financial advice about them.  
~~\* that they had obtained independent financial advice about the matters referred to in paragraph 5.~~  
[\*Delete one]

### Part E - Identification of persons signing documents

8. The following evidence of identification was produced to me by the guarantor(s):
- DRIVER'S LICENSE 058651212
  - .....
  - .....
  - .....
  - .....
  - .....
- [if more than one guarantor, indicate what identification was produced for each guarantor]

### ~~Part F - Translation/Interpretation~~

9. \* An independent interpreter, Mr/Mrs/Ms .....  
was present at this interview with the guarantor(s) and interpreted the statements made by all persons present. A certificate by the interpreter is held by me.
- \* I believe the guarantor(s) is or are fluent in English, the language in which I conducted the interview.  
[\*Delete one]

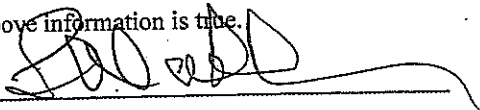
### Part G

10. I certify that apart from the guarantor(s) (and, if applicable, the translator) no one else was present during my interview with the guarantor(s).

### Solicitor's Certificate

I certify the above information is true.

Signed



Dated:

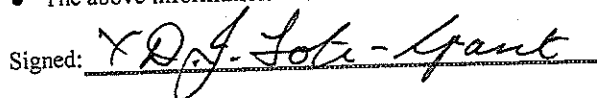
14/6/12

### Client's Certificate

I certify that:

- I have been handed a copy of this certificate.
- I have read this certificate.
- I am the guarantor named in it
- The above information is true.

Signed:



Dated:

14/6/12

Signed:

Dated: