



**Cowell Clarke**

Commercial Lawyers

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**Georgina Steel**

**("Guarantor")**

and

**Lorne Investments (SA) Pty Ltd**

**atf Lorne Superannuation Fund**

**("Lender")**

## **DEED OF GUARANTEE AND INDEMNITY**

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THIS DEED is made

2015

BY **GEORGINA STEEL** ("Guarantor")  
IN FAVOUR OF **Lorne Investments (SA) Pty Ltd**  
**atf Lorne Superannuation Fund** ("Lender")

## RECITALS

- A. The Lender has advanced from time to time and may in future advance monies to the Borrower ("**Loans**").
- B. The Guarantor agrees to guarantee the payment of all monies due to the Lender by the Borrower on the terms and conditions of this Deed.

**THIS DEED WITNESSES** as follows:

### 1. **Recitals**

The parties acknowledge the Recitals are true and form part of this Deed.

### 2. **Interpretation and Definitions**

- 2.1 "**Attorney**" means an attorney appointed under this guarantee and indemnity or any Collateral Security.
- 2.2 "**Borrower**" means **Steel Brand Pty Ltd**.
- 2.3 "**Collateral Security**" means a present or future Security Interest, guarantee or indemnity given by a Guarantor, or another person to secure or otherwise ensure the payment of the Guaranteed Money.
- 2.4 "**Guaranteed Money**" means the Loans and all amounts which:
  - 2.4.1 at any time now or in the future;
  - 2.4.2 for any reason or circumstance in connection with any agreement, transaction, engagement, document, instrument, event, act, omission, matter or thing whatsoever;
  - 2.4.3 whether at law, in equity, under statute or otherwise; and
  - 2.4.4 whether or not of a type within the contemplation of the parties at the date of this guarantee and indemnity:
    - 2.4.4.1 are payable, are owing but not currently payable, are contingently owing, or remain unpaid by the Borrower to the Lender;
    - 2.4.4.2 have been advanced or paid by the Lender at the express or implied request of the Borrower or on behalf of the Borrower;

- 2.4.4.3 have been advanced or paid by the Lender or which the Lender is liable to pay by reason of any act or omission of the Borrower; or
- 2.4.4.4 are reasonably foreseeable as likely, after that time, to fall within any of clauses 2.4.4.1, 2.4.4.2 or 2.4.4.3 above.

A reference to Guaranteed Money includes any part of it.

2.5 “Insolvency Event” means the happening of any of these events:

- 2.5.1 an application is made to a court for an order (and is not stayed, withdrawn or dismissed within seven days) or an order is made that a body corporate be wound up; or
- 2.5.2 an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate (and is not stayed, withdrawn or dismissed within seven days) or one of them is appointed whether or not under an order; or
- 2.5.3 except to reconstruct or amalgamate while solvent on terms approved by the Lender, a body corporate enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- 2.5.4 a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Lender; or
- 2.5.5 a body corporate is or states that it is insolvent; or
- 2.5.6 as a result of the operation of section 459(F)(1) of the Corporations Act 2001, a body corporate is taken to have failed to comply with a statutory demand; or
- 2.5.7 a body corporate is, or makes a statement from which it may be reasonably deduced by the Lender that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act 2001; or
- 2.5.8 a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- 2.5.9 a person becomes insolvent under administration as defined in section 9 of the Corporations Act 2001 or action is taken which could result in that event; or

2.5.10 anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

2.6 “**Security Interest**” means any:

2.6.1 security interest, as defined in the *Personal Property and Securities Act 2009* (Cth); or

2.6.2 security for the payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); or

2.6.3 thing or preferential interest arrangement of any kind giving a person priority of preference over claims of other persons or creditors with respect to any property or asset, and includes any agreement to create any of them or allow them to exist.

### 3. **Guarantee**

3.1 The Guarantor enters into this Deed in return for the Lender:

3.1.1 giving or continuing to provide credit to the Borrower; or

3.1.2 not taking immediate action against the Borrower to enforce the arrangements in place between the Borrower and Lender in respect of the Loans.

3.2 The Guarantor unconditionally and irrevocably guarantees payment to the Lender of the Guaranteed Money.

3.3 If the Borrower does not pay the Guaranteed Money on time and in accordance with any agreement which imposes the obligation to pay it, then the Guarantor agrees to pay the Guaranteed Money to the Lender on demand by the Lender (whether or not demand has been made by the Lender on the Borrower).

3.4 The Lender may demand the Guarantor at any time and from time to time to pay the Guaranteed Money to the Lender even if the Lender does not take action to recover the Guaranteed Money from the Borrower or anyone else.

### 4. **Indemnity**

The Guarantor unconditionally and irrevocably indemnifies the Lender against, and agrees as a principal debtor to pay on demand, any claim, action, damage, loss, liability, cost (including legal costs on a full indemnity basis), charge, expense, outgoing or payment suffered, paid or incurred by the Lender arising out of, in connection with or as a result of:

4.1 the liability to pay the Guaranteed Money being unenforceable in whole or in part; or

- 4.2 an Insolvency Event occurring in respect of the Borrower (including without limitation, loss suffered by the Lender because interest is payable by the Lender to a liquidator or trustee in bankruptcy of the Borrower as a result of a claim being made in respect of a void or voidable payment to the Lender); or
- 4.3 the Guaranteed Money not being recoverable from the Guarantor under clause 3, or from the Borrower because of any other circumstance whatsoever including, without limitation, any transaction relating to the Guaranteed Money being void, voidable or unenforceable and whether or not the Lender knew or should have known anything about that transaction.

**5. Interest**

- 5.1 The Guarantor agrees to pay any interest on the Guaranteed Money as at the rate or rates agreed upon in the respective arrangements between the Lender and the Borrower including any default interest.
- 5.2 If a liability under this guarantee and indemnity becomes merged in a judgment or order, then the Guarantor agrees to pay interest to the Lender on the amount of that liability as an independent obligation. This interest accrues from the date the liability becomes due for payment both before and after the judgment or order until it is paid, at a rate that is the higher of the rate payable under the judgment or order and the rate referred to in clause 5.1.

**6. Extent of Guarantee and Indemnity**

This guarantee and indemnity:

- 6.1 extends to the present and future balance of all the Guaranteed Money (including in respect of any contingent liability of a Borrower or a Guarantor);
- 6.2 is not wholly or partially discharged by the payment of any Guaranteed Money, the settlement of any account or anything else; and
- 6.3 continues until the Lender is satisfied that all Guaranteed Money has been paid in full.

**7. Preservation of Lender's Rights**

- 7.1 The Guarantor's liabilities under this guarantee and indemnity as a guarantor, principal debtor or indemnifier and the rights of the Lender under this guarantee and indemnity are not affected by anything which might otherwise affect it at law or in equity including, without limitation, one or more of the following (whether occurring with or without the consent of a person):
  - 7.1.1 the Lender, or another person granting time or other indulgence (with or without the imposition of an additional burden) to, compounding or compromising with or wholly or partially releasing the Borrower, any other guarantor or another person in any way;

- 7.1.2 laches, acquiescence, delay, acts, omissions or mistakes on the part of the Lender;
- 7.1.3 any variation or novation of a right of the Lender, or another person or material alteration of a document, in respect of the Borrower, the Guarantor or another person including, without limitation, an increase in the limit or other variation in connection with advances or accommodation;
- 7.1.4 the transaction of business, expressly or impliedly, with, for or at the request of the Borrower, the Guarantor or another person;
- 7.1.5 changes which from time to time may take place in the membership, name or business of a firm, partnership, committee or association whether by death, retirement, admission or otherwise whether or not the Guarantor or another person was a member;
- 7.1.6 the loss or impairment of a Collateral Security or a negotiable instrument;
- 7.1.7 a Security Interest being void, voidable or unenforceable;
- 7.1.8 a person dealing in any way with a Security Interest, guarantee, judgment or negotiable instrument (including, without limitation, taking, abandoning or releasing (wholly or partially), realising, exchanging, varying, abstaining from perfecting or taking advantage of it);
- 7.1.9 the death of any person or an Insolvency Event occurring in respect of any person;
- 7.1.10 a change in the legal capacity, rights or obligations of a person;
- 7.1.11 the fact that a person is a trustee, nominee, joint owner, joint venturer or a member or a partnership, firm or association;
- 7.1.12 a judgment against the Borrower or another person;
- 7.1.13 the receipt of a dividend after an Insolvency Event or the payment of a sum of sums into the account of the Borrower or another person at any time (whether received or paid jointly, jointly and severally or otherwise);
- 7.1.14 any part of the Guaranteed Money being irrevocable;
- 7.1.15 an assignment of rights in connection with the Guaranteed Money;
- 7.1.16 the acceptance of repudiation or other termination in connection with the Guaranteed Money;
- 7.1.17 the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;

- 7.1.18 invalidity or irregularity in the execution of this guarantee and indemnity by the Guarantor or any deficiency in or irregularity in the exercise of the powers of the Guarantor to enter into or observe its obligations under this guarantee and indemnity;
  - 7.1.19 the opening of a new account by the Borrower with the Lender or further advances by the Lender to the Borrower or another person;
  - 7.1.20 any obligation of the Borrower or any other guarantor being discharged by operation of law;
  - 7.1.21 property secured under a Security Interest being forfeited, extinguished, surrendered, resumed or determined.
- 7.2 The liability of the Guarantor under this guarantee and indemnity is not affected:
- 7.2.1 because any other person who was intended to enter into this guarantee and indemnity, or otherwise become a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity has not done so or has not done so effectively; or
  - 7.2.2 because a person who is a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity is discharged under an agreement or under statute or a principle of law or equity.

## 8. Variations and increases

The Guarantor expressly confirms that it intends that this guarantee and indemnity will extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Money and/or any facility or amount made available by the Lender to any Borrower after the date of this guarantee and indemnity.

## 9. Accession

A person may accede to this Deed by entering into a deed of accession with the parties to this Agreement, in a form accepted by the parties.

## 10. Notices

Any notice to be given by one party to the other must be signed by the party giving the notice or by one of its officers or its duly authorised solicitor or agent and shall be hand delivered or sent by prepaid post or sent by facsimile to the address or facsimile number (as the case may be) shown at the commencement of this Deed (or any other address or facsimile number that a party may notify to the other) and shall be deemed sufficiently given:

- 10.1 in the case of hand delivery, on the date of delivery; or
- 10.2 in the case of prepaid post, 2 business days after being sent by prepaid post; or



10.3 in the case of facsimile, on receipt by the sender of a successful transmission answerback.

**11. Governing law**

This Deed is to be construed according to South Australian laws and the parties submit themselves to the jurisdiction of the Courts of South Australia and any competent appellate courts.

**12. Counterparts and effectiveness**

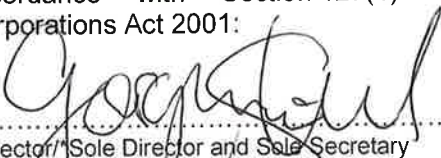
This Deed may be executed in any number of counterparts and all counterparts taken together will constitute one and the same instrument. Satisfactory evidence of execution of this Deed will include evidence of execution sent by facsimile or electronic transmission by the relevant party and in such case, the executing party undertakes to produce the original as soon as reasonably practicable thereafter.

**13. Severability of Provisions**

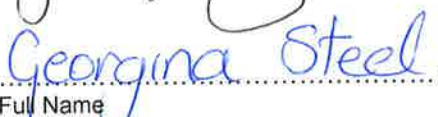
Any provision in this Deed which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Deed or affecting the validity or enforceability of that provision in any other jurisdiction.

**DULY EXECUTED** by the parties as a deed.

**EXECUTED** by **Steel Brand Pty Ltd** in accordance with Section 127(1) of the Corporations Act 2001:

  
.....  
\*Director/\*Sole Director and Sole Secretary

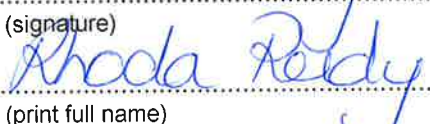
)  
)  
)  
.....  
\*Director/\*Secretary

  
.....  
Print Full Name

.....  
Print Full Name

**SIGNED** by **GEORGINA STEEL** in the presence of:

  
.....  
Witness (signature)

  
.....  
Witness (print full name)

)  
)  
)  
  
.....



**CowellClarke**

Commercial Lawyers

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**Ian Steel**

**("Guarantor")**

and

**Lorne Investments (SA) Pty Ltd**

**atf Lorne Superannuation Fund**

**("Lender")**

## **DEED OF GUARANTEE AND INDEMNITY**

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THIS DEED is made

2015

BY IAN STEEL ("Guarantor")  
IN FAVOUR OF Lorne Investments (SA) Pty Ltd  
atf Lorne Superannuation Fund ("Lender")

## RECITALS

- A. The Lender has advanced from time to time and may in future advance monies to the Borrower ("**Loans**").
- B. The Guarantor agrees to guarantee the payment of all monies due to the Lender by the Borrower on the terms and conditions of this Deed.

THIS DEED WITNESSES as follows:

### 1. Recitals

The parties acknowledge the Recitals are true and form part of this Deed.

### 2. Interpretation and Definitions

- 2.1 "**Attorney**" means an attorney appointed under this guarantee and indemnity or any Collateral Security.
- 2.2 "**Borrower**" means **Steel Brand Pty Ltd**.
- 2.3 "**Collateral Security**" means a present or future Security Interest, guarantee or indemnity given by a Guarantor, or another person to secure or otherwise ensure the payment of the Guaranteed Money.
- 2.4 "**Guaranteed Money**" means the Loans and all amounts which:
- 2.4.1 at any time now or in the future;
  - 2.4.2 for any reason or circumstance in connection with any agreement, transaction, engagement, document, instrument, event, act, omission, matter or thing whatsoever;
  - 2.4.3 whether at law, in equity, under statute or otherwise; and
  - 2.4.4 whether or not of a type within the contemplation of the parties at the date of this guarantee and indemnity:
    - 2.4.4.1 are payable, are owing but not currently payable, are contingently owing, or remain unpaid by the Borrower to the Lender;
    - 2.4.4.2 have been advanced or paid by the Lender at the express or implied request of the Borrower or on behalf of the Borrower;

2.4.4.3 have been advanced or paid by the Lender or which the Lender is liable to pay by reason of any act or omission of the Borrower; or

2.4.4.4 are reasonably foreseeable as likely, after that time, to fall within any of clauses 2.4.4.1, 2.4.4.2 or 2.4.4.3 above.

A reference to Guaranteed Money includes any part of it.

2.5 **“Insolvency Event”** means the happening of any of these events:

2.5.1 an application is made to a court for an order (and is not stayed, withdrawn or dismissed within seven days) or an order is made that a body corporate be wound up; or

2.5.2 an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate (and is not stayed, withdrawn or dismissed within seven days) or one of them is appointed whether or not under an order; or

2.5.3 except to reconstruct or amalgamate while solvent on terms approved by the Lender, a body corporate enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or

2.5.4 a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Lender; or

2.5.5 a body corporate is or states that it is insolvent; or

2.5.6 as a result of the operation of section 459(F)(1) of the Corporations Act 2001, a body corporate is taken to have failed to comply with a statutory demand; or

2.5.7 a body corporate is, or makes a statement from which it may be reasonably deduced by the Lender that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act 2001; or

2.5.8 a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or

2.5.9 a person becomes insolvent under administration as defined in section 9 of the Corporations Act 2001 or action is taken which could result in that event; or

2.5.10 anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

2.6 **"Security Interest"** means any:

2.6.1 security interest, as defined in the *Personal Property and Securities Act 2009* (Cth); or

2.6.2 security for the payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); or

2.6.3 thing or preferential interest arrangement of any kind giving a person priority of preference over claims of other persons or creditors with respect to any property or asset, and includes any agreement to create any of them or allow them to exist.

### 3. **Guarantee**

3.1 The Guarantor enters into this Deed in return for the Lender:

3.1.1 giving or continuing to provide credit to the Borrower; or

3.1.2 not taking immediate action against the Borrower to enforce the arrangements in place between the Borrower and Lender in respect of the Loans.

3.2 The Guarantor unconditionally and irrevocably guarantees payment to the Lender of the Guaranteed Money.

3.3 If the Borrower does not pay the Guaranteed Money on time and in accordance with any agreement which imposes the obligation to pay it, then the Guarantor agrees to pay the Guaranteed Money to the Lender on demand by the Lender (whether or not demand has been made by the Lender on the Borrower).

3.4 The Lender may demand the Guarantor at any time and from time to time to pay the Guaranteed Money to the Lender even if the Lender does not take action to recover the Guaranteed Money from the Borrower or anyone else.

### 4. **Indemnity**

The Guarantor unconditionally and irrevocably indemnifies the Lender against, and agrees as a principal debtor to pay on demand, any claim, action, damage, loss, liability, cost (including legal costs on a full indemnity basis), charge, expense, outgoing or payment suffered, paid or incurred by the Lender arising out of, in connection with or as a result of:

4.1 the liability to pay the Guaranteed Money being unenforceable in whole or in part; or

- 4.2 an Insolvency Event occurring in respect of the Borrower (including without limitation, loss suffered by the Lender because interest is payable by the Lender to a liquidator or trustee in bankruptcy of the Borrower as a result of a claim being made in respect of a void or voidable payment to the Lender); or
- 4.3 the Guaranteed Money not being recoverable from the Guarantor under clause 3, or from the Borrower because of any other circumstance whatsoever including, without limitation, any transaction relating to the Guaranteed Money being void, voidable or unenforceable and whether or not the Lender knew or should have known anything about that transaction.

## 5. Interest

- 5.1 The Guarantor agrees to pay any interest on the Guaranteed Money as at the rate or rates agreed upon in the respective arrangements between the Lender and the Borrower including any default interest.
- 5.2 If a liability under this guarantee and indemnity becomes merged in a judgment or order, then the Guarantor agrees to pay interest to the Lender on the amount of that liability as an independent obligation. This interest accrues from the date the liability becomes due for payment both before and after the judgment or order until it is paid, at a rate that is the higher of the rate payable under the judgment or order and the rate referred to in clause 5.1.

## 6. Extent of Guarantee and Indemnity

This guarantee and indemnity:

- 6.1 extends to the present and future balance of all the Guaranteed Money (including in respect of any contingent liability of a Borrower or a Guarantor);
- 6.2 is not wholly or partially discharged by the payment of any Guaranteed Money, the settlement of any account or anything else; and
- 6.3 continues until the Lender is satisfied that all Guaranteed Money has been paid in full.

## 7. Preservation of Lender's Rights

- 7.1 The Guarantor's liabilities under this guarantee and indemnity as a guarantor, principal debtor or indemnifier and the rights of the Lender under this guarantee and indemnity are not affected by anything which might otherwise affect it at law or in equity including, without limitation, one or more of the following (whether occurring with or without the consent of a person):
  - 7.1.1 the Lender, or another person granting time or other indulgence (with or without the imposition of an additional burden) to, compounding or compromising with or wholly or partially releasing the Borrower, any other guarantor or another person in any way;

- 7.1.2 laches, acquiescence, delay, acts, omissions or mistakes on the part of the Lender;
- 7.1.3 any variation or novation of a right of the Lender, or another person or material alteration of a document, in respect of the Borrower, the Guarantor or another person including, without limitation, an increase in the limit or other variation in connection with advances or accommodation;
- 7.1.4 the transaction of business, expressly or impliedly, with, for or at the request of the Borrower, the Guarantor or another person;
- 7.1.5 changes which from time to time may take place in the membership, name or business of a firm, partnership, committee or association whether by death, retirement, admission or otherwise whether or not the Guarantor or another person was a member;
- 7.1.6 the loss or impairment of a Collateral Security or a negotiable instrument;
- 7.1.7 a Security Interest being void, voidable or unenforceable;
- 7.1.8 a person dealing in any way with a Security Interest, guarantee, judgment or negotiable instrument (including, without limitation, taking, abandoning or releasing (wholly or partially), realising, exchanging, varying, abstaining from perfecting or taking advantage of it);
- 7.1.9 the death of any person or an Insolvency Event occurring in respect of any person;
- 7.1.10 a change in the legal capacity, rights or obligations of a person;
- 7.1.11 the fact that a person is a trustee, nominee, joint owner, joint venturer or a member or a partnership, firm or association;
- 7.1.12 a judgment against the Borrower or another person;
- 7.1.13 the receipt of a dividend after an Insolvency Event or the payment of a sum of sums into the account of the Borrower or another person at any time (whether received or paid jointly, jointly and severally or otherwise);
- 7.1.14 any part of the Guaranteed Money being irrevocable;
- 7.1.15 an assignment of rights in connection with the Guaranteed Money;
- 7.1.16 the acceptance of repudiation or other termination in connection with the Guaranteed Money;
- 7.1.17 the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;



- 7.1.18 invalidity or irregularity in the execution of this guarantee and indemnity by the Guarantor or any deficiency in or irregularity in the exercise of the powers of the Guarantor to enter into or observe its obligations under this guarantee and indemnity;
  - 7.1.19 the opening of a new account by the Borrower with the Lender or further advances by the Lender to the Borrower or another person;
  - 7.1.20 any obligation of the Borrower or any other guarantor being discharged by operation of law;
  - 7.1.21 property secured under a Security Interest being forfeited, extinguished, surrendered, resumed or determined.
- 7.2 The liability of the Guarantor under this guarantee and indemnity is not affected:
- 7.2.1 because any other person who was intended to enter into this guarantee and indemnity, or otherwise become a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity has not done so or has not done so effectively; or
  - 7.2.2 because a person who is a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity is discharged under an agreement or under statute or a principle of law or equity.

**8. Variations and increases**

The Guarantor expressly confirms that it intends that this guarantee and indemnity will extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Money and/or any facility or amount made available by the Lender to any Borrower after the date of this guarantee and indemnity.

**9. Accession**

A person may accede to this Deed by entering into a deed of accession with the parties to this Agreement, in a form accepted by the parties.

**10. Notices**

Any notice to be given by one party to the other must be signed by the party giving the notice or by one of its officers or its duly authorised solicitor or agent and shall be hand delivered or sent by prepaid post or sent by facsimile to the address or facsimile number (as the case may be) shown at the commencement of this Deed (or any other address or facsimile number that a party may notify to the other) and shall be deemed sufficiently given:

- 10.1 in the case of hand delivery, on the date of delivery; or
- 10.2 in the case of prepaid post, 2 business days after being sent by prepaid post; or

10.3 in the case of facsimile, on receipt by the sender of a successful transmission answerback.

**11. Governing law**

This Deed is to be construed according to South Australian laws and the parties submit themselves to the jurisdiction of the Courts of South Australia and any competent appellate courts.

**12. Counterparts and effectiveness**

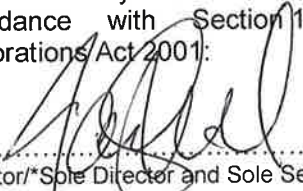
This Deed may be executed in any number of counterparts and all counterparts taken together will constitute one and the same instrument. Satisfactory evidence of execution of this Deed will include evidence of execution sent by facsimile or electronic transmission by the relevant party and in such case, the executing party undertakes to produce the original as soon as reasonably practicable thereafter.

**13. Severability of Provisions**

Any provision in this Deed which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Deed or affecting the validity or enforceability of that provision in any other jurisdiction.

**DULY EXECUTED** by the parties as a deed.

**EXECUTED** by **Steel Brand Pty Ltd** in accordance with Section 127(1) of the Corporations Act 2001:

  
.....  
\*Director/\*Sole Director and Sole Secretary

)  
)  
)  
.....  
\*Director/\*Secretary


*Ian Steel*  
.....  
Print Full Name

.....  
Print Full Name

**SIGNED** by **IAN STEEL** in the presence of:

*RC Reidy*  
.....  
Witness (signature)

*Rhoda Reidy*  
.....  
Witness (print full name)

)  
)  
)  
  
.....



**CowellClarke**

Commercial Lawyers

---

**Ian Steel**

**("Guarantor")**

and

**Lorne Investments (SA) Pty Ltd**

**atf Lorne Superannuation Fund**

**("Lender")**

## **DEED OF GUARANTEE AND INDEMNITY**

Cowell Clarke

Level 5, 63 Pirie Street  
Adelaide, South Australia 5000

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THIS DEED is made

2015

BY IAN STEEL ("Guarantor")

IN FAVOUR OF Lorne Investments (SA) Pty Ltd

atf Lorne Superannuation Fund ("Lender")

## RECITALS

- A. The Lender has advanced from time to time and may in future advance monies to the Borrower ("**Loans**").
- B. The Guarantor agrees to guarantee the payment of all monies due to the Lender by the Borrower on the terms and conditions of this Deed.

THIS DEED WITNESSES as follows:

### 1. Recitals

The parties acknowledge the Recitals are true and form part of this Deed.

### 2. Interpretation and Definitions

- 2.1 "**Attorney**" means an attorney appointed under this guarantee and indemnity or any Collateral Security.
- 2.2 "**Borrower**" means **Tilt Slab (SA) Pty Ltd t/a Specialty Concrete Technologies**.
- 2.3 "**Collateral Security**" means a present or future Security Interest, guarantee or indemnity given by a Guarantor, or another person to secure or otherwise ensure the payment of the Guaranteed Money.
- 2.4 "**Guaranteed Money**" means the Loans and all amounts which:
  - 2.4.1 at any time now or in the future;
  - 2.4.2 for any reason or circumstance in connection with any agreement, transaction, engagement, document, instrument, event, act, omission, matter or thing whatsoever;
  - 2.4.3 whether at law, in equity, under statute or otherwise; and
  - 2.4.4 whether or not of a type within the contemplation of the parties at the date of this guarantee and indemnity:
    - 2.4.4.1 are payable, are owing but not currently payable, are contingently owing, or remain unpaid by the Borrower to the Lender;
    - 2.4.4.2 have been advanced or paid by the Lender at the express or implied request of the Borrower or on behalf of the Borrower;

- 2.4.4.3 have been advanced or paid by the Lender or which the Lender is liable to pay by reason of any act or omission of the Borrower; or
- 2.4.4.4 are reasonably foreseeable as likely, after that time, to fall within any of clauses 2.4.4.1, 2.4.4.2 or 2.4.4.3 above.

A reference to Guaranteed Money includes any part of it.

2.5 “Insolvency Event” means the happening of any of these events:

- 2.5.1 an application is made to a court for an order (and is not stayed, withdrawn or dismissed within seven days) or an order is made that a body corporate be wound up; or
- 2.5.2 an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate (and is not stayed, withdrawn or dismissed within seven days) or one of them is appointed whether or not under an order; or
- 2.5.3 except to reconstruct or amalgamate while solvent on terms approved by the Lender, a body corporate enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- 2.5.4 a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Lender; or
- 2.5.5 a body corporate is or states that it is insolvent; or
- 2.5.6 as a result of the operation of section 459(F)(1) of the Corporations Act 2001, a body corporate is taken to have failed to comply with a statutory demand; or
- 2.5.7 a body corporate is, or makes a statement from which it may be reasonably deduced by the Lender that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act 2001; or
- 2.5.8 a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- 2.5.9 a person becomes insolvent under administration as defined in section 9 of the Corporations Act 2001 or action is taken which could result in that event; or

2.5.10 anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

2.6 “**Security Interest**” means any:

2.6.1 security interest, as defined in the *Personal Property and Securities Act 2009* (Cth); or

2.6.2 security for the payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); or

2.6.3 thing or preferential interest arrangement of any kind giving a person priority of preference over claims of other persons or creditors with respect to any property or asset, and includes any agreement to create any of them or allow them to exist.

### 3. **Guarantee**

3.1 The Guarantor enters into this Deed in return for the Lender:

3.1.1 giving or continuing to provide credit to the Borrower; or

3.1.2 not taking immediate action against the Borrower to enforce the arrangements in place between the Borrower and Lender in respect of the Loans.

3.2 The Guarantor unconditionally and irrevocably guarantees payment to the Lender of the Guaranteed Money.

3.3 If the Borrower does not pay the Guaranteed Money on time and in accordance with any agreement which imposes the obligation to pay it, then the Guarantor agrees to pay the Guaranteed Money to the Lender on demand by the Lender (whether or not demand has been made by the Lender on the Borrower).

3.4 The Lender may demand the Guarantor at any time and from time to time to pay the Guaranteed Money to the Lender even if the Lender does not take action to recover the Guaranteed Money from the Borrower or anyone else.

### 4. **Indemnity**

The Guarantor unconditionally and irrevocably indemnifies the Lender against, and agrees as a principal debtor to pay on demand, any claim, action, damage, loss, liability, cost (including legal costs on a full indemnity basis), charge, expense, outgoing or payment suffered, paid or incurred by the Lender arising out of, in connection with or as a result of:

4.1 the liability to pay the Guaranteed Money being unenforceable in whole or in part; or

- 4.2 an Insolvency Event occurring in respect of the Borrower (including without limitation, loss suffered by the Lender because interest is payable by the Lender to a liquidator or trustee in bankruptcy of the Borrower as a result of a claim being made in respect of a void or voidable payment to the Lender); or
- 4.3 the Guaranteed Money not being recoverable from the Guarantor under clause 3, or from the Borrower because of any other circumstance whatsoever including, without limitation, any transaction relating to the Guaranteed Money being void, voidable or unenforceable and whether or not the Lender knew or should have known anything about that transaction.

## 5. **Interest**

- 5.1 The Guarantor agrees to pay any interest on the Guaranteed Money as at the rate or rates agreed upon in the respective arrangements between the Lender and the Borrower including any default interest.
- 5.2 If a liability under this guarantee and indemnity becomes merged in a judgment or order, then the Guarantor agrees to pay interest to the Lender on the amount of that liability as an independent obligation. This interest accrues from the date the liability becomes due for payment both before and after the judgment or order until it is paid, at a rate that is the higher of the rate payable under the judgment or order and the rate referred to in clause 5.1.

## 6. **Extent of Guarantee and Indemnity**

This guarantee and indemnity:

- 6.1 extends to the present and future balance of all the Guaranteed Money (including in respect of any contingent liability of a Borrower or a Guarantor);
- 6.2 is not wholly or partially discharged by the payment of any Guaranteed Money, the settlement of any account or anything else; and
- 6.3 continues until the Lender is satisfied that all Guaranteed Money has been paid in full.

## 7. **Preservation of Lender's Rights**

- 7.1 The Guarantor's liabilities under this guarantee and indemnity as a guarantor, principal debtor or indemnifier and the rights of the Lender under this guarantee and indemnity are not affected by anything which might otherwise affect it at law or in equity including, without limitation, one or more of the following (whether occurring with or without the consent of a person):
  - 7.1.1 the Lender, or another person granting time or other indulgence (with or without the imposition of an additional burden) to, compounding or compromising with or wholly or partially releasing the Borrower, any other guarantor or another person in any way;



- 7.1.2 laches, acquiescence, delay, acts, omissions or mistakes on the part of the Lender;
- 7.1.3 any variation or novation of a right of the Lender, or another person or material alteration of a document, in respect of the Borrower, the Guarantor or another person including, without limitation, an increase in the limit or other variation in connection with advances or accommodation;
- 7.1.4 the transaction of business, expressly or impliedly, with, for or at the request of the Borrower, the Guarantor or another person;
- 7.1.5 changes which from time to time may take place in the membership, name or business of a firm, partnership, committee or association whether by death, retirement, admission or otherwise whether or not the Guarantor or another person was a member;
- 7.1.6 the loss or impairment of a Collateral Security or a negotiable instrument;
- 7.1.7 a Security Interest being void, voidable or unenforceable;
- 7.1.8 a person dealing in any way with a Security Interest, guarantee, judgment or negotiable instrument (including, without limitation, taking, abandoning or releasing (wholly or partially), realising, exchanging, varying, abstaining from perfecting or taking advantage of it);
- 7.1.9 the death of any person or an Insolvency Event occurring in respect of any person;
- 7.1.10 a change in the legal capacity, rights or obligations of a person;
- 7.1.11 the fact that a person is a trustee, nominee, joint owner, joint venturer or a member or a partnership, firm or association;
- 7.1.12 a judgment against the Borrower or another person;
- 7.1.13 the receipt of a dividend after an Insolvency Event or the payment of a sum of sums into the account of the Borrower or another person at any time (whether received or paid jointly, jointly and severally or otherwise);
- 7.1.14 any part of the Guaranteed Money being irrevocable;
- 7.1.15 an assignment of rights in connection with the Guaranteed Money;
- 7.1.16 the acceptance of repudiation or other termination in connection with the Guaranteed Money;
- 7.1.17 the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;

- 7.1.18 invalidity or irregularity in the execution of this guarantee and indemnity by the Guarantor or any deficiency in or irregularity in the exercise of the powers of the Guarantor to enter into or observe its obligations under this guarantee and indemnity;
  - 7.1.19 the opening of a new account by the Borrower with the Lender or further advances by the Lender to the Borrower or another person;
  - 7.1.20 any obligation of the Borrower or any other guarantor being discharged by operation of law;
  - 7.1.21 property secured under a Security Interest being forfeited, extinguished, surrendered, resumed or determined.
- 7.2 The liability of the Guarantor under this guarantee and indemnity is not affected:
- 7.2.1 because any other person who was intended to enter into this guarantee and indemnity, or otherwise become a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity has not done so or has not done so effectively; or
  - 7.2.2 because a person who is a co-surety or co-indemnifier for payment of the Guaranteed Money or other money payable under this guarantee and indemnity is discharged under an agreement or under statute or a principle of law or equity.

## 8. **Variations and increases**

The Guarantor expressly confirms that it intends that this guarantee and indemnity will extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Money and/or any facility or amount made available by the Lender to any Borrower after the date of this guarantee and indemnity.

## 9. **Accession**

A person may accede to this Deed by entering into a deed of accession with the parties to this Agreement, in a form accepted by the parties.

## 10. **Notices**

Any notice to be given by one party to the other must be signed by the party giving the notice or by one of its officers or its duly authorised solicitor or agent and shall be hand delivered or sent by prepaid post or sent by facsimile to the address or facsimile number (as the case may be) shown at the commencement of this Deed (or any other address or facsimile number that a party may notify to the other) and shall be deemed sufficiently given:

- 10.1 in the case of hand delivery, on the date of delivery; or
- 10.2 in the case of prepaid post, 2 business days after being sent by prepaid post; or

10.3 in the case of facsimile, on receipt by the sender of a successful transmission answerback.

**11. Governing law**

This Deed is to be construed according to South Australian laws and the parties submit themselves to the jurisdiction of the Courts of South Australia and any competent appellate courts.

**12. Counterparts and effectiveness**

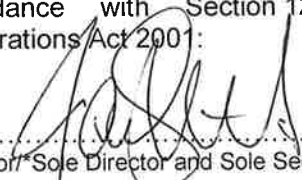
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**DULY EXECUTED** by the parties as a deed.

**EXECUTED** by **Tilt Slab (SA) Pty Ltd** in accordance with Section 127(1) of the Corporations Act 2001:


  
.....  
\*Director/\* Sole Director and Sole Secretary

)  
)  
)  
.....  
\*Director/\*Secretary

**Ian Steel**  
.....  
Print Full Name

.....  
Print Full Name

**SIGNED** by **IAN STEEL** in the presence of:

  
.....  
Witness (signature)  
**Rhoda Ruddy**  
.....  
Witness (print full name)

  
.....  
)  
)  
)