



## **Corporate Guarantee and Indemnity**

**Date of Release 31<sup>st</sup> March 2012**

### **About this deed of guarantee and indemnity**

If the applicant is a trustee, including a superannuation fund trustee or a company trustee, the obligations of the investor must be guaranteed personally by the trustee(s). Additionally, FP Markets may also require guarantees to be given in respect of non-company applicants. Each Guarantor must complete this section accordingly. If a company has more than three directors, or FP Markets requires more than three Guarantors for a non company applicant, please provide details and signatures of all additional guarantors and witnesses on a separate attachment. Please be aware that a Guarantor is fully and personally liable for all of the obligations of the client throughout the life of the Account.

### **Date of this guarantee**

This Deed is binding on the relevant Guarantor on the day it is executed by the Guarantor without having to be executed by FP Markets Pty Ltd ABN 16 112 600 281 (FPM).

### **Guarantee**

In consideration of FPM, a company incorporated in the State of New South Wales whose registered office is at 10 Bridge Street, Sydney, 2000, agreeing to act in such capacity as the person or persons identified in the accompanying account application as the applicant (and where more than one is identified, those persons jointly and severally) (Client) may from time to time direct, the person or persons identified as Guarantor (and where more than one is identified, those persons jointly and severally) (Guarantor) hereby irrevocably makes the following undertakings in favour of FPM.

### **Undertakings**

#### *1. Guarantee*

The Guarantor unconditionally and irrevocably guarantees to FPM the payment of all moneys and the due and punctual performance and observance of all conditions and provisions of any agreement between the Client and FPM to be respectively paid, performed and observed by the Client. If the Client does not pay such money on time and in accordance with any such agreement then the Guarantor agrees to pay it to FPM on demand by FPM (whether or not demand has been made by FPM on the Client or any other Guarantor).

#### *2. Indemnity*

The Guarantor unconditionally and irrevocably indemnifies and agrees to keep FPM indemnified:

- a. against any failure on the part of the Client to pay FPM any and all moneys which are at the date hereof or at any time hereafter due and payable, or to become due and payable by the Client to FPM on any account whatever;

- b. against all losses, suits, claims, proceedings, costs, damages and expenses of whatever kind suffered or incurred by FPM by reason of any action on the part of the Client in relation to any agreements between the Client and FPM; and
- c. against any loss FPM suffers because a liability of the Client to pay any amount under the agreement between the Client and FPM is unenforceable in whole or in part or is not or has never been recoverable from the Guarantor or the Client because of any circumstance whatever including any agreement or term of an agreement between the Client and FPM being void, voidable or unenforceable and whether or not FPM knew or should have known anything about that circumstance.

### *3. Further indemnity*

- a. The Guarantor agrees that this Guarantee and Indemnity is a principal obligation, immediately enforceable against the Guarantor and the Guarantor as principal debtor must pay to FPM on demand a sum equal to the amount of any loss described in clauses 2(b) and 2(c) and shall indemnify FPM against all and any obligations (contingent or actual) of the Client to FPM. In the event of any moratorium or suspension of the Client's obligations the Guarantor shall forthwith on demand pay to FPM the whole of the moneys on whatever account due and payable or to become due and payable to FPM by the Client;
- b. The Guarantor agrees that this Guarantee and Indemnity shall not be affected in any way by any moratorium or by any delay period of grace or other indulgence given or allowed by FPM to the Client or the Guarantor or by any modification or variation in the terms upon which moneys due and payable to FPM by the Client are so due and payable or by any other thing which would but for this provision have the effect of releasing the Guarantor from liability hereunder.
- c. The Guarantor agrees in the event of avoidance for any reason whether by statute or otherwise of any payment by the Client or by the Guarantor to FPM pursuant to this Guarantee and Indemnity, irrespective of whether such avoidance operates from the time of such payment or from any later date, the liability (contingent or actual) of the Guarantor and the rights and remedies of FPM against the Client and/or the Guarantor shall be the same as if no such payment has been made.
- d. The Guarantor agrees that this Guarantee and Indemnity is in addition to and not in substitution for any other security which FPM may hold (including any other indemnity from any person) and this Indemnity may be enforced against the Guarantor without first having recourse to any such security or taking any steps or proceedings against the Client or any other Guarantor.
- e. The Guarantor accepts the terms and conditions of appointment of FPM to act for and on behalf of the Client on any account and in any capacity whatever.
- f. The Guarantor agrees that whoever executes this Guarantee and Indemnity on behalf of the Guarantor has the power and authority of the Guarantor to do so.
- g. This Guarantee and Indemnity is governed by the laws in force in New South Wales.
- h. The Guarantor must obtain all necessary governmental approvals and authorisations and take any such other actions as may be necessary to enable it to discharge its obligations under this Guarantee and Indemnity.

### **Guarantor authorisations**

If the Guarantor is an individual, or individuals, this Guarantee must be executed by that individual or individuals. If the Guarantor be a company this Guarantee must be executed under the common seal of the company or alternatively, on its behalf by its directors or officers having power and authority to do so, proof of which must be provided to FPM.

*Signed, sealed and delivered as a deed*