

# TERMS & CONDITIONS FOR SUPPLY OF GOODS AND SERVICES

These are the terms under which Coomalie Air Maintenance Pty Ltd (“**Coomalie Air Maintenance**”) will supply goods and services to the Customer, and grant credit to the Customer

**1. Acceptance of Application**

- a. Coomalie Air Maintenance may accept or decline an Application (at its sole discretion) by a written notice to the Customer after the receipt of the correctly completed Application and all supporting information that may be requested by Coomalie Air Maintenance.
- b. If Coomalie Air Maintenance accepts an Application, Coomalie Air Maintenance agrees to provide the Customer with the Credit Facility and in consideration of this, the Customer agrees to be bound by these Terms and Conditions.
- c. These Terms and Conditions include the Application, and the Deed of Guarantee Indemnity and Charge.

**2. Term**

These Terms and Conditions commence when Coomalie Air Maintenance accepts the Customer’s Application and continue until terminated in accordance with clause 11.

**3. Credit limit**

The Customer must not exceed its Credit Limit

- a. Coomalie Air Maintenance may refuse to supply Products or to process a Transaction for Services to the Customer in excess of the Customer’s Credit Limit
- b. If a Transaction or a delivery of any Products at any time results in the Customer exceeding its Credit Limit (“**Credit Limit Exceedance**”), the Customer must:
  - i. pay Coomalie Air Maintenance the amount of the Credit Limit Exceedance immediately in full; and
  - ii. if the Customer is not able to pay in accordance with sub-clause (a), immediately return any Products which are capable of being returned in their original condition to Coomalie Air Maintenance.

**4. Work orders and prices**

- a. Coomalie Air Maintenance will issue the Customer with a work order (**Work Order**) at the time of a request for each Transaction.
- b. The Work Order will set out the work that the Customer has requested Coomalie Air Maintenance to undertake.
- c. Coomalie Air Maintenance may at its discretion include an estimate of fees in the Work Order;
- d. Unless a fixed fee is agreed, Services will be undertaken by Coomalie Air Maintenance at the hourly rates set out below. These hourly rates may be amended from time to time.

Apprentice	\$85 + GST per hour
LAME	\$127.50 + GST per hour
Avionics / Remote	\$147.50 + GST per hour

- e. If a fixed fee is specified in the Work Order, Coomalie Air Maintenance will undertake the Services described in respect of that fixed fee for the fixed fee.
- f. In addition to payment for time spent undertaking the Services, the Customer agrees to pay Coomalie Air Maintenance for all Products purchased on behalf of the Customer.
- g. The Customer agrees that it is the Customer’s responsibility to ensure the Work Order correctly records the type of the Product or Service, and the quantity, price and other details of the purchase.

**5. Purchase**

- a. Coomalie Air Maintenance agrees to provide the Customer with the Credit Facility for the purpose of purchasing some or all of Products and Services from Coomalie Air Maintenance.
- b. The Customer agrees that the Credit Facility must be used by the Customer wholly or predominantly for business purposes.
- c. The Customer must pay the price charged by Coomalie Air Maintenance for the supply of Products and Services as set out in clause 4.
- d. In addition to the price for Products and Services, the Customer must pay:
  - i. any duties, taxes, government charges, levies and other imposts presently or in the future being levied by any government or regulatory authority on any of the Products or Services, or the price of any of the Products or services, in the amounts applicable from time to time;
  - ii. any Surcharge;
  - iii. any Storage Fees; and
  - iv. GST, where applicable.
- e. Coomalie Air Maintenance will charge all amounts due for the purchases of Products and Services to the Customer’s Account.

**6. Payment**

- a. Coomalie Air Maintenance will issue a tax invoice to the Customer for all purchases and supplies made during the previous billing period or pursuant to each Work Order and all fees, charges and moneys

otherwise due and payable to Coomalie Air Maintenance (“**Due Amount**”).

- b. The Customer must pay the Due Amount in full by within 14 days of the date on which the invoice is issued (“**Due Date**”).
- c. If the Due Date falls on a non-business day, the payment of the Due Amount must be made on the business day preceding the Due Date:
- d. The Customer must make all payments due under these Terms and Conditions in full without deduction or set-off (equitable or otherwise).
- e. The Customer must notify Coomalie Air Maintenance of any dispute the Customer has with any invoice within 7 days from the date of the Customer’s receipt of the tax invoice. Unless the Customer disputes the amount within the said 7 days the amount shall be taken to be accepted by the Customer due and payable to Coomalie Air Maintenance and not open to dispute or challenge.
- f. To the extent permitted by law, all money received by Coomalie Air Maintenance from the Customer will be applied in the manner and order determined by Coomalie Air Maintenance.

**7. Default**

- a. The payment is taken to be made on the date when Coomalie Air Maintenance receives cleared funds into its nominated bank account
- b. The Customer is in default if the full payment of the tax invoice is not made by or on the Due Date or if the payment subsequently dishonours.
- c. If the Customer is in default, in addition to any other right Coomalie Air Maintenance may have, Coomalie Air Maintenance may, at its discretion:
  - i. charge the Customer interest on the overdue amount at a 10% per annum from the Due Date until Coomalie Air Maintenance receives the payment in full;
  - ii. immediately and without prior notice suspend the provision of the Credit Facility to the Customer until the payment is made in full;
  - iii. review and adjust the Customer’s Credit Limit as Coomalie Air Maintenance considers appropriate; and/or
  - iv. terminate the provision of the Credit Facility to the Customer immediately without prior notice.
- d. Coomalie Air Maintenance will endeavor to notify the Customer prior to the suspension or termination of the Credit Facility if the Customer is in default, however, Coomalie Air Maintenance

Position	Rate (excluding GST)
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reserves the right to suspend or terminate the Credit Facility immediately and without prior notice if Coomalie Air Maintenance forms a view that Coomalie Air Maintenance's actions in that respect are justified in the circumstance.

- e. If the Customer is in default, the Customer will be liable to Coomalie Air Maintenance for the following:
- i. the unpaid amount specified in the tax invoice;
  - ii. any new amount in respect of any purchases and/or fees incurred on the Account after the date of the latest tax invoice issued to the Customer;
  - iii. any interest on the unpaid amount and any new amount charged to the Customer under clause 7(e)(i)
  - iv. all costs and expenses, including full legal, debt collection and administrative costs incurred by Coomalie Air Maintenance in attempting to enforce payment or otherwise incurred as a result of the Customer's default.
- f. All such amounts are a debt incurred by the Customer to Coomalie Air Maintenance and must be paid within 3 business days after the Customer's receipt of a re-issued tax invoice from Coomalie Air Maintenance. However, the Customer agrees that if a tax invoice has previously been issued for any amount (such as an invoice for the unpaid amount), such invoice does not need to be reissued under this clause and that amount becomes immediately due and payable on the date of default.

## 8. Security

- a. For the purpose of securing payment of all moneys due and payable to Coomalie Air Maintenance by the Customer arising from the use of the Credit Facility, the Customer:
- i. charges to Coomalie Air Maintenance all its Property (wherever situated) to secure its obligations under these Terms and Conditions and authorises and consents to Coomalie Air Maintenance lodging a caveat, security interest under the PPSA, or any other similar document (in a form and subject to any conditions as Coomalie Air Maintenance sees fit) upon the title or in relation to the Property in Coomalie Air Maintenance's absolute discretion to give effect to these provisions;
  - ii. agrees that any and all charges described in this clause 8 should be taken to be a purchase money security interest for the purposes of the PPSA;
  - iii. consents to Coomalie Air Maintenance registering any and all charges described in this clause 8 on the personal property security register as a purchase money security interest;
  - iv. acknowledges that the charges granted by the Customer under this clause 8 give Coomalie Air Maintenance a power of sale over all of the Customer's Property if the

Customer is in default of these Terms and Conditions; and

- v. irrevocably appoints Coomalie Air Maintenance and persons nominated by Coomalie Air Maintenance separately as the attorney of the Customer with power to sign and lodge such caveat or other similar document to give effect to these provisions.
- b. Until such time as payment in full has been received by Coomalie Air Maintenance, title in the Products shall remain with Coomalie Air Maintenance (and Coomalie Air Maintenance shall be entitled to register this retention of title as a security interest under the personal property security register).

## 9. Risk

Risk in the Products will pass to the Customer when the Products have been delivered to the Customer.

## 10. Property

Property in the Products shall remain with Coomalie Air Maintenance until Coomalie Air Maintenance have been paid in full for the Products.

## 11. Termination

- a. Coomalie Air Maintenance may terminate these Terms and Conditions immediately by notice in writing to the Customer if:
- i. the Customer breaches any obligation under these Terms and Conditions and fails to remedy the breach within 7 days after notice from Coomalie Air Maintenance to remedy the breach;
  - ii. the Customer breaches any obligation under these Terms and Conditions and the breach cannot be remedied;
  - iii. the Customer goes into liquidation, receivership, administration, bankruptcy, enters an arrangement or compromise with its creditors, has any form of insolvency administrator appointed to it or to any of its property or cannot pay its debts when they are due or where the Customer is a partnership, one or more partners become a bankrupt or the partnership is dissolved; or
  - iv. the Customer dies.
- b. Coomalie Air Maintenance may terminate these Standard Terms and Conditions immediately without prior notice to the Customer if:
- i. the Customer is in default, in accordance with clause 11(a)(iii); or
  - ii. the Customer, in Coomalie Air Maintenance's reasonable opinion, represents a credit risk to Coomalie Air Maintenance or may not be able to pay moneys owing or which may become owing by the Customer to Coomalie Air Maintenance as the payments become due.
- c. Either party may terminate these Terms and Conditions at any time by giving the other party 30 days written notice.

## 12. Effects of Termination

- a. On termination of these Standard Terms and Conditions:
- i. without limiting in any way clause 12, all moneys owing to Coomalie Air Maintenance by the Customer immediately become due and payable without prejudice to any other right of Coomalie Air Maintenance;
  - ii. Coomalie Air Maintenance may take such action as it is entitled to take by law, and, for the purposes of the recovery of the Products and enter any site where they are stored or where they are reasonably sought to be stored and take possession of them; and
  - iii. any right accrued prior to the termination remains unaffected.

## 13. Limitation of Liability

- a. Coomalie Air Maintenance will not, under any circumstances, be liable to the Customer, whether directly or indirectly for any third party claim arising out of supply of Products or Services or the performance or non-performance of any obligations under these Terms and Conditions.
- b. Coomalie Air Maintenance will not be liable to the Customer for any indirect or consequential loss, economic loss and/ or loss of profit, income, business, production, reputation or goodwill.
- c. Any Coomalie Air Maintenance liability which may arise under these Terms and Conditions is limited to the maximum extent permitted by law.
- d. Where the Customer fails to collect the Customer's Property when requested by Coomalie Air Maintenance, Coomalie Air Maintenance shall not be required to keep such Property safe and shall not be liable for any damage caused to the Property (regardless as to whether or not a Storage Fee is charged).
- e. To the extent permitted by law, all express or implied warranties, conditions or representations relating to the Products or Bulk Products that are not contained in these Terms and Conditions are excluded. If any non-excludable condition or warranty is implied into these Terms and Conditions and such condition or warranty is breached, the liability of Coomalie Air Maintenance in respect of such breach will be limited to (Coomalie Air Maintenance's option):
- i. replacement of the defective Products or the supply of equivalent products; or
  - ii. payment of the costs of replacing the defective Products or of acquiring equivalent products.

## 14. Indemnity

The Customer shall indemnify and hold Coomalie Air Maintenance harmless against

any claim, liability, cost or expense arising directly or indirectly out of:

- a. a breach by the Customer of any provision of these Terms and Conditions; and
- b. misuse, whether innocent or willful, by the Customer of the Credit Facility.

#### 15. GST

- a. Subject to as may otherwise be expressly stated, and subject to the provisions set out below, if any supply made under or in connection with these Terms and Conditions by one party ('Supplier') to the other party ('Acquirer'), is subject to GST, the payment for that supply will be increased by an amount equal to the GST payable.
- b. The Acquirer will not be obligated to make any payment for either the supply referred to in paragraph (a) or on account of the GST referred to in paragraph (a) until the Supplier has issued a tax invoice to the Acquirer for the supply to which the payment relates.
- c. If a payment made by one party to the other party is a reimbursement or indemnification of a cost, expense, loss or liability incurred by that other party, the payment shall be reduced by an amount for which that party is entitled to an input tax credit.
- d. Words or expressions used in this clause, which are defined in *A New Tax System (Goods and Services Tax) Act 1999*, have the same meaning.

#### 16. Privacy Notice and Agreement

The Privacy Agreement set out in the Application is expressly incorporated into these Terms and Conditions.

#### 17. Notice

- a. Writing

All notices must be in writing and must be delivered, mailed or sent by facsimile or e-mail:

- i. to Coomalie Air Maintenance, using the contact details on its website; and
- ii. to the Customer, using the Customer's contact details as nominated in the Application or as otherwise advised by the Customer in writing.

- b. The notice will be deemed served when, if delivered, on delivery; if sent by mail, two business days after the date on which the notice was posted; and if sent by facsimile, on confirmation of the successful transmission of all pages and, if sent by e-mail, on the receipt of the e-mail by the recipient's computer network.

#### 18. Miscellaneous

- a. The Customer must notify Coomalie Air Maintenance in writing of any change in the Customer's contact details or other details within 2 business days of any such change.
- b. Coomalie Air Maintenance may:
  - i. vary any material provision of these Terms and Conditions at any time by

giving not less than 30 days prior written notice; and

- ii. vary any non-material provision to these Terms and Conditions at any time without giving the Customer prior notice. Any new version of the varied Standard Terms and Conditions will be available on Coomalie Air Maintenance's public website for the Customer's information.

- c. If there are any special conditions included by Coomalie Air Maintenance in the credit application, these special conditions will apply in priority to these Terms and Conditions in the event of an inconsistency.

- d. These Terms and Conditions will be governed by the laws of the Northern Territory of Australia.

- e. These Terms and Conditions constitute the entire agreement between the parties concerning the subject matter of the agreement and any previous agreement, understanding and negotiations on the subject matter are excluded.

- f. Coomalie Air Maintenance may assign and/or subcontract its rights and obligations under these Terms and Conditions without notice at any time.

- g. The Customer may not assign or otherwise dispose of its rights and obligations under these Terms and Conditions without prior written consent from Coomalie Air Maintenance.

- h. Any waiver by Coomalie Air Maintenance of any rights under these Standard Terms and Conditions will not constitute a general waiver of those or other rights.

- i. In the case of accounts opened in the name of two or more people, each party is jointly and severally liable to pay that account.

- j. The Customer agrees that it will use Coomalie Air Maintenance's goods and services wholly or predominantly for business purposes and that the unfair contracts provisions of the *Competition and Consumer Act 2010* (Cth) do not apply to these Terms and Conditions.

#### 2. DEFINITIONS

"Accounts" means the account opened by Coomalie Air Maintenance for the Customer to operate the Credit Facility;

"Application" means a credit application provided by Coomalie Air Maintenance which the Customer must complete to make an application to Coomalie Air Maintenance for the supply of Products and Services on credit;

"Credit Facility" means the facility provided by Coomalie Air Maintenance for the Customer to purchase Products and/or Services on credit.

"Credit Limit" means the amount notified to the Customer by Coomalie Air Maintenance from time to time as the maximum amount allowed for purchases of Products and Services by the Customer on its Account;

"Customer" means the "Applicant" in the Application;

"Deed of Guarantee, Indemnity and Charge" means a deed which is signed by the

Customer's guarantor as a part of these Terms and Conditions where relevant;

"Due Date" means the date, as agreed between the Customer and Coomalie Air Maintenance, by which the amount of the tax invoice must be paid in full, or, if no date has been agreed, the day that is 30 days following the month in which the tax invoice is issued;

"GST" means Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999*,

"Laws" means the requirements of all statutes, rules, regulations, proclamations, awards, ordinances, bylaws or Australian Standards, present or future, and whether territory, state, federal or otherwise;

"Order" means wither a one off or a periodic order from the Customer for the delivery of Bulk Products;

"Products" means all goods supplied by Coomalie Air Maintenance to the Customer;

"PPSA" means the *Personal Property Securities Act 2009* (Cth).

"Property" means all property of the Customer, now or into the future, wherever situated, including without limitation all real and personal property, business and trading assets, stock, choses in action, goodwill and uncalled capital and called but unpaid capital from time to time;

"Purchase Limit" means a daily and/ or monthly dollar, volume or transaction type limit;

"Storage Fee" means the amount determined by Coomalie Air Maintenance (acting reasonably) equivalent to the cost to Coomalie Air Maintenance of the Customer not removing the Customer's Property from the Coomalie Air Maintenance premises, including administrative, transport and storage costs (including aircraft storage fees of \$20 + GST per day);

"Services" means all services provided by Coomalie Air Maintenance to the Customer;

"Surcharge" means a fee determined by Coomalie Air Maintenance from time to time and charged by Coomalie Air Maintenance to the Customer;

"Transaction" means a purchase transaction for which the Credit Facility is used by a Customer to purchase Products and/ or Services;

#### 3. INTERPRETATION

Unless the context requires otherwise, the singular includes the plural and vice versa, reference to a gender includes all gender includes all genders, reference to "person" includes a natural person, company, body corporate or other form of legal entity, and reference to "including" and "includes" is to read as if followed by "without limitation".

# PRIVACY AGREEMENT

Coomalie Air Maintenance Pty Ltd (**Coomalie Air Maintenance**) needs to collect Personal Information about the Applicant (“you”), for the purpose of your credit application. If Coomalie Air Maintenance cannot collect this information, it may be unable to process your application. Coomalie Air Maintenance respects your privacy and will only use or disclose personal information in accordance with the *Privacy Act 1988* (Cth). You can access your personal information in accordance with the *Privacy Act 1988*. To request access, or ask a privacy-related question, please write to: The Privacy Compliance Officer, Coomalie Air Maintenance Pty Ltd

“Personal Information” means information about you collected by Coomalie Air Maintenance in this Application form and from other sources, including information about you, your financial circumstances, credit worthiness, credit history, credit standing and credit capacity.

By submitting this Application, you agree that, subject to the Privacy Act 1988, Coomalie Air Maintenance may:

1. disclose Personal Information to Coomalie Air Maintenance’s associated entities or third parties engaged to provide services to Coomalie Air Maintenance;
2. obtain credit reports about you from credit reporting agencies to assess your application for commercial credit or to collect overdue payments from you;
3. obtain and verify personal information about you from motor vehicle or land title registry or from a business that provides commercial credit worthiness information;
4. provide to and exchange your personal information with any other person whose name you can give to Coomalie Air Maintenance in connection with your credit Application or facility;
5. provide to and exchange your Personal Information with any Coomalie Air Maintenance’s collection agents if you default on your credit obligations;
6. disclose your Personal Information to credit reporting agencies before, during or after providing credit to you. This includes, but is not limited to:
  - a. identity particulars such as name, sex, address (and the previous two addresses), date of birth, employer and drivers license number;
  - b. the fact that you have applied for credit and the credit limit/amount, and that Coomalie Air Maintenance is a credit provider to you;
  - c. advice about payments at least 60 days overdue and which are in collection (and advice that payments are no longer overdue or in collection);

- d. advice that cheque(s) drawn by you which are more than \$100 has been dishonored;
  - e. the fact that you have committed a serious credit infringement; and
  - f. the fact that credit provider to you has been discharged.
7. exchange you Personal Information with another credit provider who is named in your Application or a credit report issued by a credit reporting agency or who proposes to provide credit to you. This is for purpose including but not limited to:
    - a. assessing your credit worthiness, this Application and any subsequent application by you for personal or commercial credit;
    - b. assisting you to avoid defaulting in your credit obligations;
    - c. assisting your position if you fall into arrears;
    - d. notifying other credit providers of your default;-exchanging information about your credit obligations with other credit providers; and
    - e. administrating your credit facility.
  8. You also agree that, when, for the purpose of your credit Application, you provide Coomalie Air Maintenance with personal information about another person, you must, prior to providing such information, inform that person that:
    - a. you intend to provide his/her personal information to Coomalie Air Maintenance for the purpose of you credit Application;
    - b. without that information; Coomalie Air Maintenance may not be able to process your Application; that information may be disclosed by Coomalie Air Maintenance in accordance with the foregoing provisions; and

- c. that person can access the information about him/her held by Coomalie Air Maintenance by writing to the Privacy Compliance Officer at the address above.
9. You also agree that Coomalie Air Maintenance may:
  - a. use you Personal Information to send you marketing material and offers about products and services supplied by third parties. If you so not wish to receive this material, please write to Coomalie Air Maintenance’s Privacy Compliance Officer at the address above;
  - b. monitor and record your telephone conversations with Coomalie Air Maintenance’s staff for training, recording and service quality control purposes; and
  - c. provide Personal Information, as reasonably necessary, to a likely or actual buyer of the whole or part of Coomalie Air Maintenance’s business.

## APPLICANT’S ACKNOWLEDGEMENTS

The Applicant acknowledges that he/she/it has reviewed Coomalie Air Maintenance’s Terms and Conditions (annexed) prior to the signing of this Application.

The person(s) signing this Application warrants that he/she/they have read and fully understand Coomalie Air Maintenance’s Terms and Conditions and that:

2. He/she/they have the authority to sign on behalf of and to bind the Applicant;
3. The information provided on behalf of the Applicant and any signatory is true and correct in every detail;
4. He/she/they agree to provide such updated and regular financial and trading information as Coomalie Air Maintenance may require from time to time;
5. He/she/they will indemnify Coomalie Air Maintenance in respect to any claims or actions against Coomalie Air Maintenance or losses suffered by Coomalie Air Maintenance in connection with obtaining or providing information concerning the Applicant; and
6. He/she/they agree to the above conditions regarding the Coomalie Air Maintenance’s use and disclosure of personal information.

## SIGNATURES

Signed on behalf of the Applicant by (Please Tick): [ ] Directors [ ] Others (eg Sole Traders/Partners) [ ] Trustee [ ] Authorised Officers

PLEASE ENSURE ALL PAGES ARE SIGNED WHERE INDICATED

..... Signature Signature Signature Signature

..... Print Name Print Name Print Name Print Name

.....

# DEED OF GUARANTEE AND INDEMNITY

THIS IS A LEGAL DOCUMENT. IF YOU ARE UNSURE OF ITS MEANING AND EFFECT COOMALIE AIR MAINTENANCE STRONGLY RECOMMENDS THAT YOU SEEK INDEPENDENT LEGAL AND OTHER APPROPRIATE ADVICE BEFORE YOU SIGN THIS DOCUMENT.

To: Coomalie Air Maintenance Pty Ltd ACN 132 837 533

In consideration of Coomalie Air Maintenance doing any one or more of the following, at the request of the Guarantor, for the business purposes of the Customer:

1. providing or agreeing to provide Goods, or
2. giving credit to the Customer, or
3. not commencing or not continuing legal action against the Customer

The Guarantor enters this Deed and agrees to perform his, her or its obligations under this Deed.

## 1. DEFINITIONS AND INTERPRETATIONS

### 1.1. Definitions

In this deed, unless the context requires otherwise:

“**Credit Application**” means the Credit Application annexed to this Deed and executed on or about the date of this Deed.

“**Customer**” means the applicant set out in the Credit Application.

“**Deed**” means this Deed of Guarantee, Indemnity and Charge.

“**Goods**” means all goods, produce, products, merchandise and services which have been supplied or which may be supplied in the future at the Customer’s request on credit extended by Coomalie Air Maintenance to the Customer.

“**Guarantor**” means any person or company or other body set out in the Credit Application as the Customer’s guarantor or other person signing or purporting to sign this Deed as Guarantor and that person’s personal representative

“**Coomalie Air Maintenance**” means Coomalie Air Maintenance Pty Ltd ACN 132 837 533 and its associated and related companies and successors or assigns.

“**Law**” includes common law, principles of equity and any requirements of any statute, rule, regulation, proclamation, ordinance or by-law, present or future, and whether state, federal or otherwise.

“**Money**” means all moneys which are now payable or which may become payable in the future (whether contingently or otherwise) by the Customer to Coomalie Air Maintenance for any reason, whether alone or jointly with another person. The term includes, without limitation, money owed by the Customer for the supply of Goods, all money Coomalie Air Maintenance pays or becomes liable to pay at the request of the Customer (including loans), amounts or obligations assigned to Coomalie Air Maintenance before or after the date of this Deed and all losses and expenses (including taxes, fees, charges, interest and legal and debt collection costs on a full indemnity basis) arising directly or indirectly from any dealing or default by the Customer or by the Guarantor or otherwise incurred by Coomalie Air Maintenance in connection with entering, enforcing or terminating this Deed.

“**Personal Information**” has the meaning given to it in the Privacy Act.

“**Personal Information about the Guarantor**” means Personal Information (if any) about the Guarantor collected by Coomalie Air Maintenance in connection with this Deed that includes but is not limited to information about the Guarantor’s financial circumstances, credit worthiness, credit history, credit standing and credit capacity.

“**PPSA**” means the *Personal Property Securities Act 2009* (Cth).

“**Privacy Act**” means the *Privacy Act 1988* (Cth).

“**Property**” means all property of the Guarantor, now and in the future, wherever situated, including without limitation all real and personal property, business and trading assets, stock, choses in action, goodwill and uncalled capital and called but unpaid capital from time to time.

### 1.2. Interpretation

In this Deed “includes” and “including” are not words of limitation; the singular includes the plural and vice versa; a gender includes all gender; and “person” includes and individual, a body corporate, a partnership or any unincorporated association.

## 2. GUARANTOR OBLIGATIONS

The Guarantor agrees:

- a. to unconditionally and irrevocably guarantee and be responsible for the due and punctual payment of the Money by the Customer and observance of all of the terms and conditions contained herein (and in the Credit Application), notwithstanding that at times there may be no Money owed by the Customer to Coomalie Air Maintenance or any Guarantor's obligations;
- b. to pay the Money to Coomalie Air Maintenance on demand without set-off, counterclaim or deduction (equitable or otherwise);
- c. to waive any rights the Guarantor has of first requiring Coomalie Air Maintenance to enforce any other right or power against the Customer or to claim payment from the Customer or any other person before claiming from the Guarantor under this Deed;
- d. that Coomalie Air Maintenance may at any time in its discretion and without giving any notice to the Guarantor refuse to provide further goods to the Customer;
- e. that where the Guarantor consists of more than one person, this Deed is enforceable against all persons signing as Guarantor together and against each Guarantor separately;
- f. that where the Guarantor has the right to prove in any insolvency administration of the Customer or another guarantor of the Customer's obligations or to claim an amount from the Customer obligations or to claim an amount from the Customer or another guarantor of the Customer's obligations under a right of indemnity, the Guarantor may do so only with Coomalie Air Maintenance's consent and must hold any dividends received on trust for Coomalie Air Maintenance;
- g. that the Guarantor will provide Coomalie Air Maintenance with information concerning the Guarantor's financial position, business, assets and (where the Guarantor is a company) its shareholders and any person or entity related to or associated with the Guarantor as may be reasonably required by Coomalie Air Maintenance from time to time; and
- h. Indemnify Coomalie Air Maintenance and keep it indemnified from and against loss, damages, costs, and expenses incurred by Coomalie Air Maintenance as a result of any breach or non performance of the Customer's obligations under the Credit Application.

### **3. GUARANTOR ACKNOWLEDGEMENT**

The Guarantor acknowledges and agrees that:

- a. it has read and understood this Guarantee;
- b. Coomalie Air Maintenance has afforded it full and unrestricted opportunity to seek independent legal advice on the Guarantor's obligations under this Deed prior to signing this Deed and has strongly recommended that it obtain independent legal advice;
- c. it has not relied upon any representation made by Coomalie Air Maintenance's servants in agreeing to guarantee the obligations owed by the Customer to Coomalie Air Maintenance;
- d. it has made its own enquiries of the Customer regarding the Customer's past and prospective dealings with Coomalie Air Maintenance and its satisfied as to the extent of its obligations as Guarantor under this Deed;
- e. Coomalie Air Maintenance is under no obligation to notify it of any changes to Coomalie Air Maintenance's trading terms or dealings with the Customers, even if these changes increase the Guarantor's liability under this Deed;
- f. This Deed is continuing guarantee to Coomalie Air Maintenance for the Money;
- g. Coomalie Air Maintenance is not obligated to make any demand of the Customer or claim on any other security before requesting payment of the Money by the Guarantor;
- h. Coomalie Air Maintenance's right under this Deed are not affected by any act or omission by Coomalie Air Maintenance or by anything else that may affect those rights at Law or otherwise, including:
  - i. the variation of replacement of Coomalie Air Maintenance's agreement with the Customer;
  - ii. arrangements Coomalie Air Maintenance makes with the Customer such as releases or time concessions;
  - iii. the fact that Coomalie Air Maintenance releases, loses the benefit of, does not obtain or fail to register any security;
  - iv. the fact that Coomalie Air Maintenance releases any other guarantor of the Customer's obligations;
  - v. the fact that the obligations of another guarantor of the Customer's obligations may be unenforceable or that another guarantor has failed to effectively guarantee the Customer's obligations;
  - vi. any legal limitation, disability, incapacity or other fact (actual or asserted) relating to the Customer, the Guarantor or any other person (irrespective of whether Coomalie Air Maintenance had or should have had knowledge of that fact); and
  - vii. any fact which could or might have the effect of prejudicing or discharging the Guarantor's liability under this Deed;

- i. this Deed is enforceable jointly and severally against each person signing as Guarantor;
- j. Coomalie Air Maintenance may at any time release or discharge any Guarantor from the Guarantor's obligations under this Deed or grant time to pay or other indulgence, accept a composition from or enter other arrangements with the Customer or any Guarantor, delay or make mistakes or omissions without affecting the liability of any other Guarantor under this Deed;
- k. any payment which is made by or on behalf of the Customer and which is later avoided by the application of any Law shall be deemed not to discharge the Customer's indebtedness or the Guarantor's liability and in such a case, the parties are restored to the position which each respectively would have had if the payment had not been made;
- l. the Guarantor's obligations under this Deed are valid and binding, that if the Guarantor is a corporation it benefits under this Deed, that the Guarantor is solvent and does not enter this Deed in the capacity of trust or settlement; and
- m. the Guarantor will not be entitled to the discharge of any security which secures the Guarantor's obligation under this Deed until all money has been paid to Coomalie Air Maintenance and the Guarantor has provided evidence to Coomalie Air Maintenance's reasonable satisfaction that no further Money will become owing.

#### **4. INDEMNITY**

- a. the Guarantor indemnifies Coomalie Air Maintenance from and against any and all losses and expenses of any nature (including stamp duty if any legal costs on a full indemnity basis) which arise in any way out of Coomalie Air Maintenance's dealings with the Customer or the Guarantor, including losses and expenses incurred if the Customer or the Guarantor does not, is not obliged to or is unable to pay the Money to Coomalie Air Maintenance when due or in connection with any person exercising rights under this Deed.
- b. It is not necessary for Coomalie Air Maintenance to incur expense before a right of indemnity under this Deed.
- c. The Indemnity in clause 4(a) is a continuing obligation, independent of the Guarantor's other obligations under this Deed.

#### **5. CHARGE**

For the purpose of securing payment of Coomalie Air Maintenance of the Money, the Guarantor:

- a. charges to Coomalie Air Maintenance all its Property (wherever situated) to secure its obligations under this Deed and authorizes and consents to Coomalie Air Maintenance lodging a caveat, security interest under the PPSA or other similar document to give effect to this Deed;
- b. agrees that any and all charges described in this clause 5 should be taken to be a purchase money security interest for the purposes of the PPSA;
- c. consents to Coomalie Air Maintenance registering any and all charges described in this clause 5 on the personal property security register as a purchase money security interest;
- d. acknowledges that the charges granted by the Guarantor under this clause 5 give Coomalie Air Maintenance a power of sale over all of the Guarantor's Property if the Guarantor is in default of this Deed; and
- e. irrevocably appoints Coomalie Air Maintenance and persons nominated by Coomalie Air Maintenance separately as the attorney of the Guarantor with power to sign and lodge such caveat, security interest or other similar document to give effect to this Deed.

#### **6. MISCELLANEOUS PROVISIONS**

- a. If any provision of this Deed is or becomes void or unenforceable, it may be deleted from this Deed without any effect on the validity of the remainder of this Deed.
- b. This Deed (and the Guarantor's guarantee and indemnity under this Deed) shall not be affected by any laches, acts, omissions or mistakes on the part of Coomalie Air Maintenance.
- c. A certificate signed by a Director, Secretary or other officer of Coomalie Air Maintenance shall be prima facie evidence of the amount of the Money owed by the Customer or Guarantor (or both) at that time.
- d. Each party agrees to promptly do all things reasonably necessary or desirable to give full effect to this Deed and the transactions contemplated by it, including obtaining consents and signing documents.
- e. Time is of the essence of this Deed.
- f. Coomalie Air Maintenance may assign or otherwise deal with its rights under this Deed in any way it considers appropriate in its absolute discretion.
- g. If any provision of this Deed is void, voidable by a party, unenforceable, invalid or illegal and would not be so if a word or words were omitted, then that word or those words are to be severed and if this cannot be done, the entire provision is to be severed without affecting the validity or enforceability of the remaining provisions of this Deed.

- h. This Deed (and the Guarantor's guarantee and indemnity under this Deed) shall continue to be binding upon the Guarantor notwithstanding:
- i. the death, bankruptcy, insolvency or liquidation of the Customer, the Guarantor, or any one of them;
  - ii. any change or alteration in the ownership or financial position of the Customer or the Guarantor (or any one of them); or
  - iii. the happening of any thing or event which under the law, but for this provision, would have the effect of releasing the Guarantor from this Deed or of terminating this Deed.
- i. In the event that any part of this Deed is severed then the Guarantor shall not be entitled to rely on or claim the benefit of any such severance.
- j. This Deed will be governed by the laws of the Northern Territory of Australia. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of Northern Territory of Australia.

**EXECUTED AS A DEED**

**Signed by**  
presence of:

in the

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

**Signed by**  
in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full