

Deed of Guarantee

version 2.3

Account No:

Date:

In this document:

we, us and **our** means Fleet Mortgages Limited of 2nd Floor, Flagship House, Reading Road North, Fleet, Hampshire, GU51 4WP (registered in England and Wales as company number 08663979) and anyone who at any time in the future is entitled (as legal, equitable or beneficial owner) to all or any of the creditor's, lender's and/or mortgagee's rights under this guarantee and/or any of the **mortgage documents** (including as a result of a **transfer**, a merger or consolidation with another person, a take-over and/or a group reorganisation)

you and your **means**: (insert full name and address of each guarantor)

- (1)
- (2)
- (3)
- (4)

and, if there is more than one person named in this definition, shall be interpreted in accordance with Clause 7 below.

borrower means: (insert full name and address of each borrower)

- (1)
- (2)
- (3)
- (4)

property means:

Title No:

Postcode:

including existing and future fixtures, fittings, alterations and additions.

specified amount means £ (if a limit is applicable, insert the amount of the initial advance, including any fees forming part of the initial advance, otherwise leave blank)

mortgage deed means the mortgage deed between the **borrower** and **us** relating to the **property**, which incorporates the **conditions** and the **mortgage offer** (as such mortgage deed has been and/or may be amended, supplemented and/or varied from time to time).

conditions means the Fleet Mortgages - Mortgage Conditions 2014 - Version 2.

guaranteed liabilities means each liability, obligation and duty of a **borrower** under the **mortgage documents**, including (without limitation) each case whether or not incurred, owing and/or due: (a) in the past, now or in the future, (b) jointly with another person or other persons (whether or not another **borrower**), (c) as surety or guarantor for another person or other persons (whether or not another borrower), (d) which depends on events which may or may not happen, and/or (e) which does not relate to the payment of money (and in each case as such liability, obligation and duty has been and/or may be amended, supplemented and/or varied from time to time).

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transfer means a transfer, assignment or assignation (whether absolute or by way of security), mortgage, charge, standard security, creation of trust over, agreement to sell or other disposal (in law or in equity or beneficially) of all or any of **our** rights, title, interests, benefits and obligations in respect of all or any of this guarantee the **mortgage documents** and/or the **property**

expenses means each reasonable cost and expense (including any tax) which **we** and/or a receiver pay from time to time in connection with this guarantee in relation to (a) recovering or attempting to recover any amount owing by **you** under this guarantee, (b) protecting, preserving or enforcing **our** rights under this guarantee or law (including bringing or defending legal proceedings relating to this guarantee), (c) remedying any breach by **you** of any of **your** obligations under this guarantee, and (d) exercising any of **our** rights under this guarantee.

This guarantee is made on the above Date by **you** as guarantor(s) in favour of us:

1. Definitions

In this guarantee, a number of expressions are printed in bold type because they have a special meaning. The meaning of some of these expressions is indicated above. The meaning of other expressions printed in bold type is explained in the **conditions**.

2. Interpretation

- 2.1 In this guarantee the singular includes the plural and the masculine includes the feminine and the other way round.
- 2.2 The headings used in this guarantee are only for convenience and do not affect its interpretation.
- 2.3 References to this guarantee, the **mortgage documents** or to any other document include references to this guarantee, such **mortgage documents** or document as may have been or may from time to time be amended, varied, supplemented, substituted or replaced.
- 2.4 The expressions 'includes' and 'including' (and similar expressions) do not limit the meaning of any other words.

3. Copy of documents

You acknowledge receipt of a copy of each of the following:

- 3.1 the **mortgage deed**;
- 3.2 the **conditions**;
- 3.3 the **mortgage offer**; and
- 3.4 the latest edition of the **tariff**.

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4. Guarantee and indemnity

- 4.1** You guarantee that each of the **guaranteed liabilities** of the borrower will be fully and properly performed, paid, complied with, discharged and satisfied (as applicable) when they become due to be performed, paid, complied with, discharged and/or satisfied (as applicable), and **you** shall immediately upon demand by **us** from time to time perform, pay, procure compliance with, discharge and satisfy (as applicable) the **guaranteed liabilities** as specified in the demand.
- 4.2** As a separate obligation, **you** agree with **us** to be legally bound by and to perform, pay, comply with, discharge and satisfy (as applicable) the **guaranteed liabilities** as if **you** had undertaken the **guaranteed liabilities** instead of the relevant borrower. **You** acknowledge that this makes **you** directly liable for the **guaranteed liabilities** even if they are not now, or cease to be, legally binding on the relevant **borrower**.
- 4.3** As a separate obligation, **you** agree to fully indemnify us in respect of each loss, cost and expense (including any taxes) which **we** incur if:
- 4.3.1** the **guaranteed liabilities** not being fully and properly performed, paid, complied with, discharged and satisfied (as applicable) when they become due to be performed, paid, complied with, discharged and/or satisfied (as applicable)
 - 4.3.2** any of the **guaranteed liabilities** being or becoming void, voidable, invalid or unenforceable, and
 - 4.3.3** steps taken by **us** to enforce the guaranteed liabilities.

5. Limit (if applicable)

If the definition of **specified amount** indicates an amount greater than £0 (and is not left blank) the amount recoverable from a person signing this guarantee as a guarantor shall not exceed:-

- 5.1** the **specified amount**; plus
- 5.2** any interest and **expenses** payable by that person under Clause 6, but that limit applies to each such person separately (in other words is not a collective or cumulative limit).

6. Interest and expenses

- 6.1** **You** will pay interest to **us** on any amount that **you** fail to pay punctually to **us** under this guarantee.

That interest will be payable for the period from the date the amount is demanded or if in respect of any loss or **expense** the date, if earlier, on which the relevant loss or expense arose, until the date of actual payment (whether or not such payment is after a court judgment or any matter, circumstance or event falling within clause 8.3).

During that period that interest will accrue on a daily basis at the rate of 5% per annum (using a 365 day year) over the Bank of England's official bank rate (commonly known as its base rate or, if that ceases to be available, any comparable rate that **we** reasonably decide and notify to **you**) from time to time during that period.

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- 6.2** You agree to fully indemnify **us** in respect of each **expense** which **we** incur when **we** ask **you** to do so.
- 6.3** If **we** have to pay any **expense** to third parties, **we** will try to give notice to **you** within a reasonable time stating the amount of the **expense**, brief details of the general nature of the expense and the date on which **we have to pay the expense**.

7. Each of you has full liability, not just a share

- 7.1** If there is more than one of **you**:
- 7.1.1** whenever this guarantee uses the words '**you**' and '**your**', it means each of **you** individually as well as all of **you** together;
- 7.1.2** each of **you** is separately fully responsible for complying with your obligations under this guarantee and discharging all of the **guaranteed liabilities** (and not merely a share), including if any of **you** dies;
- 7.1.3** **we** can fully exercise **our** rights and enforce this guarantee against any one of **you** without having to involve the other(s);
- 7.1.4** **we** may at any time release or discharge any of **you** from **your** liability under this guarantee (and such release or discharge shall, unless it otherwise provides, also release or discharge that person from all rights of contribution, whether accrued or not, which are then or might otherwise become enforceable by any of the rest of **you**);
- 7.1.5** **we** may give time for payment to accept any composition from or make any other arrangements with any of **you**, without in any such case thereby discharging or releasing in whole or in part or otherwise prejudicing or affecting **our** rights and remedies against any of the rest of **you**; and
- 7.1.6** if this guarantee is or becomes unenforceable or otherwise ineffective against any one or more of **you** none of the rest of **you** will be released from **your** obligations and each of you agrees as a separate obligation to pay and compensate **us** for any reasonable losses **we** suffer as a result of this.
- 7.2** If there is more than one of **you**, unless and until any one of **you** write to us and request us to only follow instructions given by all of **you**, **we** may follow any kind of instruction that any one of **you** gives us. This means one of **you** may be able, for example, to cause expenses to be payable without any other of **you** knowing. Also, if you argue over this guarantee and we find out, we may only follow instructions if all of **you** give them. We will go back to following instructions from any one of **you** once **you** tell us you have resolved the argument.

8. Some protections

- 8.1** **Your** obligations under this guarantee are irrevocable and unconditional and you cannot withdraw from them and **you** are not entitled to determine or discontinue **your** liability or obligations under this guarantee.
- 8.2** Throughout the period from and including the Date of this guarantee until and including the date **we** have provided each of **you** with a written full discharge and release of each of **your** liability under this guarantee **you** agree that this guarantee will be a continuing security in respect of all of the **guaranteed liabilities** and **your** liabilities under this guarantee (even if there are not any **guaranteed liabilities** from time to time).

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- 8.3** You agree and declare that this guarantee shall not be affected or prejudiced by, nor shall **our** rights against **you** be affected by, any matter, circumstance or event that has occurred or occurs from time to time, even if that matter, circumstance or event would ordinarily have had and/or has the effect of releasing any of **you** from liability in each case regardless of whether or not **we** have been and/or are negligent or have breached and/or breach any duty, liability or obligation in connection with the relevant matter and/or event. Without in any way limiting the generality of the foregoing, examples of such matters, circumstances or events include:
- 8.3.1** any fluctuation from time to time of the **guaranteed liabilities** and/or liabilities of any of **you** under this guarantee
 - 8.3.2** any fluctuation from time to time of **our** obligations and/or liabilities under this guarantee and/or any **mortgage document** and/or any security held by us for the **guaranteed liabilities**; and/or
 - 8.3.3** any variation, extension, renewal, waiver, release, discharge, exchange, compromise or substitution of and/or dealing with all or any part of this guarantee, and/or the **guaranteed liabilities** and/or the **mortgage documents** and/or any security held by us for this guarantee and/or the **guaranteed liabilities** that has occurred or occurs from time to time, irrespective of whether such variation, extension, renewal, waiver, release, discharge, exchange, compromise or substitution and/or dealing occurred or occurs with or without the knowledge and/or consent of any of **you**; and/or
 - 8.3.4** any failure by **us** to take or perfect any security and/or to enforce or release any rights under any security; and/or
 - 8.3.5** any time, waiver, concession or other indulgence has been or is granted, or has been or is agreed to be granted, from time to time to any one or more of **you**, **borrower** and/or other person in respect of (as applicable) this guarantee, and/or the **guaranteed liabilities** and/or the **mortgage documents** and/or any security held by us for this guarantee and/or the **guaranteed liabilities**; and/or
 - 8.3.6** any actual and/or attempted enforcement of and/or any delay in enforcing and/or any failure to enforce has occurred or occurs from time to time in relation to the obligations and/or liabilities and/or rights of any one or more of **you**, **borrower** and/or other person in respect of (as applicable) this guarantee, and/or the **guaranteed liabilities** and/or the **mortgage documents** and/or any security held by us for this guarantee and/or the **guaranteed liabilities**; and/or
 - 8.3.7** any borrower, any of **you** or any other person has become or becomes insolvent or subject to liquidation, administration, bankruptcy or any voluntary arrangement and/or has made and/or makes any composition or arrangement with or for the benefit of creditors generally; and/or
 - 8.3.8** any one or more of **you** dies or is and/or becomes mentally ill and/or otherwise loses legal capacity; and/or
 - 8.3.9** we release any one or more of **you** from this guarantee; and/or
 - 8.3.10** any person(s) that fall within the definition of **'you'** in this guarantee do(es) not enter into **this guarantee**; and/or

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8.3.11 all or any part of the **guaranteed liabilities**, and/or the obligations and/or liabilities of any of **you** under this guarantee and/or our obligations and/or liabilities under this guarantee and/or any **mortgage document** and/or any security held by us for this guarantee and/or the **guaranteed liabilities** is and/or becomes illegal, invalid, unenforceable, impaired or ineffective in any respect; and/or

8.3.12 any **transfer** that has occurred or occurs.

8.4 Throughout the period from and including the Date of this guarantee until and including the date **we** have provided each of **you** with a written full discharge and release of each of **your** liability under this guarantee, **you** agree that, whether or not **you** have made any payment under this guarantee, **you** will not:

8.4.1 share in any security **we** hold or any money **we** receive (whether or not from any **borrower** or any of **you** or any other person);

8.4.2 hold, take or receive any security from the **borrower**, any of you or any other person in connection with this guarantee and/or the **guaranteed liabilities**;

8.4.3 enforce or exercise any right (including any right of set-off) or pursue any claim against any **borrower**, any of you or any other person in respect of this guarantee and/or the **guaranteed liabilities**;

8.4.4 make any claim in the insolvency of any **borrower** or any other person (including any other of **you**) which would compete with **us**; and

8.4.5 be entitled to exercise any rights **we** may have against any borrower or any other of **you**.

If you do receive any security, rights or money in breach of this Clause 8.4 then you will hold them on trust for us and transfer them to us when we ask you to. That trust will not last longer than any applicable maximum period permitted under law.

8.5 **We** may enforce this guarantee against any one or more of **you** without first having to ask for payment, or take any steps against any other of **you**, any **borrower** or any other person, except as may be required by law.

8.6 Any amount owing and/or payable by **you** to **us** under this guarantee is due and payable by **you** when **we** ask for it.

8.7 A certificate of any of our managers or officers or our company secretary as to the amount for the time being of the amount of the **guaranteed liabilities** (or a specified **guaranteed liability**) and/or an amount owing by **you** under this guarantee will for all purposes (apart from mistakes, fraud or negligence) be conclusive evidence of that amount.

8.8 **You** agree that **you** will pay each amount owing by **you** from time to time under this guarantee in cleared funds for value on or before the date of payment and without any setoff, claim, deduction or withholding except if and to the extent required to by applicable law.

8.9 **We** can apply any payment made by **you** which is less than the full amount due against any part of the **guaranteed liabilities** which **we** decide. **You** cannot require **us** to apply any such payment differently.

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8.10 For so long as any **guaranteed liabilities** have not been paid or discharged in full, **we** may in our absolute discretion at any time, and from time to time, place and retain on an interest-bearing suspense account, for such period and in such manner as **we** think fit, any moneys **we** receive, realise or recover from any of **you** and/or any of **your** assets or otherwise in connection with this guarantee to the extent of the **guaranteed liabilities**, without being obliged to apply those moneys or any part of them in or towards the payment or discharge of any **guaranteed liabilities**.

8.11 **We** may set-off or deduct from any amount payable by **us** to any of **you** against any amount which might otherwise be payable to **us** from any of **you** under any circumstance (whether or not under contract, any duty of care or legislation and including under any **mortgage document** or other agreement(s) and whether or not arising from any negligence by **us**, **you** or any other person) and, upon making any such set-off or deduction, shall within a reasonable time give details to any of **you**.

9. Communications

9.1 **You** agree that all communications between **you** and **us** will be in English and all document **you** send to **us** and **we** send to **you** will be in English.

9.2 **We** may contact **you** in one or more of the following ways (including where this guarantee or applicable law requires a document to be given by **us** to **you**):

9.2.1 by post or by hand delivery to **your** contact postal address;

9.2.2 by email to the latest email address **you** have provided to us; or

9.2.3 by any other method which is available by law.

You must tell **us** immediately if **your** contact details change by writing to **us** at **our** contact address or using **our** Mortgage Services telephone number.

Throughout the period, if any, **your** contact postal address is an address outside England and Wales, **you** must maintain details and evidence of the appointment by **you** of a person in England and Wales who will accept service of process on **your** behalf and **you** must keep us informed of those details.

If there is more than one of **you** and two or more of **you** share the same address, a document **we** send to one of you at that address will count as a notice to each of **you** sharing that address.

9.3 Each document given by post will be treated as having been given on the 2nd business day after the date of posting, even if it never arrives or is returned undelivered. Each document delivered by hand or by email will be treated as having been given the next day.

If **you** send us any original, valuable or important documents, **we** recommend that **you** use special delivery or a similar service.

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10. Our power to transfer

- 10.1** We can enter into and make **transfers** to any person(s) at any time and from time to time.
- 10.2** You irrevocably consent to each **transfer** and agree that **we** can make **transfers** using **our** rights under this guarantee, the **mortgage documents** and/or in law or in equity or beneficially without any further consent from **you** and without notice to **you** and that no further agreement is required from **you** and no further notice need be given to **you**.
- 10.3** If **we** make a **transfer** of **our** rights under this guarantee, it will not change **your** rights and guarantees and will not change the terms and conditions of this guarantee. However, the person to whom **we** make that **transfer** can exercise our rights and enforce **your** obligations under this guarantee.
- 10.4** None of **you** shall, without **our** prior written consent, assign, transfer, sub-participate, subcontract, declare itself the trustee of, dispose of, charge or deal in all or any part of your rights, interests, benefits or obligations in or under this guarantee, nor purport to do any of the same.

11. Information and personal data

- 11.1** We may use any information **you** provide to **us**, or that **we** obtain or generate relating to **you** in connection with **our** dealings with **you** or any borrower in accordance with the declaration provided to **us** in connection with any application relating to any advance and by signing this guarantee **you** agree that the terms of such declaration shall be deemed to be incorporated into this guarantee as if set out in this clause and treating references to '**you**' and '**your**' in such declaration as including **you** and each borrower or as permitted under applicable law.
- 11.2** In addition, without restricting the terms of each such declaration, **you** irrevocably agree that **we** may provide any information or papers about **you**, this guarantee, the mortgage documents, the guaranteed liabilities, the property and any other security held by **us** and the conduct of the mortgage account:
- 11.2.1** to any such person or organisation who does, or proposes to, enter into any transfer with **us** or who does, or proposes to, fund or otherwise be involved in any transfer;
- 11.2.2** to any purchaser or potential purchaser of **us** or any person who does, or proposes to, fund or otherwise be involved in any such purchase; and
- 11.2.3** to any person who was previously the creditor under this guarantee and/or the mortgage documents, including, in each case, any actual or potential party, that party's professional advisers and any rating agency.

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12. Availability of rights

- 12.1** If **we** decide to relax any of these terms or not to hold **you** to **your** obligations or make full use of **our** rights, this will not affect **our** rights or powers in any other way.
- 12.2** If **you** break any provision of this guarantee and **we** agree to take no action, **we** will still be able to take action if **you** break that provision in the future or **you** break any other provision.
- 12.3** Each term of **this guarantee** is separate from the others. If **we** cannot legally enforce any particular term this will not stop us from enforcing the other terms.
- 12.4** No one will have any rights under this guarantee under the Contracts (Rights of Third Parties) Act 1999.
- 12.5** **Our** rights and remedies under this guarantee are in addition to our rights and remedies under the general law.

13. Law

This guarantee and any non-contractual aspects arising in connection with it are governed by English law. **You** agree that action may be taken against **you** in the English courts and in the courts of any other place in which **you** may have assets or which has jurisdiction.

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THIS IS AN IMPORTANT LEGAL DOCUMENT.

If **you** sign this document **you** will be legally bound by this guarantee. You **are** liable both instead of and as well as each **borrower**. **Your** liability will also be separate from and in addition to the liability of any other person signing this guarantee as a guarantor. This means that you **can** be required to pay in full even if, for example, such other person (if any) does not pay or is not liable. **We** will be entitled to enforce **our** rights against **you** if any of **you** (which includes any other guarantor) fail to comply with **your** obligations under this guarantee or any borrower fails to comply with the **guaranteed liabilities**.

Your liability under this document is unlimited (unless expressly indicated otherwise in this guarantee, and even if a limit is specified, there are some things for which your liability is unlimited). **Your** liability covers a wide range of **guaranteed liabilities**. Those **guaranteed liabilities** may change in nature and increase in extent from time to time. **You** will remain legally bound by this guarantee even if circumstances change from time to time, whether or not the change increases **your** liability and/or whether or not **you** know about, have been consulted about and/or have consented to any change.

Please note that brokers, other intermediaries or persons who may have introduced you and/or a **borrower to us** and/or provided **you** and/or a **borrower** with assistance, advice or other services in connection with this guarantee or the **mortgage documents** are not our agents and have no authority from **us** to make representations as to the effect of this guarantee, **your** liabilities under this guarantee or its suitability for **you**.

Also, other information provided by **us** (including in previous discussions, illustrations, quotations or representations) is superseded by the **mortgage documents**. Therefore, **you** must not rely upon any of that superseded information.

You should not sign this document unless: **you** have read and understood this guarantee and the **mortgage documents**, and **you** have obtained such legal and other advice as you consider appropriate and then decided that **you** want to be legally bound by this guarantee.

Each signature to be separately witnessed but the witness can be the same person. The witness **must be the solicitor** who will be providing the **Independent Legal Advice Certification**.

Signed and delivered as a deed by you as a guarantor on the Date stated at the start of this guarantee: _____ in the presence of the following witness:

Your signature: _____

Signature of witness: _____

Your full name in block capitals:

Full name of witness in block capitals:

Occupation of witness:

Address of witness:

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Signed and delivered as a deed by **you** as a guarantor on the Date stated at the start of this guarantee: _____ in the presence of the following witness:

Your signature: _____ Signature of witness: _____

Your full name in block capitals: Full name of witness in block capitals:

Occupation of witness:

Address of witness:

Signed and delivered as a deed by **you** as a guarantor on the Date stated at the start of this guarantee: _____ in the presence of the following witness:

Your signature: _____ Signature of witness: _____

Your full name in block capitals: Full name of witness in block capitals:

Occupation of witness:

Address of witness:

Signed and delivered as a deed by **you** as a guarantor on the Date stated at the start of this guarantee: _____ in the presence of the following witness:

Your signature: _____ Signature of witness: _____

Your full name in block capitals: Full name of witness in block capitals:

Occupation of witness:

Address of witness:



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Fleet Mortgages is a trading name of Fleet Mortgages Ltd Registered Office: 2nd Floor, Flagship House, Reading Road North, Fleet, Hampshire, GU51 4WP