Dated

[INSERT NAME]

VIDA BANK LIMITED TRADING AS VIDA HOMELOANS

GUARANTEE AND INDEMNITY

Contents

**Clause Page**

1 Definitions and interpretation 3

2 Guarantee and indemnity 4

3 Default interest 8

4 Representations 8

5 Payment 9

6 Termination of Guarantee 9

7 Set-off 9

8 Tax gross-up 9

9 Currency clauses 9

10 Costs and expenses 10

11 Certificates and determinations 10

12 Partial invalidity 10

13 Remedies and waivers 10

14 Assignment 10

15 Notices 11

16 Governing Law 11

17 Enforcement 11

18 Content to Registration 12

**BY GIVING THE GUARANTEE CONTAINED IN THIS DEED YOU MIGHT BECOME LIABLE INSTEAD OF OR AS WELL AS THE PRINCIPAL DEBTOR.**

**YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE BEFORE ENTERING INTO THIS DEED.**

**This Deed** is made on

**Between**

1. [Insert name of guarantor] of [insert guarantor's address] (**Guarantor**); and
2. Vida Bank Limited trading as Vida Homeloans (**Lender**).

**It is agreed**

1. Definitions and interpretation
   1. **Definitions**

In this Deed:

**Default Rate** means the annual percentage rate equal to the aggregate of 2% and the highest rate of interest applicable to the Guaranteed Obligations

**Guaranteed Obligations** means all monies, debts and liabilities of any nature now or hereafter due, owing or incurred to the Lender by the Principal in any currency or currencies whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety together with all interest accruing on such monies, debts and liabilities and all costs, charges and expenses incurred by the Lender in respect of such monies, debts and liabilities

**Party** means a party to this Deed

**Principal** means [insert name of company being guaranteed] (registered in Scotland with number [insert company number]), whose registered office is at [insert office address]

**Security** means a mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

* 1. **Interpretation**

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* + 1. Unless a contrary indication appears, a reference in this Deed to:
  1. the Lender, the Principal or any other person shall be construed so as to include, where relevant, its successors in title, permitted assignees and permitted transferees;
  2. clauses are references to clauses of this Deed;
  3. any agreement or instrument is a reference to that agreement or instrument as amended, novated, supplemented or restated (however fundamentally);
  4. a provision of law is a reference to a provision of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re­enacted or replaced whether before or after the date of this Deed;
  5. a time of day is a reference to London time; and
  6. sterling and £ shall be construed as a reference to the lawful currency of the United Kingdom.
     1. Clause headings are for ease of reference only.
     2. Words importing the plural shall include the singular and vice versa.
  7. **Third party rights**
     1. A person who is not a Party has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Deed or any other document issued or entered into under or in connection with it.
     2. The consent of any person who is not a Party is not required to rescind or vary this Deed or any other agreement entered into under or in connection with it.

1. Guarantee and indemnity
   1. **Guarantee and indemnity**

In consideration of the Lender making or continuing loans to the Principal as the Lender in its absolute discretion sees fit, the Guarantor irrevocably and unconditionally:

* + 1. guarantees to the Lender punctual performance by the Principal of all the Guaranteed Obligations;
    2. undertakes with the Lender that whenever the Principal does not pay any amount when due to the Lender, the Guarantor shall immediately on demand pay that amount as if they were the principal obligor; and
    3. indemnifies the Lender immediately on demand against any costs, losses, claims, liabilities, damages, demands, or expenses suffered or incurred by the Lender if any obligation guaranteed by them is or becomes unenforceable, invalid or illegal. The amount of the costs, losses, claims, liabilities, damages, demands, or expenses shall be equal to the amount which the Lender would otherwise have been entitled to recover,

provided that the maximum aggregate liability of the Guarantor under this Deed shall not exceed £[insert loan amount], together with all charges, expenses, interest and other amounts payable by the Guarantor under this Deed.

* 1. **Continuing guarantee**

The guarantee in this Deed is a continuing guarantee and will extend to the ultimate balance of the Guaranteed Obligations, regardless of any intermediate payment or discharge in whole or in part.

* 1. **Reinstatement**

If any payment by the Principal or the Guarantor or any discharge given by the Lender (whether in respect of the obligations of the Principal or the Guarantor or any Security for those obligations or otherwise) is avoided or reduced as a result of bankruptcy, sequestration, insolvency, liquidation, administration or otherwise, without limitation, then:

* + 1. the liability of the Guarantor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
    2. the Lender shall be entitled to recover the value or amount of that Security or payment from the Guarantor, as if the payment, discharge, avoidance or reduction had not occurred.
  1. **Waiver of defences**

The obligations of the Guarantor under this Deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of their obligations under this Deed (without limitation and whether or not known to the Guarantor or to the Lender) including:

* + 1. any time, waiver or consent granted to, or composition with, the Guarantor, the Principal or any other person;
    2. the release of the Principal or any other person under the terms of any composition or arrangement with any creditor of any such entity or person;
    3. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Principal, the Guarantor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
    4. any incapacity (including death or insanity) or lack of power, authority or legal personality of or dissolution or change in the members (if applicable) or status of the Principal, the Guarantor or any other person;
    5. any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Security or agreement or other instrument providing for or entered into in connection with the Guaranteed Obligations;
    6. any unenforceability, illegality or invalidity of any obligation of any person under any Security or any agreement or other instrument providing for or entered into in connection with the Guaranteed Obligations; or
    7. any insolvency or similar proceedings.
  1. **Guarantor Intent**

Without prejudice to the generality of clause 2.4 the Guarantor expressly confirms that they intend that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any agreement or other instrument providing for any Guaranteed Obligation.

* 1. **Immediate recourse**

The Guarantor waives any right they may have of first requiring the Lender to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Guarantor under this Deed. This waiver applies irrespective of any law or any provision of any agreement or other instrument to the contrary.

* 1. **Appropriations**

Until all amounts which may be or become payable by the Principal to the Lender have been irrevocably paid in full, the Lender may:

* + 1. refrain from applying or enforcing any other moneys, Security or rights held or received by the Lender in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
    2. hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor’s liability under this Deed.
  1. **Deferral of Guarantor’s rights**

Until all amounts which may be or become payable by the Principal to the Lender have been irrevocably paid in full and unless the Lender otherwise directs, the Guarantor will not exercise any rights which they may have by reason of performance by them of their obligations in respect of the Guaranteed Obligations or by reason of any amount being payable, or liability arising, under this Deed:

* + 1. to be indemnified by the Principal;
    2. to claim any contribution from the Principal of any of the Guaranteed Obligations;
    3. to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender in respect of the Guaranteed Obligations or of any other guarantee or Security taken pursuant to, or in connection with, the Guaranteed Obligations by the Lender; or
    4. to bring legal or other proceedings for an order requiring the Principal to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under clause 2.1;
    5. to exercise any right of set-off against the Principal; and/or
    6. to claim or prove as a creditor of the Principal in competition with the Lender,

If the Guarantor receives any benefit, payment or distribution in relation to such rights they shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Principal to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender for application towards the Guaranteed Obligations.

* 1. **Additional Security**

This Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lender.

1. Default interest
   1. If the Guarantor fails to pay any amount payable by them under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the Default Rate. Any interest accruing under this clause 3 shall be immediately payable by the Guarantor on demand by the Lender.
   2. Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount on a monthly basis but will remain immediately due and payable.
   3. The Lender shall not be entitled to recover any amount in respect of interest under both this Deed and any arrangements entered into between the Principal and the Lender in respect of any failure by the Principal to make any payment in respect of the Guaranteed Obligations.
2. Representations

The Guarantor represents and warrants to the Lender that:

* + 1. the obligations expressed to be assumed by them in this Deed are legal, valid, binding and enforceable obligations;
    2. they are not in default under any agreement to which they are a party to an extent or in a manner which might have a material adverse effect on their ability to perform their obligations under this Deed;
    3. the entry into and performance by them of, and the transactions contemplated by, this Deed do not and will not conflict with:

1. any law or regulation, or judicial or official order, applicable to them; or
2. any agreement or instrument binding upon them or any of their assets or constitute a default or termination event (howsoever described) under any such agreement or instrument;
   * 1. they have not taken any action nor have any other procedures or steps been taken or legal proceedings been started or (to the best of the Guarantor’s knowledge and belief) threatened against them for their bankruptcy or sequestration or for the appointment of a trustee or similar officer of any or all of their assets which has not been withdrawn, struck out or otherwise dismissed;
     2. no litigation, arbitration or other administrative proceedings or investigations are taking place, pending, or to their knowledge, threatened against them or any of their assets which, in their reasonable opinion, are likely to be adversely determined (or have been so determined) and, if so determined, would be expected to have a material adverse effect on their ability to perform their obligations under this Deed; and
     3. they have received independent legal advice as to the nature and extent of their obligations under this Deed.
3. Payment
   1. All payments by the Guarantor under this Deed shall be made for value on the due date in sterling at the time on which the Guaranteed Obligations are due and payable.
   2. Payment shall be made to such account with the Lender as the Lender specifies.
   3. All payments to be made by the Guarantor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
4. Termination of Guarantee
   1. This Guarantee may only be terminated with the Lender’s consent. In the event of this Guarantee being terminated or determined in whole or in part by any means the Guarantor shall remain liable for the whole Guaranteed Obligations (subject to the limit set out in clause 2.1), together with all other sums due and to become due under or otherwise due under this Guarantee prior to the termination.
5. Set-off

The Lender may set off any matured obligation due from the Guarantor under this Deed (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

1. Tax gross-up
   1. The Guarantor shall make all payments to be made by them under this Deed without any Tax Deduction, unless a Tax Deduction is required by law.
   2. If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
   3. If the Guarantor is required to make a Tax Deduction, the Guarantor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
   4. The Guarantor shall deliver to the Lender evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
2. Currency clauses

If a payment is made to the Lender under this Deed in a currency (Payment Currency) other than the currency in which it is expressed to be payable (Contractual Currency), the Lender may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Guarantor will remain liable for such shortfall and such shortfall shall form part of the Guaranteed Obligations.

1. Costs and expenses

The Guarantor shall pay to the Lender the amount of all costs and expenses (including, but not limited to, legal fees, stamp duties and any value added tax) incurred by the Lender in connection with the enforcement of, or preservation of, any rights under, this Deed on a full indemnity basis.

1. Certificates and determinations

Any certificate or determination by the Lender of a rate or an amount payable under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

1. Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

1. Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy available to it under this Deed or otherwise in respect of the Guaranteed Obligations shall operate as a waiver of any such right or remedy or constitute an election to affirm any document providing for or entered into in connection with the Guaranteed Obligations. No election to affirm any document providing for or entered into in connection with the Guaranteed Obligations on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed and in any other agreement providing for or entered into in connection with the Guaranteed Obligations are cumulative and not exclusive of any rights or remedies provided by law.

1. Assignation
   1. At any time, without the consent of the Guarantor, the Lender may assign or otherwise transfer all or any part of its rights or obligations under this Deed.
   2. The Guarantor may not assign or otherwise transfer any of their obligations under this Deed or enter into any transaction which would result in any of those obligations passing to another person.
2. Notices
   1. Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by email or letter.
   2. The postal address and email address of the Guarantor and the Lender for any communication or document to be made or delivered under or in connection with this Deed is:
      1. in the case of the Guarantor:

Address: [insert guarantor address]

Email address: [insert guarantor email address]; and

* + 1. in the case of the Lender:

Address: Vida Bank Limited, 1 Battle Bridge Lane, London, SE1 2HP

Email address: Please refer to the contact details set out on the Lender's website at [www.vidahomeloans.co.uk](http://www.vidahomeloans.co.uk),

or any substitute address or email address as may be notified in writing to the Lender (or the Lender may notify the Guarantor, if a change is made by the Lender) by not less than 7 days' notice.

* 1. Any communication or document made or delivered by one person to another under or in connection with this Deed will be considered as received:
     1. if by way of email, on the day the email is sent; or
     2. if by way of letter, the second working day after date of posting (regardless of class of post).
  2. Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender.

1. Governing law

This Deed and dispute or claim (including a non-contractual dispute or claim) arising out of or in connection with it shall be governed by Scots law.

1. Enforcement
   1. The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed.
   2. The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle any dispute and accordingly no Party will argue to the contrary.
   3. This clause 17 is for the benefit of the Lender. As a result, the Lender shall not be prevented from taking proceedings relating to any dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.
2. Consent to Registration

The Guarantor consents to the registration of this Deed and of any certificate issued under Clause 10 for preservation and execution;

**IN WITNESS WHEREOF** this Deed consisting of this and the preceding 11 pages has been executed as follows: **SUBSCRIBED for and on behalf of**

**THE GUARANTOR**

Name:

Signature:

at:

on:

**WITNESS**

Name:

Signature:

Address:

Postcode: