



FAMILY BUILDING SOCIETY  
GUARANTEE AND INDEMNITY

<b>WARNING:</b>	<b>If you sign this Guarantee, you will be legally bound by it, and you might become liable to us, instead of, or as well as, the Borrower. You must get independent legal advice before signing this Guarantee.</b>
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Date:	
You, the Guarantor:	
The Borrower:	
We, us, the Society:	Family Building Society, a trading name of National Counties Building Society, of Ebbisham House, 30 Church Street, Epsom, Surrey, KT17 4NL
The Mortgage:	dated and made between the Borrower and the Society

By signing this Guarantee you agree to be bound by the terms and conditions set out below.

**\*THE MAXIMUM AMOUNT WHICH YOU ARE LIABLE TO PAY UNDER THIS GUARANTEE IS £ (the "Maximum Amount") PLUS THE OTHER AMOUNTS SET OUT IN CLAUSE 3.**

**\*THIS GUARANTEE IS UNLIMITED.**

(\* delete as applicable.)

**TERMS AND CONDITIONS**

**1 INTERPRETATION**

In this Guarantee:

- 1.1 "Borrower's Obligations" means all money and liabilities owing or becoming in the future owing to us by the Borrower under the Mortgage;
- 1.2 references to this Guarantee include all the obligations and other provisions of this document;
- 1.3 references to this Guarantee include any variations to it;

- 1.4 the singular includes the plural and the other way around;
- 1.5 references to a person include an individual, company, society, corporation, unincorporated body or firm;
- 1.6 references to “you” include every person liable as Guarantor and the personal representatives of the Guarantor and/or anybody lawfully acting on behalf of the Guarantor. If the Guarantor is two or more persons, then their liability is joint and several (which means that each of you is responsible on your own for all of the liabilities of the Guarantor under this Guarantee and not just a part or proportion of them);
- 1.7 references to “we” or “us” include any successor in business or other person to which we transfer our rights under this Guarantee;
- 1.8 references to Clauses are to Clauses of this document; and
- 1.9 headings to Clauses are for convenience only and have no legal effect.

## 2 GUARANTEE AND INDEMNITY

- 2.1 In return for our lending, agreeing to lend or continuing to lend money to the Borrower you accept the liabilities set out below. These liabilities are unconditional and you cannot withdraw from them.
- 2.2 You guarantee that the Borrower’s Obligations will be paid and satisfied when due.
- 2.3 You agree to pay us, on demand, the Borrower’s Obligations, whenever the Borrower does not pay any of them when due.
- 2.4 As a separate and independent obligation and liability, you agree, as principal debtor, to make good any losses or expenses which we may incur arising out of any failure by the Borrower to pay or discharge any of the Borrower’s Obligations, or if we are unable to enforce them against the Borrower or if they are not legally binding on the Borrower (whatever the reason).
- 2.5 You will also make good any losses or expenses which we may incur if we take steps to enforce this Guarantee or if we try to do so.

## 3 LIMIT ON THE GUARANTEE

If there is a Maximum Amount stated on page 1 of this Guarantee, you will not be liable for more than:

- 3.1 the Maximum Amount; plus
- 3.2 any interest payable by you under Clause 6; plus
- 3.3 any amounts payable by you under Clause 2.5 and/or Clause 10.

## 4 OUR PROTECTION

- 4.1 None of your obligations under this Guarantee will be reduced, discharged or otherwise affected if any of the following happen (even if it would have been if this Clause did not exist):

- 4.1.1 we vary (however fundamentally), extend, discharge, compromise, review or otherwise deal with any rights we have or may in the future have against the Borrower, or any other person in respect of the Borrower's obligations;
  - 4.1.2 we take, vary, release or otherwise deal with any security or guarantee in respect of the Borrower's Obligations;
  - 4.1.3 we enforce, fail to enforce or release any rights under any security or guarantee;
  - 4.1.4 any other guarantee or arrangement intended or expected to secure the Borrower's Obligations is never put in place or is (for whatever reason) unenforceable;
  - 4.1.5 we terminate or vary any contract, relationship or arrangement with the Borrower or enter into any new contract, relationship or arrangement;
  - 4.1.6 we give the Borrower (or any other person) time to pay or any other waiver or concession;
  - 4.1.7 the Borrower or any other person becomes insolvent, bankrupt or subject to liquidation, winding-up or administration;
  - 4.1.8 any obligation of the Borrower is or becomes invalid or unenforceable;
  - 4.1.9 any claim or enforcement of payment is made against the Borrower or any other person;
  - 4.1.10 there are any changes to our, your or the Borrower's name, constitution or membership;
  - 4.1.11 you die or become mentally ill;
  - 4.1.12 the Borrower dies or becomes mentally ill;
  - 4.1.13 we do or fail to do anything else.
- 4.2 You agree to be liable to us for the Borrower's Obligations as if you were the principal debtor. This means that you will not be discharged, nor will your liability be affected, by anything that would not discharge you or affect your liability in respect of the Borrower's Obligations if you were the person to whom we provided the Mortgage loan.
- 4.3 We will not be obliged to make any demand on, or take any steps against, the Borrower or any other person before enforcing this Guarantee.
- 4.4 Until all the Borrower's liabilities to us are paid in full, you agree that, whether or not you have made any payment under this Guarantee, you will not do any of the following:
- 4.4.1 share in any security we hold or any money we receive;
  - 4.4.2 take or receive any security from the Borrower or any other person in connection with this Guarantee;
  - 4.4.3 enforce or dispose of, or otherwise deal with, any right or pursue any claim against the Borrower or any other person in respect of the Borrower's Obligations to us;

4.4.4 make any claim in the insolvency of the Borrower or any such person which would compete with our claim.

If, in breach of the above, you do receive any security, rights or money then you will hold them on trust for us and transfer them to us on demand.

4.5 This Guarantee is in addition to, and will not be affected by, any other security or right held by us in respect of the Borrower's Obligations.

4.6 If there is more than one of you, and any of you are for whatever reason not bound by this Guarantee, the rest of you will continue to be bound by it.

4.7 If there is more than one of you, we may demand from, proceed against or release any of you without affecting our rights against the rest of you.

## 5 THE PERIOD OF THIS GUARANTEE

Subject (if applicable) to Clause 3, this Guarantee will continue in force until the Borrower's Obligations have been paid and satisfied in full.

## 6 INTEREST

6.1 You agree to pay us interest (at the rate payable under the Mortgage) on all sums demanded under this Guarantee from the date of demand (or, if earlier, the date on which the relevant loss or expense arose) until the date of payment. If we obtain a court order against you, interest will continue at this rate after the date of the order.

6.2 Any such interest will accrue on a day to day basis.

## 7 ACCOUNTS

If we demand payment from you, we may open a new account or accounts for the Borrower. Regardless of whether we open a new account any payments received by us for the Borrower after the date of demand will be applied first towards repayment of the Borrower's Obligations arising after that date. Any amount which we receive under this Guarantee we may hold in a suspense account, in order to protect the full amount of our claims against the Borrower and any other person. We may use any money in this account in reduction of the liabilities the subject of this Guarantee when, and in the order, we may decide.

## 8 APPROPRIATION

You will not be entitled to direct us how or when to apply any money we receive under this Guarantee.

## 9 PRESERVING OUR RIGHTS

9.1 If we receive any payment or security from you, the Borrower or any other person which is later ordered, under insolvency laws or for any other reason, to be refunded or released, then you will be liable as if we had never received the payment or security. This will be the case even if we have released or discharged the Guarantee.

9.2 If any such claim for refund or release is made against us, we may agree or settle the claim on any terms we decide. We do not need your agreement to do so. If we do agree or settle the claim, you will be liable under this Guarantee as if a court order had been made containing the

terms we have agreed. You will also be responsible for all costs incurred by us in defending such a claim.

9.3 This document belongs to us. We will be entitled to retain it.

## 10 COSTS

You will pay all legal and other costs (including out-of-pocket expenses and VAT) incurred by us in preparing this Guarantee, and in connection with any actual or proposed enforcement, release or variation of it. You must pay the full amount of these costs, unless you can show that the amount of them is unreasonable or that they were unreasonably incurred.

## 11 SET-OFF

We may (but are not obliged to) use any credit balance which we may hold for your account towards payment of any money payable by you under this Guarantee. We may do this without prior notice to you. This right is in addition to any of our other rights.

## 12 SERVING DEMANDS AND NOTICES

12.1 A demand or notice by us under this Guarantee may be made or given by a letter addressed to you and sent to the last business or home address given by you to us, or (if you are a corporate body) to your registered office.

12.2 A demand addressed to a Guarantor who has died will be a sufficient demand to his or her personal representatives.

12.3 A demand or notice will be treated as properly served on you when it is left (if delivered by hand) or (if posted) on the day after posting, even if not actually delivered.

## 13 TRANSFERS

13.1 We may transfer the benefit of this Guarantee, and in this regard may disclose any information we have about you.

13.2 You may not transfer any of your obligations under this Guarantee.

## 14 GENERAL

14.1 No delay or omission on our part in exercising any right we have under this Guarantee will affect our future use of that right. Using a single right (or part of it) will not prevent us from using that right again or using any other right.

14.2 Any release from your obligations or arrangements to which we may agree under this Guarantee will only be effective if we confirm it in writing.

14.3 Our rights under this Guarantee are additional to any other rights we may have, and may be used as and when (and as often as) we think fit.

14.4 If any condition of this Guarantee becomes invalid or unenforceable, that will not affect the other conditions.

14.5 If you are a company or other corporate body, you represent and warrant to us that the statements in this Clause are true:

- 14.5.1 you have the power and authority to execute, deliver and perform your obligations under this Guarantee;
  - 14.5.2 entering into this Guarantee, and performing your obligations under it, does not and will not contravene any of your constitutional documents, any agreement binding on you or any law or regulation;
  - 14.5.3 you have taken all necessary action to authorise your entry into this Guarantee; and
  - 14.5.4 your obligations under this Guarantee are, subject to any principles of law of general application, valid and enforceable.
- 14.6 This Guarantee is governed by English law. You agree to accept the courts of England and Wales are to have exclusive jurisdiction.

This Guarantee has been executed as a deed and is delivered and takes effect from the date appearing at the beginning of this document.

<b>WARNING:</b>	<b>If you sign this Guarantee, you will be legally bound by it, and you might become liable to us, instead of, or as well as, the Borrower. You must get independent legal advice before signing this Guarantee.</b>
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EXECUTED (but not delivered until )  
 the date hereof) **AS A DEED** by you )  
 in the presence of: )

Signature of Witness:

Name of Witness:

Address:

EXECUTED (but not delivered until )  
 the date hereof) **AS A DEED** by you )  
 in the presence of: )

Signature of Witness:

Name of Witness:

Address:

FAMILY BUILDING SOCIETY  
GUARANTEE AND INDEMNITY

ACCOUNT NO:

GUARANTOR:

BORROWER:

DATE:

M/231/0417/FBS/MKTG