



# DEED OF LOAN FORGIVENESS AND RELEASE OF MORTGAGE AND GUARANTEES

BETWEEN

BOBBY SMITH

(THE  
BORROWER/MORTGAGOR/GUARANTOR)  
AND

SMITH NOMINEES PTY LTD ACN 121 454  
877 ATF SMITH FAMILY TRUST  
(THE LENDER)

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# DEED OF LOAN FORGIVENESS – RELEASE OF MORTGAGE – RELEASE OF GUARANTEES

**THIS DEED IS DATED: 2 July 2020**

## **PARTIES:**

1. BOBBY SMITH OF 5 SMITH STREET SYDNEY NSW 2000  
(the Borrower) (the Mortgagor) (the Guarantor)
2. SMITH NOMINEES PTY LTD ACN 121 454 877 OF 5 SMITH STREET FAIRLIGHT NSW 2095  
ATF SMITH FAMILY TRUST  
(the Lender)

## **RECITALS:**

- A. The Lender wishes to forgive the loan undertaken between the Lender and the Borrower by way of an agreement dated August 1, 2015 ('loan').
- B. The Lender has agreed that the forgiveness is to take effect in relation to all current and past loan amounts including any unpaid present entitlements.
- C. The parties agree that the loan is to be extinguished with no further claims on the parties.
- D. The Mortgagee seeks to release the Mortgagor from any mortgage or other personal security related to the loan.
- E. The Lender seeks to release any and all Guarantors from any guarantees whether personal or otherwise in relation to the loan.

## **OPERATIVE PROVISIONS:**

### **1. DEFINITIONS**

- 1.1. In this Deed, unless the context or subject matter otherwise requires:

**'Deed'** means this document including schedules and annexures, to which the agreement to the terms and conditions is expressed by the signatories representing all Parties.

**'Party'** means a party to this Deed and its successors and permitted assigns, and

**'Parties'** means all of them.

**'Loan Agreement'** means the agreement to provide financial accommodation entered into between the Lender and the Borrower dated August 1, 2015.

### **2. LOAN FORGIVENESS**

2.1. The Lender hereby:

- (a) releases the Borrower from their obligations and duties to repay any current or future amounts to be repaid under the loan agreement;
- (b) if the loan forgiveness provides any regulatory or taxation issues, the loan forgiveness is to be treated as a gift of any loan amounts outstanding from the Lender to the Borrower;
- (c) The Lender will do all things reasonable and necessary to release the Borrower including executing this Deed and lodge all necessary papers and forms with relevant authorities to evidence as such; and
- (d) The Lender and the Borrower agree to terminate the loan and extinguish all claims and entitlements thereto.

**3. RELEASE OF MORTGAGES AND SECURITY**

- 3.1. The Mortgagee releases the Mortgagor and any other relevant parties to any mortgage securing the loan pursuant to the loan agreement.
- 3.2. The Mortgagee will do all things reasonable and necessary to release the Mortgagor including executing this Deed and lodge all necessary papers and forms with relevant authorities and registers to evidence as such.
- 3.3. The Mortgagee hereby discharges any charge or other security that the Lender has over any of the Borrower's property or chattels and will do all things reasonable and necessary to release the Borrower from all and any security including executing this Deed and lodge all necessary papers and forms with relevant authorities and registers to evidence as such.

**4. RELEASE OF GUARANTEES**

- 4.1. The Mortgagee releases the Mortgagor and any other relevant parties to any mortgage securing the loan pursuant to the loan agreement.
- 4.2. The Mortgagee will do all things reasonable and necessary to release the Mortgagor including executing this Deed and lodge all necessary papers and forms with relevant authorities and registers to evidence as such.
- 4.3. The Lender hereby discharges any charge or other security that the Lender has over any of the Borrower's property or chattels and will do all things reasonable and necessary to release the Borrower from all and any security including executing this Deed and lodge all necessary papers and forms with relevant authorities and registers to evidence as such.

**5. ACKNOWLEDGEMENT**

- 5.1. All parties to the agreement acknowledge the forgiveness of loan by the Lender through acknowledgements, both verbally and in writing, when and where it is appropriate and reasonable to do so.

## **6. GENERAL**

- 6.1. This Deed will be governed by and construed in accordance with the laws of the NSW and the Parties agree to submit to the jurisdiction of the courts in NSW.
- 6.2. If any provision of this Deed is held to be invalid or unenforceable for any reason, it will be severable and will not affect the remaining provisions of this Deed especially title to the gift by Giftee.
- 6.3. This Deed contains the entire agreement and understanding between the Parties in relation to the matter the subject of this Deed. This Deed supersedes any prior agreements, understandings and negotiations between the Parties in relation to those matters.
- 6.4. This Deed may not be modified, amended, added to or otherwise varied except by a document in writing signed by each of the Parties.

## EXECUTED AS A DEED BY THE PARTIES

### 1: THE LENDER

SMITH NOMINEES PTY LTD ACN 121 454 877 ATF SMITH FAMILY TRUST signed by the persons authorised to sign for and on behalf of the company pursuant to section 127 of the Corporations Act 2001:

.....  
*John Smith*  
Director

.....  
*Date*

.....  
*Sally Smith*  
Director

.....  
*Date*

### 2: THE BORROWER

BOBBY SMITH, in the presence of:

.....  
*Bobby Smith*  
Borrower

.....  
*Date*

Witnessed by:

.....  
Witness Signature

.....  
*Date*

.....  
Witness Name