

Independent Solicitor's Certificate

For use in certification where the Person(s) signing is a third party guarantor, surety mortgagor, or indemnifier for the principal borrower.

Warning

Practitioners should be aware that provision of a false certificate is likely to result in refusal of indemnity by Lexon Insurance if a claim results. Your professional indemnity policy excludes cover where liability is brought about by fraud or dishonesty. A certificate which falsely states that advice has been given will ordinarily be treated as falling within that exclusion.

Part A

To:

This certificate is provided by:

A solicitor holding a current unrestricted Practising Certificate under the *Legal Profession Act 2007* and not acting for you or any other party in this transaction including:

(full names)(Borrower)

I have been asked to interview:

(Guarantor)

I have been provided with the following documents:

1:

2:

3:

4:

5:

6:

(Documents)

Part B: Explanations and advices given by the certifying solicitor

I certify that in the absence of the Borrower and before the Guarantor signed any of the Documents, I explained to the Guarantor:

- the general nature and effect of the Documents;
- that if the Borrower defaults in payment or in other obligations to you the Guarantor would be liable to make good the default which could involve all amounts owed by the Borrower to you and substantial arrears of interest and costs;
- that in certain circumstances the Guarantor would be liable even if the Borrower is not liable to pay; and
- that the giving of a guarantee involves considerable risk, including the risk of losing any security, property and other assets and requires very careful thought.

And I advised the Guarantor:

- that the Guarantor should carefully consider the financial risks involved in giving the guarantee and in particular:
 - the level of risk that the Borrower will default in the repayments; and
 - the ability of the Guarantor to make good any default including arrears of interest and costs which might significantly exceed the current size of the debt.
- that the Guarantor should make enquiries about:
 - the risk involved in any business the Borrower is undertaking with the proposed loan;
 - the risk of the Borrower defaulting;
 - the possible extent of any default which the Guarantor may have to meet; and
 - the adequacy of any security being given by the Borrower or others and the likely level of exposure of the Guarantor.
- that if the Guarantor were in any doubt as to the level of financial risk involved, the Guarantor should obtain independent financial advice before signing the Documents.

Part C: Excluded advice

I informed the Guarantor in very clear terms that I was not expressing any opinion or advising on:

- the viability of the transaction which the Borrower was undertaking; or
- the Borrower's ability to make the required payments to you; and
- the Guarantor's (client's) ability to make payment to you.

Part D: Statements by the persons signing documents

Following the above explanations the Guarantor stated to me that:

- the Guarantor had read the Documents and understood the general nature and effect of the Documents;
- my advice as to the obligations and risks involved in signing the Documents was understood; and
- the Documents were signed freely, voluntarily and without pressure from the Borrower or any other person.

Part E: Identification of persons signing documents

The Guarantor produced to me the following evidence of identification:

- 1
- 2
- 3

Part F: Translation/interpretation

An independent interpreter, Mr/Mrs/Ms

was present at this interview with the Guarantor and interpreted the statements made by all persons present. A certificate by the interpreter is held by me.

Solicitor's Certificate

I certify the above information. During my interview with the Guarantor, including giving advice as specified in Part B and when I witnessed the Documents, the Borrower was not present.

Signed:

Dated:

Guarantor's Certificate

I certify that:

- I have been handed a copy of this Certificate;
- I have read this Certificate;
- I am the Guarantor named in this Certificate; and
- the above information is true.

Signed:

Dated:

Explanation to Guarantor Certificate by Translator/Interpreter

| | |
|--|----------|
| To: | |
| of | (Lender) |
| 1 This certificate is provided by: | |
| Name: | |
| Address: | |
| Occupation: | |
| I am over the age of 18 years. | |
| 2 On the _____ day of _____ 20_____ | |
| I attended a conference at the office of _____ (Solicitor) | |
| at _____ | |
| 3 Present at the conference were _____ (the guarantor) | |
| and _____ | |
| 4 I spoke to the Guarantor in the _____ language and I established that is his/her customary language. | |
| 5 I am fluent in the English language and the _____ language and am competent to translate between both those languages. | |
| 6 I translated all the Documents from the english language to the _____ language and am competent to translate between both those languages. | |
| 7 During the conference, and before any Documents were signed, I translated all statements made by the solicitor and _____ | |
| from the English language to the _____ language and I translated all statements made by the Guarantor from the _____ language to the English language. | |
| 8 I am independent of the Borrower and the Lender and I have no interest in this transaction. | |
| Signed: | |
| Dated: | |

Form of acknowledgment given by the guarantor/surety to the certifying solicitor

| | | |
|---|--|--------------------------|
| This acknowledgement is provided by me | | (name) |
| of | | (address) |
| | | (occupation) |
| to (certifying solicitor) | | (called 'the Solicitor') |
| of | | (firm name and address). |
| I acknowledge that: | | |
| <ul style="list-style-type: none">• the solicitor has signed a certificate at my request;• my name and address is correctly recorded above on the certificate given by the solicitor and I have provided proof of my identity in the manner recorded in the certificate;• I did attend the office of the certifying solicitor on the date recorded in the certificate for the purposes of receiving legal advice on the nature and effect of the documents referred to in the certificate;• I have received the explanations referred to and have stated to the solicitor that I understood those explanations;• the matters recorded in the certificate are true and correct;• I confirm these matters by my signature to this acknowledgment and to the Certificate;• a translator was present and translated all written and spoken words to me and my response; or• a translator was not required by me as I have an adequate command of the English language. | | |

Dated the _____ day of _____ 20_____

Signed: