



*Copyright Act 1968*

**SECURITY UNDER SECTION 135 - DEED OF UNDERTAKING**

**THE DEED IS MADE**

on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

BY \_\_\_\_\_  
Company

of \_\_\_\_\_ hereinafter referred to as the Undertaking Giver.  
Address

**Recital**

- A. The Undertaking Giver has given to the Chief Executive Officer of Customs (the CEO) a written notice under s135(2) of the *Copyright Act 1968* (the Act) that they are the owner of the copyright in the 'copyright material' as defined in s134B of the Act and listed in the Schedule to the written notice and that they object to the importation into Australia of copies of that copyright material to which s135 of the Act applies.
- B. Pursuant to s135(7) of the Act, the CEO may seize the copies.
- C. Pursuant to s135AA(1) of the Act, the CEO has decided not to seize the copies unless the Undertaking Giver has given a written undertaking, in terms of this Deed, to repay to the Commonwealth the expenses of seizing the copies.

**The Deed Witnesses:**

- 1. Where, after the date of the Deed, the CEO seizes the copies pursuant to s135(7) of the Act, the Undertaking Giver shall upon demand pay to the Commonwealth the expenses of seizing the copies.
- 2. The expenses of seizing the copies are as defined in s135AA(4) of the Act as being the expenses that may be incurred by the Commonwealth if the copies were seized.
- 3. Any demand made under this Deed upon the Undertaking Giver shall be deemed to have been duly made if it is in writing and signed by the CEO, or a delegate, and sent by prepaid post as a letter to the Undertaking Giver, or their nominated legal representative, or left by hand, at the address set forth in this Deed or at the address last notified to the Australian Customs Service (Customs) under Clause 5 hereof. Any such demand sent by prepaid post shall be deemed to have been received by the Undertaking Giver, at the time when such demand could in the ordinary course of post have been delivered.
- 4. Pursuant to s135AJ(2) of the Act the amount payable under Clause 1 hereof is a debt due to the Commonwealth and may be recovered by an action taken in a court of competent jurisdiction.
- 5. If there is an alteration in the name or address of the Undertaking Giver or their nominated legal representative, then the Undertaking Giver shall give to Customs written notice of the fact within seven working days after the date on which the alteration takes place.

**OR**

- 5. If there is an alteration in the name or address of the Undertaking Giver or their nominated legal representative, or if the Undertaking Giver ceases to carry on business, or there is an alternation in the ownership or control of the Undertaking Giver, then the Undertaking Giver shall give to Customs written notice of the fact within seven working days after the date on which the alteration or cessation takes place.

Note: This clause 5 may vary whether the Undertaking Giver is a natural or corporate person.

- 6. A reference in this Deed to a provision of the *Copyright Act 1968* shall be read as a reference to that provision as in force as amended at the date of this Deed, and to any provision re-enacting or replacing the same.

**Executed as a Deed**

[ Note: Where Undertaking Giver is a natural person ]

Signed, sealed and delivered by:

Signature:

Name of Undertaking Giver

In the presence of:

Signature:

Name of witness

**OR****Executed as a Deed**

[ Note: Where executed for a proprietary company that has a sole Director where that Director is also the sole Company Secretary ]

Signed, sealed and delivered by:

Signature:

Name of sole Director / Company Secretary

Signature:

Name of witness

**OR****Executed as a Deed**

[ Note: Where executed by 2 Directors of a company, or a Director and a company secretary ]

Signed, sealed and delivered by:

Signature:

Name of Director

Signature:

Name of witness

Name of Director / Secretary

Signature:

Name of witness

**OR****Executed as a Deed**

[ Note: Where executed by a proprietary company with a common seal or where executed by a proprietary company with a common seal that has a sole Director who is the company secretary ]

Signed, sealed and delivered by:

Company Seal

Witnessed By:

Signature:

Name of Director or sole Director/Company Secretary

Signature:

Name of Director / Secretary (not required where executed by sole Director who is the Company Secretary)

Note: Please check advice on the correct form of execution on a case basis.