C 207 2004 No. High Court of Lagos State (Civil Procedure) Rules

**FORM 30**

**Form of Guarantee for the Acts and Defaults of a Receiver**

**(0.38, r.10)**

In the High Court of Lagos State

In the ……………………………………………………………………………………………………………… Judicial Division

PARTIES

Suit No: ....................................................................................................................................

Re: ........................................................ v........................................................ Guarantee for N........................................................ Annual premium N........................................................

This guarantee is made the ............................................. day of ............................... 20 …………………….. Between (XYZ) of........................................................ (hereinafter called “the Receiver”) of the first part, the above named ........................................................ the registered office of which is at ........................................................ in........................................................ (hereinafter called “the surety”) of the second part and........................................................ The Governor of Lagos State. By an Order of the High Court Lagos State............................................. Judicial Division dated the........................................................ day of.……………………………… 20 ……………. And made in the above-mentioned action the Receiver has been appointed to receive (and manage) (follow words of the order). And it was ordered that the Receiver should give security to the satisfaction of the Judge on or before the........................................................ day of …………………………….. 20……………………

And whereas the Surety has agreed at the request of the Receiver to issue this guarantee in consideration of the annual premium above mentioned (the first payment of which the surety hereby acknowledges) which guarantee has been accepted by the Judge as a proper security pursuant to the said order in testimony whereof one of the Registrars of the High Court has signed an allowance in the margin hereof.

Now this guarantee witnesses as follows –

1. The Receiver and the Surety hereby jointly and severally covenant with the Governor of Lagos State and his successors that the Receiver shall and will from time to time duly account for what he has already received since the date of the said order appointing him and shall hereafter receive or for what since the date of the said order appointing him he has or shall hereafter be or become liable to pay or account for as such Receiver (and manager) as aforesaid including as well every sum of money or other property so received during the period for which he has been appointed as also every sum of money or other property so received in respect of any extended period for which he may be appointed and shall and will pay or deliver every such sum or property as the court or a Judge thereof may direct.

2. Provided always that it is hereby mutually agreed as follows –

a) If the Receiver shall not for every successive twelve months to be computed from the date of his appointment as such Receiver as aforesaid or within fifteen days after the expiration of such twelve months pay at the office of the Surety the annual premium or sum of N ………………………………………. then the Surety shall be at liberty to apply by summons in the said action to be relieved from all further liability as such surety under this guarantee save and except in respect of any damage or loss occasioned by any act or default of the receiver in relation to his duties as such Receiver (and manager) prior to the hearing and determination of such summons.

b) A statement under the hand of any Registrar of the High court of Lagos State of the amount which the Receiver is liable to pay and has not paid under this guarantee and that the loss or damage has been incurred through the act or default of the Receiver shall be conclusive evidence in any action or information by the Governor of Lagos State against the Receiver and Surety or either of them or by the Surety against the Receiver of the truth of the contents of such statement and shall constitute a binding charge not only against the Receiver and his personal representatives but also against the Surety and his funds and property without being necessary for the Governor of Lagos State to take any legal or other proceedings against the receiver for the recovery thereof and without any further or other proof being given in that behalf in any action to enforce this guarantee.

c) The liability of the Surety under this guarantee is limited to the sum of N………………………. Provided nevertheless that a Registrar of the High Court may by his signature to the indorsement on this guarantee (in the form printed thereon) reduce the said liability of the Surety still further or

(but only with the consent of the Surety by an instrument in writing duly executed) increase such liability as may be necessary and upon such indorsement this guarantee shall continue in full force but in that case the premium shall be correspondingly reduced or increased.

3. It is hereby further agreed between the Receiver and the Surety as follows –

(a) The Receiver will on being discharged from his office on ceasing to act as such receiver (and manager) as aforesaid forthwith give written notice thereof to the Surety by registered post and also within 7 days of such notice furnish to the Surety free of charge an office copy of the order if any of the Judge discharging him.

(b) The Receiver and his personal representatives shall and will at all times hereafter indemnify the Surety and its property and funds against all loss, damage, costs and expenses which the Surety or its funds or property may or might otherwise sustain by reason of the Surety having executed this guarantee at this request.

In witness whereof the Receiver has hereunder set his hand and seal and the surety has caused its Common Seal to be affixed the ……………………………..…….. day of ………………………....20………………….. In the matter of ………………………………….. Increased Liability.

To be attached by way of Indorsement to Guarantee.

The liability of the Surety under the within written guarantee has with the consent of the receiver and the Surety been increased from N ……………………………..…………………….……..to N ……………………………..………… in respect of any acts or omissions to which the within written guarantee relates committed by the Receiver subsequent to the date hereof the total liability of the Surety in respect of both the within written guarantee and his indorsement being limited to the increased sum above stated.

Sealed with the seal of the receiver and also the Common Seal of the Surety this …………………………….. day of …………………………….. 20 …………………………….. as evidence of such increased liability and the admission thereof by the Receiver and the Surety respectively.

Signed, sealed and delivered by ……………………………..………………………………

The Receiver in the presence of: ……………………………..……………………………..

The Common Seal of the Surety was: ……………………………..……………………….

hereunto affixed in the presence of: ……………………………..……………………….