

DATED 28 NOVEMBER 2022

GUARANTEE AND INDEMNITY

between

Hart Capital Partners (UK) Limited

and

Equity Wealth Solutions Limited

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This deed is dated 28 November 2022

Parties

- (1) **Hart Capital Partners (UK) Limited** incorporated and registered in England and Wales with company number 13528148 whose registered office is at 47a Broadgates, Market Place, Henley-On-Thames, England, RG9 2AD as guarantor and indemnifier (**Guarantor**)
- (2) **Equity Wealth Solutions Limited**, an MFSA authorised trustee (in terms of the Trusts and Trustees Act, Chapter 331 of the Laws of Malta) registered under the laws of Malta with company registration number C 31987 and having its registered office at 176, Old Bakery Street, Valletta, VLT 1455, Malta, as trustee of the Hart Capital Partners (Europe) Bond 2027 Trust (**Security Trustee**)

BACKGROUND

Under this deed, the Guarantor provides security to the Security Trustee for the benefit of the Bondholders to guarantee the Issuer's obligation to pay the Indebtedness.

Agreed terms

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this guarantee.

Bond/s: has the meaning given to that expression in the Company Admission Document.

Bondholder/s: has the meaning given to that expression in the Company Admission Document.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Company Admission Document: the company admission document relating to the issue of €3,000,000 (or up to €5,000,000 if the Over-Allotment Option is exercised in full) 7.25% Secured Callable Bonds 2025 – 2027 published by the Issuer on 20 October 2022.

Indebtedness: any and all monies, obligations and liabilities now or hereafter due, owing or incurred by the Issuer under the Bonds to the Bondholders (whether alone and/or with others) pursuant to the Terms and Conditions and in any and all cases whether for principal, interest, capitalised interest, charges, disbursements or otherwise and whether for actual or contingent liability, as well as any fees and/or expenses which the Bondholders may incur in the protection, preservation, collection or enforcement of the their rights against the Issuer and/or Guarantor.

Issuer: Hart Capital Partners (Europe) p.l.c., a public limited liability company, registered under the laws of Malta with company registration number C 100619 and having its registered office situated at 55D, Birbal Street, Balzan, BZN 9017, Malta.

Nominal Value: has the meaning given to that expression in the Company Admission Document.

Over-Allotment Option: has the meaning given to that expression in the Company Admission Document.

Rights: any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.

Security: a mortgage, charge, pledge, lien or other security interest securing any obligation of any person, or any other agreement having a similar effect.

Security Trust Deed: has the meaning given to that expression in the Company Admission Document

Tax: all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction and any penalty, fine, surcharge, interest, charges or costs relating to them.

Terms and Conditions: the terms and conditions of the Bonds set out in section 8 of the Company Admission Document;

Warranties: the representations and warranties set out in the Schedule 1.

1.2 Interpretation

In this guarantee:

- (a) clause and Schedule headings shall not affect the interpretation of this guarantee;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;

- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to **Security Trustee** shall include the Security Trustee's successors, permitted assignees and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to **writing** or **written** includes fax and e-mail;
- (i) a reference to **this guarantee** (or any provision of it) or to any other agreement or document referred to in this guarantee is a reference to this guarantee, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this guarantee) from time to time;
- (j) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this guarantee and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (k) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (l) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (m) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (n) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (o) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (p) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

2. Guarantee and indemnity

- 2.1 The Guarantor hereby unconditionally and irrevocably guarantees to the Security Trustee (for the benefit of the Bondholders) the due and punctual payment of the Indebtedness, and the Guarantor hereby further unconditionally and irrevocably guarantees that if for any reason the Issuer fails to pay the Indebtedness, or any part thereof, as and when due, the Guarantor will, on first demand in writing made by the Security Trustee on the Guarantor, pay the outstanding sum as a debt, certain, liquidated and due to the Security Trustee for the benefit of the Bondholders.

PROVIDED that notwithstanding anything else in this guarantee, the Security Trustee shall not be bound to take any steps or proceedings against the Guarantor under the guarantee unless requested to do so by Bondholders holding no less than 60% in Nominal Value of the Bonds held by those Bondholders present at a meeting called for the purpose.

- 2.2 The Guarantor hereby unconditionally and irrevocably agrees that the Security Trustee shall be entitled to request the Guarantor to make any payment in terms of clause 2.1 above without first having to take action against the Issuer.

- 2.3 The Guarantor as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under clause 2.1, giving rise to a separate and independent cause of action, hereby unconditionally and irrevocably agrees:

- (a) that any sum which, although expressed to be payable by the Issuer under the Bonds, is for any reason (whether or not now existing and whether or not now known or becoming known to the Issuer, the Guarantor, the Security Trustee or any Bondholder) not recoverable from the Guarantor will nevertheless be recoverable from it as if it were the sole principal debtor and will be paid by it to the Security Trustee for the benefit of the Bondholders on the Security Trustee's demand; and
- (b) as a primary obligation, agrees to indemnify the Security Trustee and each Bondholder against any loss suffered by them as a result of any sum expressed to be payable by the Issuer under the Bonds not being paid on the date and otherwise in the manner specified in the Terms and Conditions or any payment obligation of the Issuer under the Bonds being or becoming void, voidable or unenforceable for any reason (whether or not now existing and whether or not now known or becoming known to the Security Trustee or any Bondholder), the amount of that loss being the amount expressed to be payable by the Issuer in respect of the relevant sum.

- 2.4 The guarantee is a continuing guarantee for the whole amount due or owing to the Bondholders or which may hereafter at any time become due or owing to the Bondholders but, notwithstanding anything else in this guarantee, the Guarantor's maximum liability to the Bondholders under this guarantee shall not be in excess of €3 million (or €5 million if the Over-Allotment Option is

exercised in full) apart from interest due up to the date of payment and costs and expenses relating to the protection, preservation, collection or enforcement of the Bondholders' rights against the Issuer and/or the Guarantor which shall be additional to this maximum sum stated.

3. Security Trustee protections

- 3.1 This guarantee is and shall at all times be a continuing security and shall cover the ultimate balance from time to time owing to the Bondholders by the Issuer in respect of the Indebtedness.
- 3.2 The liability of the Guarantor under this guarantee shall continue to subsist, and will remain in full force and effect by way of continuing security, until such time as the Indebtedness is repaid in full and such liability shall in no way be prejudiced or effected, nor shall it in any way be discharged or reduced by:
- (a) the bankruptcy, insolvency or winding up of the Issuer; or
 - (b) the incapacity or disability of the Issuer for any reason whatsoever; or
 - (c) any change in the name, style, constitution, any amalgamation or reconstruction of either the Issuer or the Guarantor; or
 - (d) the Bondholders conceding any time or indulgence, or compounding with, discharging, releasing or varying the liability of the Issuer or renewing, determining, reducing, varying or increasing any facility or accommodation or transaction or otherwise dealing with the same in any manner whatsoever or concurring in, accepting or in any way varying any compromise, composition, arrangement or settlement or omitting to claim or enforce or exact payment from the Issuer; or
 - (e) any novation, set off or other event, act or omission that might operate to exonerate the Guarantor without settlement in full of the Indebtedness towards the Bondholders
- 3.3 Without prejudice to the proviso of clause 2.1 above, the Security Trustee shall not be obliged, before taking steps to enforce any of its rights and remedies under this guarantee, to:
- (a) take any action or obtain judgment in any court against the Issuer or any other person;
 - (b) make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Issuer or any other person; or
 - (c) make, demand, enforce or seek to enforce any claim, right or remedy against the Issuer or any other person.
- 3.4 The Guarantor warrants to the Security Trustee that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Issuer, its liquidator, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Guarantor under this guarantee but:

- (a) if any of the Rights is taken, exercised or received by the Guarantor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Guarantor on trust for the Security Trustee for the benefit of Bondholders for application in or towards the discharge of the Indebtedness under this guarantee; and
- (b) on demand by the Security Trustee after being requested to do so by Bondholders holding no less than 60% in Nominal Value of the Bonds held by those Bondholders present at a meeting called for the purpose, the Guarantor shall promptly transfer, assign or pay to the Security Trustee for the benefit of the Bondholders all other Rights and all monies from time to time held on trust by the Guarantor under this clause 3.4.

3.5 This guarantee is in addition to and shall not affect nor be affected by or merge with any other judgment, Security, right or remedy obtained or held by the Security Trustee for the benefit of Bondholders and/or by the Bondholders from time to time for the payment by the Issuer of the Indebtedness.

4. Interest

4.1 The Guarantor shall pay interest to the Security Trustee for the benefit of the Bondholders at the annual rate which is 8 percentage points above the base rate of the Bank of England on all sums demanded under this guarantee from the date of demand by the Security Trustee or, if earlier, the date on which the relevant damages, losses, costs or expenses arose in respect of which the demand has been made, until, but excluding, the date of actual payment.

PROVIDED that the base rate referred to in this clause shall be the base rate of the Bank of England as of the date of demand by the Security Trustee, or the date on which the relevant damages, losses, costs or expenses arose, whichever is the higher.

4.2 Interest under clause 4.1 shall accrue on a day-to-day basis calculated by the Security Trustee on such terms as the Security Trustee may from time to time determine and shall be compounded on the last Business Day of each month.

4.3 The Security Trustee shall be entitled to recover any amount in respect of interest under this guarantee, the Company Admission Document and any other arrangements entered into between the Issuer, the Guarantor, the Security Trustee and/or the Bondholders in respect of any failure by the Issuer to make any payment in respect of the Indebtedness.

5. No subrogation

5.1 Until the Indebtedness has been paid in full, the Guarantor hereby undertakes that:

- (a) it will not, without the prior written consent of the Security Trustee exercise any rights of subrogation, reimbursement and indemnity against the Issuer or any other person liable for the Indebtedness;
- (b) all rights of relief and subrogation arising in favour of the Guarantor upon a partial payment to the Bondholders (or the Security Trustee on their behalf) against the Issuer and any other person who may be liable for the Indebtedness, including any co-guarantors, shall be suspended; and/or
- (c) it will not, without the prior written consent of the Security Trustee, claim any set-off or counter-claim against the Issuer or any other person liable for the Indebtedness nor shall the Guarantor claim or prove in competition with the Security Trustee and/or the Bondholders in the liquidation of the Issuer or any other person liable for the Indebtedness or benefit or share any payment from or in competition with the Issuer or any other person liable for the Indebtedness.

6. Costs

The Guarantor shall promptly on demand, pay to, or reimburse, the Security Trustee and the Bondholders on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Security Trustee and/or the Bondholders in connection with:

- (a) the preparation, negotiation, execution and delivery of this guarantee;
- (b) any actual or proposed amendment, variation, supplement, waiver or consent under or in connection with this guarantee;
- (c) any discharge or release of this guarantee;
- (d) the preservation, or exercise and enforcement, of any rights under or in connection with this guarantee or any attempt so to do; and
- (e) any stamping or registration of this guarantee.

7. Representations and warranties

The Guarantor represents and warrants that the Warranties are true and correct on the date of this guarantee.

8. Accounts

- 8.1 The Security Trustee may place to the credit of a suspense account any monies received under or in connection with this guarantee in order to preserve the rights of the Security Trustee to

prove for the full amount of all its claims against the Issuer or any other person in respect of the Indebtedness.

- 8.2 The Security Trustee may at any time and from time to time apply all or any monies held in any suspense account in or towards satisfaction of any of the monies, obligations and liabilities that are the subject of this guarantee as the Security Trustee, in its absolute discretion, may conclusively determine.
- 8.3 If this guarantee ceases for any reason whatsoever to be continuing, the Security Trustee may open a new account or accounts in the name of the Issuer.
- 8.4 If the Security Trustee does not open a new account or accounts in accordance with clause 8.3, it shall nevertheless be treated as if it had done so at the time that this guarantee ceased to be continuing whether by termination, calling in or otherwise, in relation to the Issuer.
- 8.5 As from the time of opening or deemed opening of a new account or accounts, all payments made to the Security Trustee by or on behalf of the Issuer shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this guarantee is available at that time, nor shall the liability of the Guarantor under this guarantee in any manner be reduced or affected by any subsequent transactions, receipts or payments.

9. Discharge conditional

- 9.1 Any release, discharge or settlement between the Guarantor and the Security Trustee in relation to this guarantee shall be conditional on no Right, Security, disposition or payment to the Security Trustee and/or the Bondholders by the Guarantor, the Issuer or any other person in respect of the Indebtedness being avoided, set aside or ordered to be refunded under any enactment or law relating to breach of duty by any person, bankruptcy, liquidation, administration, protection from creditors generally or insolvency or for any other reason.
- 9.2 If any Right, Security, disposition or payment referred to in clause 9.1 is avoided, set aside or ordered to be refunded, the Security Trustee shall be entitled subsequently to enforce this guarantee against the Guarantor as if such release, discharge or settlement had not occurred and any such Right, Security, disposition or payment had not been given or made.

10. Payments

- 10.1 All sums payable by the Guarantor under this guarantee shall be paid in full to the Security Trustee for the benefit of the Bondholders in Euro (€):
- (a) without any set-off, condition or counterclaim whatsoever; and
 - (b) free and clear of any deductions or withholdings whatsoever except as may be required by law or regulation which is binding on the Guarantor.
- 10.2 All sums payable to the Security Trustee for the benefit of the Bondholders under this guarantee shall be due by the Guarantor under this guarantee as a debt, certain, liquidated and due on the seventh (7th) day following the Security Trustee's first written demand to the Guarantor to pay.
- 10.3 If any deduction or withholding is required by any law or regulation to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which (after making any deduction or withholding) leaves an amount equal to the payment which would have been due if no deduction or withholding had been required.
- 10.4 The Guarantor shall promptly deliver or procure delivery to the Security Trustee and the Bondholders (or any of them) of all receipts issued to it evidencing each deduction or withholding which it has made.
- 10.5 The Guarantor shall not and may not direct the application by the Security Trustee and/or Bondholders of any sums received by them from the Guarantor under any of the terms of this guarantee.
- 10.6 All moneys received by the Security Trustee from the Guarantor in respect of the Bonds or amounts payable under this deed will be held by the Security Trustee on trust to apply them:
- (1) first, in payment of all costs, fees, charges, expenses and liabilities properly incurred by the Security Trustee (including remuneration payable to it) in carrying out its functions under this deed and/or the Security Trust Deed;
 - (2) secondly, in payment of any interest owing upon the Bonds *pari passu* and without any preference or priority;
 - (3) thirdly in payment of principal monies owing upon the Bonds *pari passu* and without any preference or priority; and

(4) fourthly, in payment of any balance to the Guarantor.

11. Transfer

11.1 This guarantee is freely assignable or transferable by the Security Trustee.

11.2 The Guarantor may not assign any of its rights and may not transfer any of its obligations under this guarantee or enter into any transaction which would result in any of those rights or obligations passing to another person.

12. Security Trustee's right of set-off

12.1 The Security Trustee may at any time set off any liability of the Guarantor to the Security Trustee against any liability of the Security Trustee to the Guarantor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this guarantee. If the liabilities to be set off are expressed in different currencies, the Security Trustee may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Trustee of its rights under this clause 12.1 shall not limit or affect any other rights or remedies available to it under this guarantee or otherwise.

12.2 The Security Trustee is not obliged to exercise its rights under clause 12.1. If, however, it does exercise those rights it must promptly notify the Guarantor of the set-off that has been made.

13. Evidence of amounts and certificates

Any certificate, determination or notification by the Security Trustee as to a rate or any amount payable by the Guarantor under this guarantee is (in the absence of manifest error) conclusive evidence of the matter to which it relates and shall contain reasonable details of the basis of determination.

14. Remedies, waivers, amendments and consents

14.1 No amendment of this guarantee shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

14.2 A waiver of any right or remedy under this guarantee or by law, or any consent given under this guarantee, is only effective if given in writing and signed by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances

for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

14.3 A failure or delay by a party to exercise any right or remedy provided under this guarantee or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this guarantee. No single or partial exercise of any right or remedy provided under this guarantee or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this guarantee by the Security Trustee shall be effective unless it is in writing and signed.

14.4 The rights and remedies provided under this guarantee are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

15. Severance

If any provision (or part of a provision) of this guarantee is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this guarantee.

16. Third party rights

16.1 Except as expressly provided elsewhere in this guarantee, a person who is not a party to this guarantee shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this guarantee. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

16.2 The rights of the parties to rescind, terminate or agree any amendment or waiver under this guarantee are not subject to the consent of any other person.

17. Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

18. Notices

- 18.1 A notice given to a party under or in connection with this agreement shall be in writing and sent to the party at the address given in this agreement or as otherwise notified in writing to the other party.
- 18.2 The following table sets out methods by which a notice may be sent and, if sent by that method, the corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand.	On signature of a delivery receipt or at the time the notice is left at the address.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

- 18.3 For the purpose of clause 18.2 and calculating deemed receipt:
- (a) all references to time are to local time in the place of deemed receipt; and
 - (b) if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.
- 18.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 18.5 A notice given under this agreement is not valid if sent by email or fax.

19. Governing law

- 19.1 This guarantee and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the law of England and Wales.
- 19.2 The Guarantor irrevocably consents to any process in any proceedings under clause 20 being served on it in accordance with the provisions of this guarantee relating to service of notices. Nothing contained in this guarantee shall affect the right to serve process in any other manner permitted by law.

20. Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute, controversy or claim (including non-contractual disputes or claims) arising out of or relating to this guarantee or its subject matter or formation. Nothing in this clause shall limit the right of the Security Trustee to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 Representations and warranties

1. Due incorporation

The Guarantor:

- (a) is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.

2. Powers

The Guarantor has the power to execute, deliver and perform its obligations under this guarantee and the transactions contemplated by them.

3. Non-contravention

The execution, delivery and performance of the obligations in, and transactions contemplated by, this guarantee does not and will not contravene any of the Guarantor's constitutional documents, any agreement or instrument binding on the Guarantor or its assets, or any applicable law or regulation.

4. Authorisations

The Guarantor has taken all necessary action and obtained all required or desirable consents to enable it to execute, deliver and perform its obligations under this guarantee and to make this guarantee admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

5. Binding obligations

The Guarantor's obligations under this guarantee are, subject to any general principles of law limiting obligations, legal, valid, binding and enforceable.

6. Litigation

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Guarantor's knowledge, threatened against it or any of its assets.

7. Assets not immune to action

None of the Guarantor's assets is entitled to immunity on any grounds from any legal action or proceeding (including, without limitation, suit, attachment prior to judgment, execution or other enforcement).

8. No default

No event or circumstance is outstanding which constitutes a default under any deed or instrument which is binding on the Guarantor, or to which its assets are subject, which might have a material adverse effect on the Guarantor's ability to perform its obligations under this guarantee.

9. Ranking of obligations

The Guarantor's payment obligations under this guarantee rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

Executed as a deed by Hart Capital Partners (UK)
Limited acting by a director, in the presence of: Director

.....

Signature

Name.....

Address.....

Occupation.....



Executed as a deed by Equity Wealth Solutions
Limited as trustee of the Hart Capital Partners
(Europe) Bond 2027 Trust acting by a director, in
the presence of: Director

.....

Signature

Name.....

Address.....

Occupation.....

