

# Terms and Conditions of Trade

## 1. INTERPRETATION

Unless the contrary intention appears:

**Account** means the account provided by Central Pet to the Purchaser on the Application being successful, the terms of such being the Application, the Privacy Statement and these Terms and Conditions.

**Application** means the application by the Purchaser for commercial trading credit account with Central Pet to allow for the ongoing supply of the Goods.

**Central Pet** means Central Pet Australia Pty Ltd - ABN 43 100 909 742 which is the seller and supplier of the Goods.

**Delivery Date** means the date that Central Pet delivers the Goods the subject of the Order to the Purchaser.

**Due Date** means the date prescribed for payment for the Goods on the Invoice.

**Goods** means the goods and, if any, services supplied by Central Pet to the Purchaser which are the subject of a Quotation and subsequent Order.

**Guarantee** means the Guarantee provided in clause 21 of these Terms and Conditions.

**Guarantor** means the persons identified as guarantors in the application form for the Account to which these Terms and Conditions form a part of and which provide the Guarantee to Central Pet in respect of money owing under the Account.

**Invoice** means the invoice issued by Central Pet to the Purchaser upon receipt of the Order stipulating the Goods, the Price and the Due Date.

**Manufacturer** means the ultimate manufacturer of the Goods which Central Pet supplies to the Purchaser pursuant to the Order on credit under the Account.

**Nominee** means Cenversa Services Pty Ltd ACN 113 929 294 unless otherwise notified in writing.

**Purchaser** means the purchaser of the Goods provided for under the Account.

**Price** means the price payable to Central Pet for the Goods.

**Outstanding Amount** means at the Termination Date all amounts owing to Central Pet under the Account (whether the Due Date has passed or not and such amount includes any amounts arising from Orders that are unfulfilled at the Termination Date)

**Returns Process** means the application to Central Pet to return goods (Returned Goods) for a credit to the value of the Returned Goods (Returned Credit) within seven days of the Delivery Date of the Goods. Upon receipt of the Returns Application, Central Pet will issue a returns request (Returns Request) to acknowledge that it accepts return of the Goods and notify whether a Returns Fee will apply. For the Returned Credit to be applied to the Account, the Returned Goods, Returns Request and if applicable, the Returns Fee must be delivered to Central Pet within seven days of the Purchaser receiving the Returns Request from Central Pet.

**Returns Fee** means the amount of \$25.00AUD.

Termination Date has the meaning provided to it in clause 20 of these Terms and Conditions.

Nothing in these terms shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010 (Cth) ("CCA")) and which by law cannot be excluded, restricted or modified.

These terms and conditions apply to the Purchaser of Central Pet Goods, who is named in the Application form to which these terms and conditions are attached. The Purchaser and any Guarantors agree to be bound by these terms and conditions. The making of the Application to Central Pet will, in addition to any signing of the Application by the Purchaser, be evidence of:

- the Purchaser's acceptance of these Terms and Conditions; and
- the Purchaser obtaining the acceptance of the Guarantor(s) (if any) to their being bound by the Terms and Conditions and their forming part of the terms on which the Account is provided to the Purchaser and a condition of the guarantee provided by the Guarantor to Central Pet.

These Terms and Conditions must be read in conjunction with any other applicable terms and conditions (**Additional Terms and Conditions**) governing trading between the Purchaser and Central Pet as notified to the Purchaser from time to time. If the Purchaser continues to purchase Goods from Central Pet after notification of the Additional Terms and Conditions then the Purchaser is taken to have accepted and agreed to be bound by the Additional Terms and Conditions.

## 2. GENERAL

2.1. These terms are subject to amendment by Central Pet without notice to the Purchaser. amendments to these Terms and Conditions apply to the Purchaser from the earlier of:-

- the date on which Central Pet publishes the amended terms and conditions (Amended Terms and Conditions) on its website; or
- the date on which Central Pet sends the Amended terms and Conditions to the Purchaser (collectively, the Notification Date)

If the Purchaser's continued purchase of Goods from Central Pet after the Notification Date will represent the Purchaser' agreement to be bound by the Amended Terms and Conditions.

## 3. TERMS OF SALE

The Goods are sold subject to the Terms and Conditions and any Amended or Additional Terms and Conditions (the Conditions). Any purported agreement between the Purchasers is invalid to the extent that it is inconsistent with the Conditions. Any variation or waiver of any term contained within the Conditions is invalid unless it is in writing and signed by an officeholder of Central Pet.

## 4. QUOTATIONS

Any Quotations are open for acceptance by the Purchaser for a period of thirty (30) days unless otherwise stated on the Quotation or withdrawn by Central Pet. On acceptance by the Purchaser, the Quotation will form an Order between the Purchaser and Central Pet. Central Pet reserves the right to vary, amend or refuse the Order within seven days of receiving the Order from the Purchaser without liability to the Purchaser.

## 5. ORDERS

### 5.1 Representation of Solvency

The Purchaser agrees and acknowledges that each Order is a representation to Central Pet on which Central Pet relies on in supplying the Goods and advancing credit under the terms of the Account that the Purchaser is solvent and able to pay the balance owing on the Account and for the new Order as and when they fall due.

### 5.2 Provisionally Accepted

Orders shall be regarded as provisionally accepted to the extent notified in writing by Central Pet. 5.3 Goods out of Stock

When Goods are out of stock, they will be delivered with the Purchaser's next order unless the Purchaser instructs Central Pet otherwise in writing. In the event the unsupplied Goods become available prior to the next order and these Goods are valued over \$300.00 (plus GST) these Goods will be shipped freight free to the Purchaser unless Central Pet advises otherwise.

## 6. SHORTAGE

If the Purchaser fails to notify Central Pet any discrepancy in writing by 5pm on the date that is seven days from the Delivery Date the Purchaser waives its' right to make any claim against Central Pet for the Goods delivered.

## 7. PERFORMANCE

Any performance figures given by Central Pet are estimates only. Central Pet shall be under no liability for damages for failure to attain such figures unless specifically guaranteed in writing and any such written guarantee shall be subject to the recognised tolerances applicable to such figures.

## 8. DELIVERY

The Delivery Date for the Goods is an estimate only and Central Pet accepts no liability damage or delay resulting from any variation to, or non-compliance with the Delivery Date. Central Pet reserves the right to charge additional fees (Delivery Fees) depending on the location and value of the Order.

## 9. RETURNS

9.1 Nothing in this clause affects any statutory obligations of Central Pet or statutory rights of the Purchaser, in relation to the Goods, which may not be lawfully excluded. Goods may be returned to Central Pet in the same condition in which they were delivered within seven days of the Delivery Date in exchange for a credit to the same value of such returned Goods by following the Returns Process. . Used or opened Goods are not able to be returned to Central Pet. If the Goods returned to Central Pet are not faulty then Central Pet will be entitled to charge the Return Fee to the Purchaser.

9.2 Central Pet in its absolute discretion will replace, repair or otherwise provide an appropriate level of credit to the Account for any Goods notified to it as faulty.

## 10. WARRANTY AND LIABILITY

### 10.1 Goods not Manufactured by Central Pet

The Purchaser acknowledges that Central Pet acts in the capacity of a distributor and is not directly responsible for the manufacturing of any of the Goods supplied to the Purchaser. To the extent possible at law, Central Pet does not provide any warranties in respect of the Goods or their suitability for the Purchaser's intended use of such Goods and the Purchaser acknowledges and accepts that the limit of Central Pet liability and/or responsibility is to:

- assist the Purchaser in its claim against the Manufacturer;
- (at its discretion from a purely commercial perspective) offering to the Purchaser a credit to the value of the Goods the subject of the claim to the Manufacturer to be applied to the Account.

### 10.2 Exclusion of Liability

Except as provided herein and to the maximum extent permitted by law, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are hereby expressly excluded and Central Pet shall not be liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, or default with the Goods or arising out of the conduct of Central Pet or in any way whatsoever.

Further and in addition to the above exclusion of liability, the Purchaser agrees that the Nominee is an accounting entity only and that for the purposes of the Purchaser exercising any of its rights at law or otherwise the appropriate respondent is Central Pet. The Purchaser indemnifies the Nominee for any and all losses associated with the Nominee being a party to any proceedings, including, without limitation, dispute resolution proceedings or legal proceedings.

## 11. INDEMNITY

The Purchaser acknowledges to Central Pet and the Nominee that (except for the specific warranties and representations made by Central Pet in this Agreement): (a) it has entered into this Agreement relying entirely upon its own independent appraisal and assessment of the Goods and its own decision regarding the suitability of the Goods for the purpose of which the Goods are intended for use by the Purchaser.

(b) it does not rely upon any warranty, statement or representation made or given by or on behalf of Central Pet and recognises that the position of Central Pet in providing the Goods is that of a distributor and any Claims arising out of the supply of the Goods to the Purchaser are claimable against the Manufacturer.

(c) it is fully aware of the contents of this Agreement.

(d) to the fullest extent possible it waives any possible cause or action or rights it may have under or in respect of the CCA (including Schedule 2 Australian Consumer Law) or any other legislation which is to any extent similar to that Act or any portion of such legislation touching or concerning anything the subject of or incidental to this Agreement and releases and indemnifies to the fullest extent possible Central Pet and all persons or entities associated with Central Pet from and against (as the case may be) any claim or liability (if any) arising out of or incidental to any such cause of action or right or any like cause of action or right of any other person or entity whatsoever.

## 12. COMPETITION AND CONSUMER ACT

12.1 The Purchaser agrees that the Purchaser is acquiring the Goods for the purpose of re-supply and that the CCA does not apply to the supply of Goods to the Purchaser.

12.2 If the Purchaser is a consumer as defined in section 4B of the CCA or as defined in section 3 of Schedule 2 Australian Consumer Law, and the Purchaser has not contracted out of the CCA under clause 12.1 above, nothing in these Terms and Conditions will limit any rights the Purchaser may have under the CCA.

## 13. PRICES, DISCOUNTED PRICES & BONUSES

### 13.1 Prices

The prices listed in the Quotation and Order (Prices) are inclusive of GST and unless otherwise stated are inclusive of any discounts. Prices of Goods may vary without notice and unless otherwise stated the Prices will be as disclosed on the Central Pet Website. Any discount that is applied to the Prices on the Order will be cancelled in the event payment is not received by the Due Date and the full Price will apply. When placing the Order with Central Pet the Purchaser will provide Central Pet with its Australian Business Number (ABN) and any other information that is requested by Central Pet.

### 13.2 Discounted Prices and Bonuses

Any applicable discount to the Price offered by Central Pet will apply to Orders received until otherwise notified by Central Pet.

## 14. PAYMENT

### 14.1 When to be made

The Purchaser must pay the full amount of the Invoice by the Due Date. Unless otherwise advised in writing by Central Pet, payment of the Invoice must be made to the Nominee. Payment to the Nominee shall be considered payment in full to Central Pet.

### 14.2 Consequences of Non-Payment

If payment is not received by the Nominee on or before the Due Date:

(a) The supply of further Goods by Central Pet to the Purchaser may be suspended; and  
(b) The amount not paid by the Due Date will accrue interest daily commencing the first calendar day after the Due Date at a rate of 10% per annum until it is paid to Central Pet.

### 14.3 Company or Trustee Purchaser

(a) If the Purchaser is a company or trustee, it shall inform Central Pet of any changes to the ownership of the Purchaser, whether total or partial, by forwarding a notice in writing of that change to Central Pet immediately upon becoming aware of the change; and  
(b) Until such notice as required in 14.3(a) above is received by Central Pet, the Purchaser, and if the Purchaser is a trustee each of the trustees, shall indemnify Central Pet against all losses, unpaid accounts, interest, damages, costs, charges, fees and expenses of whatsoever nature incurred or suffered by Central Pet in trading with any person, company or other entity (including a trust) which may have purchased the Purchaser's business or any interest therein or any of the shares in the Purchaser and used the Purchaser's previously approved credit account for trading.

(c) If the Purchaser is a trustee, it warrants to Central Pet that it has the authority under the relevant trust deed for the Purchaser (Deed) to make the Application for the Account and that the provision of the Account by Central Pet to the Purchaser will not be a misuse of trustee's powers under the Deed.

### 14.4 Caveat

The Purchaser and the Guarantors jointly and severally consent to and authorise Central Pet to lodge a caveat over any real property owned or partly owned by the Purchaser or any one of the respective Guarantors (if any) in respect of, and to secure any monies that are owed by the Purchaser to Central Pet under the Account and for the Caveat to remain over that real property until such time as all monies due to Central Pet have been paid. The Purchaser agrees to sign any and all documents required for the lodgement of the caveat and/or to confirm the Purchaser's consent to the lodgement of the caveat by Central Pet.

## 15. RIGHTS IN RELATION TO GOODS

### 15.1 Rights Reserved Until Payment

Central Pet reserves the following rights in relation to the Goods until all accounts owed by the Purchaser to Central Pet are fully paid to the Nominee:

- legal ownership of and title to the Goods;
- to enter the Purchaser's premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the Goods; and
- to keep or resell any Goods repossessed pursuant to (ii) above.

### 15.2 Resold Goods

Notwithstanding clause 15.1, the Purchaser may resell the Goods to any third party in the ordinary course of business. If the Goods are resold, or products manufactured using the Goods are sold, by the Purchaser, the Purchaser shall hold such part of the proceeds of any such sale as represents the invoice price of the Goods sold or used in the manufacture of the Goods sold in a separate identifiable account as the beneficial property of Central Pet received by the Purchaser and held by the Purchaser on trust for Central Pet, and shall pay such amount to Central Pet, its Nominee or as otherwise directed on Central Pet written request.

15.3 Notwithstanding the provision above Central Pet shall be entitled to maintain an action against the Purchaser for the purchase price and the risk in the Goods shall pass to the Purchaser upon delivery. Until title passes to the Purchaser in accordance with clause 15.1 above, the Purchaser agrees that it holds the Goods as bailee and fiduciary agent of Central Pet and the Purchaser is responsible for any loss, destruction or conversion of the Goods during that time.

15.4 Notwithstanding the provisions above, the Purchaser agrees and acknowledges that the Goods are entirely at the Purchaser's risk from the time the Goods leave Central Pet premises, despite legal ownership and title to the Goods remaining with Central Pet. The Purchaser agrees that it will, at its own expense, maintain the Goods and insure them for the benefit of Central Pet for their full replacement value against all risks, including theft, fire destruction, water and other damage, for the time that the risk in the Goods has passed to the Purchaser.

## 16. PURCHASER'S PROPERTY

Any property of the Purchaser under Central Pet custody or control shall be entirely at the Purchaser's risk as regards loss or damage caused to the property by Central Pet.

## 17. GOODS SOLD

All Goods to be supplied by Central Pet shall be as described on the Quotation, Order and Invoice read collectively as agreed between Central Pet and the Purchaser such collective description of the Goods shall prevail over all other descriptions including any

Purchaser's specification or enquiry to Central Pet.

## 18. CANCELLATION

No Order or supply of Goods subject to an Invoice may be cancelled except with the Purchaser's and Central Pet consent in writing and on terms which will indemnify Central Pet against all losses and expenses.

## 19. PERSONAL PROPERTY SECURITIES LAWS

19.1 'PPSA' means the Personal Property Securities Act 2009 (Cth). If a term used in this clause has a particular meaning in the PPSA that has not already been defined in these Terms and Conditions, then that term has the same meaning in this clause.

19.2 The Purchaser acknowledges and agrees that for the purposes of the PPSA, these Terms and Conditions constitute a security agreement that covers the Goods for the purposes of the PPSA and the Purchaser further acknowledges and agrees that:  
(a) Central Pet holds a security interest (as a secured party), over all of the present and after acquired Goods supplied by Central Pet to the Purchaser and any proceeds of the sale of those Goods and the Purchaser agrees:

- to treat that security interest as a subsisting and continuing interest in the Goods;
- that Central Pet will continue to hold the security interest in the Goods notwithstanding that the Goods may be processed, commingled or become an accession with other goods;
- that the security interest will have priority over any registered or unregistered general (or other) security and any unsecured creditor, to the fullest extent permitted by law; and
- that the security interest secures all monies owing to Central Pet by the Purchaser under these Terms and Conditions or otherwise; (b) any purchase by the Purchaser under this Agreement will constitute a purchase money security interest ('PMSI') and the PMSI granted:

- will apply to any Goods (coming into possession of the Purchaser);
  - will apply to any proceeds of sale of Goods being received by the Purchaser; and
  - is attached to all Goods now or in the future supplied to the Purchaser by Central Pet.
- (c) until title in the Goods supplied by Central Pet passes to the Purchaser, the Purchaser must:

- hold and maintain the Goods free of any charge, lien or security interest other than those created under this Agreement; and
  - not otherwise deal with the Goods in a way which will or may prejudice any rights of Central Pet set out in this Agreement or pursuant to the PPSA.
- (d) if the Purchaser defaults under this Agreement, Central Pet may enforce its security interest in the Goods by exercising all or any of its rights under this Agreement or the PPSA, including, without limitation, the right to enter the Purchaser's property or premises without notice to seize, dispose of or retain the Goods, without being liable to the Purchaser or any other party if Central Pet has reason to do so.

(e) Central Pet may register its security interest in the Goods created under this Agreement on public registers, including the Personal Property Securities Register ('PPSR'), at any time before or after delivery of the Goods.

### 19.3 The Purchaser undertakes to:

(a) sign any documents and provide any information which Central Pet may require to register, amend or update:

- its security interests, with the priority required by Central Pet, and to maintain those registrations;
- a Financial Statement or Financing Change Statement in relation to a security interest on the PPSR;

(b) sign any documents and do anything necessary to ensure that Central Pet security interest in the Goods is a perfected first ranking security interest and has priority over all other security interests in all of the Goods supplied by Central Pet to the Purchaser;

(c) not register or permit to be registered a Financing Change Statement in the Goods without the prior written consent of Central Pet;

(d) notify Central Pet in writing of any anticipated change in the Purchaser's name, address, contact details, business practice or other change in the Purchaser's details registered on the PPSR, at least 10 days prior to effecting any such change, to enable Central Pet to register a Financing Change Statement if necessary;

(e) indemnify Central Pet against any liability that arises as a result of Central Pet exercise of this clause 19 and upon demand reimburse Central Pet for all expenses incurred in registered a Financing Statement or Financing Change Statement on the PPSR or releasing any security interests;

19.4 Central Pet may use and/or disclose information provided by it to register any security interest on public registers including the PPSR, including private information to the extent necessary in order for Central Pet to exercise its rights under this Agreement or as required by law;

19.5 The Purchaser agrees that Central Pet may disclose to 'Interested persons' (as defined in section 275(9) of PPSA) or any other person, any information of the kind described in section 275(1) of the PPSA;

19.6 Central Pet need not comply with any of the provision of the PPSA which would otherwise apply to the extent that the law permits them to be excluded;

### 19.7 The Purchaser waives its rights:

- to receive any notice under the PPSA unless the notice is required by the PPSA and that requirement cannot be excluded;
- to receive a verification statement in accordance with section 157 of the PPSA;
- under sections 96, 125, 130, 132, 135, 137, 142 and 143 of the PPSA.

## 20. TERMINATION

If the Purchaser:

- Fails to make any payment due under the Account or any Invoice or otherwise breaches any of the Terms and Conditions of this Application; or
- Suffers any enforcement proceedings against any of its assets;
- Commits an act of bankruptcy/insolvency within the common meaning of the term pursuant to the *Bankruptcy Act 1966 (Cth)* or the *Corporations Act 2001 (Cth)*;

(d) Makes any composition or arrangement with creditors;

(e) stops payment of the Account, ceases to (or threatens to cease to) carry on its business, or is unable pay its debts whether to Central Pet or any third party as and when they fall due;

(f) being a company and not part of a solvent reconstruction, passes a resolution for winding up, the appointment of a receiver over any of the property of the company, to have an administrator appointed or to have a winding up petition presented against it; Breaches this agreement, then Central Pet may at its option and in its absolute discretion provide written notice to the Purchaser that it considers the Account as terminated as at the date of the notice (Termination Date). On the Termination Date, the Outstanding Amount will become immediately due and payable within two days of the Termination Date (Termination Payment Date) and if not paid by the Termination Payment Date will commence accruing interest daily at a rate of 12% per annum until the Outstanding Amount is paid. The provisions of this clause 20 are in addition to any other rights that Central Pet may have at law in respect of the termination of the Account. Any payments

that are received by the Nominee from the Purchaser in respect of the Goods will, if required, form an offset from any amounts claimed by Central Pet in accordance with its rights under this Agreement.

## 21. PERSONAL GUARANTEE

21.1 In consideration of Central Pet supplying Goods to the Purchaser the Guarantor has agreed to guarantee the observance and due performance by the Purchaser of its obligations to Central Pet and to indemnify Central Pet for all loss arising out of the Purchaser's actions in respect of the Account.

### 21.2 Definitions

The following expressions wherever occurring in this clause 21, unless the context otherwise requires, mean:

- (a) 'Collateral' includes all the personal property present and future and wheresoever situated of the guarantor to which the security interest created by this agreement is attached in accordance with the provisions of the PPSA;
- (b) 'Circulating collateral', 'non-circulating collateral' and 'security interest' each have the meaning ascribed in the
- (c) 'Other security' means any security interest given by the Guarantor to Central Pet in addition to this guarantee to better secure the Purchaser's obligations;
- (d) 'Event of default' means any one or more of the following events:
  - (i) Failure by the Purchaser to comply with any of its obligations or covenants owed to Central Pet;
  - (ii) Default by the Purchaser in due and punctual payment to Central Pet of all moneys as they fall due for payment;
  - (iii) The Purchaser or the Guarantor creating any other security interest over any part of the collateral without Central Pet prior consent; and
  - (iv) If the Purchaser goes bankrupt or, being a corporation, goes into any form of insolvency;
- (e) 'Registration' means the act of lodging a financing statement prescribed by the PPSA and associated regulations with the PPSR in respect of the security interest created by this guarantee; and

21.3 The Guarantor warrants that before execution of the Application to which these Terms and Conditions form part they have sought such advice as they deem necessary to understand the full scope of responsibilities under this guarantee and in particular the financial impositions on them which will arise as a consequence of the Purchaser's default in performance of their obligations and payment of any monies due by the Purchaser to Central Pet.

They confirm that they have satisfied themselves as to the terms on which the Account is provided. They have satisfied themselves as to the financial position of the Purchaser and their capacity to comply with their obligations.

21.4 The Guarantor hereby guarantees to Central Pet the due and punctual performance of all obligations of the Purchaser to Central Pet and hereby indemnifies Central Pet from and against all losses, expenditures, costs, claims, damages and expenses of whatever nature suffered or incurred directly or indirectly by Central Pet arising out of the breach or non-performance by the Purchaser of its obligations to Central Pet (the Guarantee and Indemnity).

21.5 The Guarantee and Indemnity is given by the Guarantor having received legal advice (or in the Guarantor's absolute discretion, on electing to waive the benefit of legal advice) about the Guarantor's obligations before giving it and it shall not be determined or released by either the Guarantor's death or bankruptcy but shall at all times be binding and enforceable upon the Guarantor's executors, administrators and/or assigns.

21.6 The Guarantee and Indemnity is of continuing and irrevocable nature and the obligations of the Guarantor are absolute and unconditional in all circumstances. The Guarantee and Indemnity will continue to be enforceable as against the Guarantors notwithstanding any change in the name, style, and constitution or otherwise of any of the Purchaser.

21.7 This Guarantee and Indemnity continues despite the payment of any part of the amount owing and despite any time or other concession or compromise extended by Central Pet to the Purchaser for the performance of its obligations.

21.8 Central Pet shall be at liberty without discharging the Guarantor from liability hereunder to grant time (or other indulgence) to the Purchaser in respect of the Goods supplied by Central Pet to it and to accept payment from the Purchaser in cash or by means of negotiable instruments and to treat the Guarantor in all respects as though the Guarantor were jointly and severally liable with the Purchaser as debtor to Central Pet instead of being merely surety for the Purchaser and in order to give full effect to the provisions of this Guarantee and Indemnity the Guarantor hereby waives all rights inconsistent with such provisions and which the Guarantor might otherwise as surety be entitled to claim and enforce.

21.9 The Guarantor hereby consents to any variation of these terms and conditions.

21.10 This Guarantee will not be affected:

- (a) By Central Pet neglect or omission to enforce any of its rights in relation to any security or release any security in whole or in part whether against the Purchaser or the Guarantor; or
- (b) If a Purchaser or Guarantor dies or becomes of unsound mind or bankrupt or, being a company, goes into liquidation, receivership, administration or any other form of insolvency; or
- (c) By any other obligation of the Purchaser for any reason becoming unenforceable in whole or in part.

21.11 This Guarantee and Indemnity is a principal obligation and is not to be treated as ancillary or collateral to any obligation to the intent that this Guarantee and Indemnity will be enforceable even though any of the agreements and other obligations arising between the secured party and the borrower are in whole or part unenforceable for any reason.

21.12 Central Pet may at any time or times at Central Pet absolute discretion and without giving any notice whatsoever to the Guarantor refuse further credit or supplies of the Goods to the Purchaser and may grant to the Purchaser at any time or any indulgence and compound with it or them respectively without discharging or impairing the Guarantor's liability under this guarantee.

21.13 This guarantee and indemnity may be enforced against the Guarantor without Central Pet first taking action against the Purchaser, or pursuing any other available recourse, and may be enforced despite any neglect or omission to enforce any right against the Purchaser, or if debt of the Purchaser to Central Pet is wholly or partially unenforceable, or if the Purchaser goes into any form of insolvency.

21.14 The Guarantor:

- (a) As the beneficial owner and absolutely entitled to grant this security interest, in consideration of Central Pet supplying Goods to the Purchaser, hereby charge in favour of Central Pet all of the Guarantor's personal property present and future and wheresoever situated including uncalled capital with the payment to Central Pet of all monies secured by this guarantee. Such security interest will be a non-circulating and specific security interest on all personal property now or in the future belonging to the Guarantor;
- (b) Will, at its own cost, at Central Pet request execute, stamp and register such further security interests and assurances of such property containing such covenants and provisions as Central Pet deems necessary. The Guarantor agrees that each of such

securities is further security to the intent that the moneys owing to Central Pet are secured thereby. Default under any of these securities constitutes default under these terms and conditions;

(c) Has no power to create any security interest ranking in priority or of equal rank to this guarantee without first obtaining Central Pet consent. The Guarantor has no power before this circulating security interest becomes non-circulating to create a subsequent security interest on any of its property; and

(d) Appoints Central Pet as its attorney to execute, sign and perform in its name and on its behalf all agreements, instruments, acts and things whatsoever which the Guarantor ought to execute, sign and perform under the covenants contained in this agreement and generally to use the Guarantor's name in the exercise of all or any of the powers conferred on Central Pet or on any receiver or manager appointed by Central Pet as the case may be.

## 22. APPLICABLE LAW AND JURISDICTION

This Agreement shall be governed and construed by the laws applicable in the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that place in respect of any dispute of whatsoever nature arising under this Agreement or its implementation or enforcement.

## 23. WEBSITE ACCESS

A copy of these Terms and Conditions can be viewed at <http://www.centralpet.com.au/> (Website). By executing this Application you agree that you will routinely review the Terms and Conditions at the Website and agree to the Terms and Conditions in place on each and every Invoice Date.

24. When an Authority to Leave is provided, you give Central Pet Australia Pty Ltd authority to leave items from your order at the delivery address specified, without a proof of delivery being signed. You accept all responsibility for loss or damage to items. Central Pet will not be liable for any damage or loss to the items.