

## **PERSONAL GUARANTEE**

**21.1** In consideration of Cenvet supplying Goods to the Purchaser the Guarantor has agreed to guarantee the observance and due performance by the Purchaser or the Assignee of its obligations to Cenvet.

**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 PPSA; (c) "Other security" means any security interest given by the Guarantor to Cenvet 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 or the Assignee to comply with any of its obligations or covenants owed to Cenvet; (ii) Default by the Payer in due and punctual payment to Cenvet of all moneys as they fall due for payment; (iii) The Payer or the Guarantor creating any other security interest over any part of the collateral without Cenvet's prior consent; and (iv) If the Payer 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 Form to which these terms and conditions are attached, they have sought such advice as they deem necessary to understand the full import of their responsibilities under this guarantee and in particular the financial impositions on them consequential on default by the Purchaser or Assignee in performance of their obligations and payment of any monies due by the Payer to Cenvet. They have acquainted themselves with this documentation and sought such advice thereon as they deem necessary. They have satisfied themselves as to the financial position of the Payer and their capacity to comply with their obligations.

**21.4** This guarantee is given by the Guarantor having received legal advice about the Guarantor's obligations before giving it and it shall not be determined by either the Guarantor's death or bankruptcy but shall at all times be binding upon the Guarantor's executors, administrators and/or assigns.

**21.5** The Guarantor hereby guarantees to Cenvet the due and punctual performance of all obligations of the Purchaser and the Assignee to Cenvet and hereby indemnifies Cenvet from and against all losses, expenditures, costs, claims, damages and expenses of whatever nature suffered or incurred directly or indirectly by Cenvet arising out of the breach or non-performance by the Purchaser or the Assignee of its obligations to Cenvet.

**21.6** This guarantee and indemnity is continuing and irrevocable and the obligations of the Guarantor are absolute and unconditional in all circumstances and must continue notwithstanding that there is any change in the name, style, constitution or otherwise of the Purchaser or the Assignee.

**21.7** This guarantee continues despite the payment of any part of the amount owing and despite any time or other concession or compromise extended by Cenvet to the Purchaser or the Assignee for the performance of its obligations.

**21.8** Cenvet shall be at liberty without discharging the Guarantor from liability hereunder to grant time or other indulgence to the Purchaser or the Assignee in respect of the Goods supplied by Cenvet 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 Payer as a debtor to Cenvet instead of being merely surety for the Payer and in order to give full effect to the provisions of this guarantee 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 Cenvet's neglect or omission to enforce any of its rights in relation to any security or release any security in whole or in part; or (b) If a 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** Cenvet may at any time or times at Cenvet's 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 Payer 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 Cenvet first taking action against the Payer, or pursuing any other available recourse, and may be enforced despite any neglect or omission to enforce any right against the Payer, or if debt of the Payer to Cenvet is wholly or partially unenforceable, or if the Payer goes into any form of insolvency.



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**21.14 The Guarantor:**

(a) As the beneficial owner and absolutely entitled to grant this security interest, in consideration of Cenvet supplying Goods to the Purchaser, hereby charge in favour of Cenvet all of the Guarantor's personal property present and future and wheresoever situated including uncalled capital with the payment to Cenvet 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 Cenvet's request execute, stamp and register such further security interests and assurances of such property containing such covenants and provisions as Cenvet deems necessary. The Guarantor agrees that each of such securities is further security to the intent that the moneys owing to Cenvet 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 Cenvet's 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 Cenvet 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 Cenvet or on any receiver or manager appointed by Cenvet as the case may be.

**GUARANTOR**

I have read the terms and conditions governing this trading account, in particular clause 21 of the terms and conditions, and confirm that I acknowledge, understand and agree to be bound by my obligations as a guarantor under those terms and conditions.

Name of Guarantor: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name of Witness: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name of Guarantor: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name of Witness: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_