

This agreement (the "Agreement") is made and entered into as of the _____ day of _____, by and between Car Phone Factory, Inc. (the "Seller"), and _____, hereinafter called the "Buyer," pursuant to which Buyer desires to purchase cellular equipment and accessories (the "Goods") from the Seller on the terms and conditions provided herein:

1. **Terms of Payment:** Unless otherwise agreed in writing, the Buyer's terms of payment is C.O.D. (Cash on Delivery). However, if credit is extended and if at any time Buyer's financial responsibility shall become impaired or unsatisfactory to Seller, advance cash payment or satisfactory security shall be made or given by Buyer on demand. Seller, which may withhold further deliveries until such payments or security is received, or any failure to receive same, Seller may at its option terminate this Agreement. Discounts for cash, if any, shall not be allowed from or applied to or computed upon taxes or freight. In the event that credit terms are so extended and unless otherwise stated herein, the payment shall be due in full for the invoice amount of the Goods, including shipping and delivery costs and applicable sales, use, and excise tax, no later than fifteen (15) days after the date of the invoice therefor.
2. **Credit Terms:** (a) In the event that Buyer requests Seller to extend it credit terms in connection with Buyer's purchase of Goods, Seller shall evaluate Buyer's Credit Application (the "Credit Application"), a copy of which is attached herein as Exhibit "A," and other factors, including, but not limited to, Buyer's past payment history with Seller, to determine whether to extend payment terms in connection therewith. Buyer understands and agrees that Seller will retain complete sole and absolute discretion to determine whether to extend payment terms to Buyer. Buyer hereby consents to any credit check undertaken by Seller or its authorized agents and representatives, including, but not limited to, the exchange of credit information with credit reporting agencies, as part of its evaluation of whether to potentially extend credit to Buyer in accordance herewith; and (b) In the event credit is extended, as Seller may determine in its sole discretion, the credit terms may be set forth on an invoice or other writing (the "Invoice") provided by Seller to Buyer which evidence then terms of sale. Such Invoice which evidences the credit terms shall be deemed to be a part of this Agreement and its terms shall be deemed incorporated hereinto by this reference. If there is a conflict between this Agreement and the Invoice, the terms and conditions of this Agreement will control.
3. **Delivery:** Time for shipment and/or delivery, if any, is stated according to Seller's best expectation, but is neither guaranteed nor a condition of the sale or this Agreement. Any delivery instructions must be given by Buyer prior to acceptance of the quoted price so that Seller has the opportunity to readjust its price. Seller reserves the right to make deliveries in installments. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept and pay for previous and remaining installments.
4. **Freight and Risk of Loss:** The risk of loss from any casualty to the Goods, regardless of the cause, shall pass on Buyer (1) at point of shipment by Seller, or (2) if the Goods are on will-call, then at the time of receipt of the Goods by Buyer. Seller reserves the right to route the freight. Buyer shall be responsible for all freight, transportation, insurance, shipping, storage, handling, demurrage, or similar charges. Buyer assumes all risk of loss, including but not limited to shortage, delay, or damage in transit. Such risk shall be on Buyer including any Goods thereafter returned to Seller until their receipt by Seller. If the Goods covered by this Agreement are destroyed before the time the risk of loss passes to Buyer, Seller shall be excused from performing its obligations under this Agreement and the Agreement shall be voided. This provision shall apply whether or not the Goods are destroyed through negligence of Seller.
5. **Modification and Cancellation of the Agreement:** After execution of this Agreement by Seller and Buyer, the Agreement may not be changed or canceled by either in whole or in part except with Seller's written consent. In case of default by Buyer in the performance of any obligation, term or condition on its part to be performed contained in this Agreement or any other Agreement of Buyer accepted by Seller, or if any bankruptcy, reorganization, receivership or other proceeding for the relief of debtor is filed by or against Buyer, or if any proceeding is commenced for the appointment of a receiver of Buyer or any substantial part of its property, or in case Buyer shall be dissolved or its existence terminated or Buyer shall terminate or suspend the ordinary course of operation of its business, or if Seller reasonably and in good faith deems it prospects for or payments by Buyer impaired, Seller may defer any further delivery or deliveries for such time as Seller may deem desirable or Seller, at Seller's election, may forthwith cancel this Agreement or any part hereof. If Buyer violates any federal, state or local law, ordinance or regulation that governs the manufacture, sale, handling, and disposal of any products covered by this Agreement, or if Buyer is officially charged with such a violation to the detriment or damages of Seller, Seller in its sole discretion may immediately terminate this contact and any other existing agreements with Buyer and may refuse to make any further deliveries.
6. **Modification and Cancellation of Orders for Purchase of Goods:** The Buyer may not modify or cancel any orders of purchase of goods from the Seller without written authorization from Seller. In the event Seller authorizes a cancellation, Buyer shall be liable for liquidated damages equal to fifteen percent (15%) of the purchase price of such Goods, plus shipping and delivery charges incurred, if any; provided, however, that in no event shall any amount charged herein under exceed the maximum rate by law. The parties hereto agree that such damages are reasonable given, among other matters, the costs incurred by Seller to obtain and restock the Goods for the Buyer. Buyer hereby waives the right to claim that such damages are unfair or unreasonable.
7. **Non-delivery by Seller:** This Agreement is subject to, and Seller shall not be responsible or liable in any respect for, any delay and/or non-delivery directly or indirectly resulting from and/or contributed to by any foreign or domestic laws or regulations, embargos, seizure, act of God, civil or military authority, compliance with priority orders of preference ratings issued by any governmental authority, insurrection, war, or the adoption or enactment of any law, ordinance, regulation, ruling or order directly or indirectly rendering substantially impossible or impractical production or delivery hereunder, lack of the usual means of transportation, fires, floods, unusually severe weather, explosion, epidemics, quarantine, restrictions, strikes, inability to obtain necessary labor, materials, or manufacturing facilities or other accident, contingency or condition beyond the Seller's control, including such delay and/or non-delivery to the Seller by the manufacturer resulting from any such event, accident or contingency or condition. In the event that any deliveries herein under is suspended or delayed by reasons of any one or more of the aforesaid occurrences or contingencies, any and all deliveries so suspended or delays shall, at Seller's option, be made after such event or condition has ceased to exist. In the event Seller shall not choose to resume deliveries after such event or condition has ceased to exist, Buyer shall be entitled to a refund or any monies heretofore paid to Seller on account of Goods not actually delivered, and upon such refund, there shall be no other or further liability of any kind on the part of the Seller to the Buyer.
8. **Rejection of Goods by Buyer:** (a) Buyer may not return Goods unless written authorization is received from Seller. In the event that Seller authorizes a return, Buyer shall be liable for liquidated damages equal to fifteen percent (15%) of the purchase price of such Goods, plus shipping and delivery charges incurred, if any; provided, however, that in no event shall any amount charged herein under exceed the maximum rate by law, if any. The parties hereto agree that such damages are reasonable given, among other matters, the costs incurred by Seller to obtain and restock the Goods for the Buyer. Buyer hereby waives the right to claim that such damages are unfair or unreasonable; (b) Any returns accepted shall be for credit only. Seller retains the sole discretion to determine the value at which the returned Goods will be credited. Seller reserves the right to dispose of any unauthorized returns of materials without affording credit. Any oral instructions must be confirmed in writing by Seller to be valid; (c) If Buyer rejects any shipment of Goods due to material defect, and elects to accept only a part of that shipment, it is agreed that the portion of Goods rejected shall be returned to Seller within three (3) business days, and the return shipment shall be at the expense and risk of Buyer. Seller may, at its option, have an agent inspect such Goods for nonconformity; otherwise, such inspection will be made on return to Seller.
9. **Warehousing:** (a) Buyer shall be responsible for all costs, charges, fees or other expenses incurred by Seller for the warehousing or storage of the Goods sold hereunder in the event the Buyer is unwilling to accept delivery thereof within ten (10) days from the date that Seller is able to deliver said Goods, or any installments thereof; (b) Buyer hereby agrees to immediately notify Seller of any delays in Buyer's ability to accept delivery of the Goods sold hereunder. However, said notice of delay in no way shall diminish Buyer's responsibility to Seller as set forth hereinabove in paragraph 9(a).
10. **Buyer's Duty to Inspect, Notice of Claim to Seller & Actions Against the Seller:** Buyer must examine the Goods fully upon receipt and before using, or reselling the same. Within three (3) business days after delivery, Buyer must give written notice to Seller of any claim for damages on account of condition, quality, or grade of the Goods, and Buyer must specify in detail the basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the Goods by Buyer and a release and waiver of all claims. Seller, at its discretion, must be afforded an opportunity to inspect any non-conforming or defective Goods and to cure the same before Seller incurs any liability to Buyer. Any action by Buyer arising out of or in connection with this Agreement must be commenced within nine (9) months from the accrual of the cause of action.
11. **Late Payments:** All payments, sums, and balances hereunder that are thirty (30) days past due shall bear (1) interest at a rate of eighteen percent (18%) per annum until paid, and (2) a late charge equal to ten percent (10%) of the unpaid portion of the invoiced amount; however, that in no event shall any amount charged hereunder exceed the maximum rate permitted by law, if any.
12. **Limitation of Seller's Liability:** Seller's sole liability to Buyer shall be limited, at Seller's sole option, to either replacing or repairing any defective Goods or reimbursing Buyer for the original price charged for said Goods. In no event shall Seller's liability exceed the original price charged for the Goods. **SELLER SHALL IN NO EVENT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, LOSS OF PROFITS, LOSS OF BUSINESS, OR SIMILAR DAMAGES TO PERSONS OR PROPERTY EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
13. **Representations and Warranties:** (a) **THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE WITH RESPECT TO ANY GOODS. SELLER SHALL IN NO EVENT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, LOSS OF PROFITS, LOSS OF BUSINESS, OR SIMILAR DAMAGES TO PERSONS OR PROPERTY EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.** (b) Seller makes no warranty that the Goods sold under this Agreement are delivered free of any rightful claim of any third party by way of infringement. Seller gives no warranty that it has any title whatsoever to the Goods sold under this Agreement or that they are not subject to a security interest, lien, or other encumbrances. If the Goods are reclaimed by a third party as rightful owner or there exists a security interest, lien or other encumbrances on the Goods, Buyer shall not have the right to restitution of the purchase price; (c) Buyer has made an independent investigation of the Goods and has relied solely upon his own investigation with reference thereto and in entering into this agreement, and is completely satisfied therewith; (d) Buyer agrees that no promise, affirmation of fact, sample, or description made or furnished to the Buyer became a part of the basis of the bargain, and descriptions of Goods in this Agreement or otherwise furnished to Buyer are for the sole purpose of identifying

Goods conform to any models or samples shown to Buyer and Buyer acknowledges that no warranty has arisen through trade, custom, or usage by Seller; and (e) If the Goods do not operate as warranted by the manufacturer or they are unsatisfactory for any other reason, the Buyer shall be deemed to have accepted the Goods. Seller is not responsible for the performance, maintenance or the servicing of the Goods.

Taxes, and Insurance: Buyer shall pay to Seller, together with the balance of the purchase price of Goods hereinabove set forth, all U.S., state, municipal, and local taxes now and hereinafter imposed upon the sale or use of the Goods covered by this Agreement which is obligated to pay. During the term of this Agreement for all the Goods has been paid to Seller, Buyer shall keep the Goods insured against loss by fire, with the insurance proceeds, if any, payable to Seller as its beneficiary. The insurance shall be in the sum of not less than the purchase price. Buyer shall pay all premiums due or to become due on the insurance and shall keep it in full force and effect. If Buyer fails to obtain insurance or fails to keep the insurance in full force and effect, Seller may take the insurance and pay the premiums, and the said amount shall be paid to Seller by Buyer, or Seller may, at its option, terminate this Agreement by written notice.

Security Interest: The Buyer agrees that until the full purchase price has been paid, title to the Goods herein under (the "Collateral") shall remain vested in Seller. Within the time period stipulated in this contract, Seller, at its option, shall have the right to declare all amounts due and payable immediately, take possession of the Goods, for which purpose the Buyer shall allow, and hereby authorizes the Seller access to private premises without the breach of peace. Seller shall also have an interest in the Collateral. Seller shall be deemed to have all of the rights of a secured party as provided under uniform commercial code as in effect in the state of California and any other applicable law. Seller may execute a UCC-1 financing statement (the "Financing Statement") which reflects Seller's security interest in the Collateral and the Financing Statement may be filed by the Seller with the California secretary of state and/or appropriate government offices. Buyer hereby grants Seller a personal guaranty to execute and file a Financing Statement on its behalf which references the Collateral and the proceeds thereof. The Seller shall be entitled to reasonable attorney's fees and costs in enforcing this provision. The Buyer waives notice of default and demand for possession of said personal property.

Entire Agreement: This Agreement, along with the Credit Application and the Personal Guaranty, if any, set forth the entire agreement between the parties herein. No other agreement, oral or written, condition, promise, representation, or warranty of any kind heretofore or hereafter made by Seller or any one employee, salesperson, or agent representing the Seller, except those expressly set forth herein, shall be binding on Seller unless the same is contained herein. Oral statements and promises, whether or not in writing, and neither this Agreement nor any order shall be changed or modified except by a writing signed by both parties. No course of prior dealings or usage of the trade shall be relevant to supplement or explain any terms used in this Agreement.

Authorization: Each party represents and warrants that the execution, delivery, and performance of this Agreement have been duly authorized, that such party has the authority to execute, deliver, and perform this Agreement, and that such execution, delivery and performance do not and will not conflict with or result in the violation of any conditions, provisions of any agreement, instrument, order, judgment or decree to which party is a party or by which it is bound.

Construction: This Agreement and all of the rights, obligations and liability of the parties thereto shall be governed by the laws of the State of California. The terms, provisions, and conditions of this Agreement shall survive delivery of the Agreement.

Jurisdiction/venue: Depending upon the amount in dispute, parties hereto consent to the jurisdiction and venue of the Superior Court of the State of California, County of Los Angeles, Beverly Hills Judicial District, or of the Municipal Court of the State of California, County of Los Angeles, Beverly Hills Judicial District. Parties hereto also agree that (1) the obligation is incurred and to be performed, and (2) the obligation is incurred and to be performed, and (3) the Buyer is to make payments in city of Beverly Hills, County of Los Angeles, California.

Attorney's Fees: Buyer shall pay all costs, expenses and disbursements, including reasonable attorney's fees, incurred by the Seller in taking and reselling the Goods, any sum which may be due and owing to the Seller from the Buyer herein under, or in the enforcement of any other term or provision required to be performed hereunder, whether or not suit be instituted in respect thereto.

Waivers & Remedies: The waiver of either party or any breach of violation or default by other party under any provision of this Agreement will not operate as a waiver of any subsequent breach of violation thereof or default herein under. The remedies reserved in this Agreement shall be cumulative and in addition to any remedies available in law or equity.

Severability: If any provision of this Agreement should be held invalid or unenforceable for any reason whatsoever or to violate any law of the State of California, this Agreement is to be considered severable as such provision.

Headings: The titles appearing at the beginning of the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of the provisions hereof.

Assignment by Seller: This Agreement may be assigned by Seller to the successor of Seller of any other firm or entity which assumes the obligations of Seller.

Assignment by Buyer: This Agreement has been entered into by Seller in reliance upon the financial, business, and personal reputation of Buyer and its creditworthiness. Therefore, this Agreement may not be transferred or assigned or encumbered by Buyer without Seller's prior written consent. Any purported transfer, assignment, or encumbrance without such written consent shall be void and of no force or effect. If Buyer is a corporation or a partnership, the sale, transfer or assignment of fifty percent (50%) or more of the ownership, partnership interest, or voting rights shall be deemed an assignment of this Agreement.

Binding Nature of Agreement: Subject to the restrictions against assignment herein provided, this Agreement shall bind and inure to the benefit of the parties hereto.

Agreement Liability: All persons executing this Agreement as Buyer are principals and jointly and severally bound each for the whole.

Indemnification: Buyer shall indemnify and hold harmless Seller, its affiliates, their respective directors, officers, employees, agents, subsidiaries, and assigns from and against all claims, damages, judgments, attorney's fees, costs and liabilities resulting from (1) the acts or omissions of Buyer, (2) the failure of Buyer to perform its obligations hereunder, (3) or any claims of infringement of any United States patent, trademark, or logo in connection with the Goods.

Survival: The termination of this Agreement shall relieve the parties hereto of any obligations incurred hereunder up to and including the date of termination. The provisions herein which, by their terms or nature, extend beyond the termination of this Agreement, shall survive such termination.

Personal Guaranty: The obligations of Buyer hereunder shall be subject to a personal guaranty, if any, attached herein as Exhibit "B."

Resale Certificate: Buyer hereby represents and warrants to Seller that it has obtained a Resale Certificate with State Sales Tax Permit Number _____ . Buyer shall furnish a copy of such Resale Certificate coincident with its signature and delivery of this Agreement to Seller.

This Agreement accurately reflects our understanding, please sign below.

CAR PHONE FACTORY, INC. ("Seller"):

of Buyer

Authorized Signature of Seller

Title

Title

Print Name

Print Name

143 S. Robertson Blvd., Beverly Hills, CA 90212
Address of Seller



May 2, 2000

IMPORTANT NOTICE

Dear Customer:

To be legally exempt from paying sales tax, California State law tax requires that you provide Car Phone Factory a valid and duly signed resale certificate. In addition, your resale number must be stated on this certificate.

If we do not have such document on file for your company, we are required by law to charge sales tax on your orders.

Your compliance in completing and returning this form by mail or in person will satisfy the said requirement. Please return the completed form by return. Your cooperation is appreciated.

CALIFORNIA - CERTIFICATE OF RESALE

(Name of Purchaser)

(Address of Purchaser)

I HEREBY CERTIFY: That I hold valid seller's permit No. _____ issued pursuant to the Sales and Use Tax Law; that I am engaged in the business of selling _____

that the tangible personal property described herein which I shall purchase from _____

will be resold by me in the form of tangible personal property; provided, however, that in the event any of such property is used for any purpose other than retention, demonstration, or display while holding it for sale in the regular course of business, it is understood that I am required by the Sales and Use Tax Law to report and pay tax, measured by the purchase price of such property or other authorized amount. Description of property to be purchased: _____

Date: _____

(Signature of Purchaser or Authorized Agent)

(Title)



100 per package

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00068-2 California Resale Certificate EZ49C
Rev 8/98

PERSONAL GUARANTY

1. For good and Valuable consideration, receipt of which is acknowledged, the undersigned, hereinafter called "Guarantor(s)," jointly and severally guarantee(s) and promise(s) to pay Car Phone Factory, Inc., hereinafter called the "Seller," or order, on demand, in lawful money of the United States, any and all amounts owing to Seller by _____, hereinafter called the "Buyer," under the terms of "Credit Application and Agreement" with the Seller; subject, however, to the further terms and provisions of this Guaranty.

2. The obligation hereunder are joint and several (in the event that there is more than one signature to this Guaranty) and independent of the obligation of the Buyer under the "Credit Application and Agreement," and a separate action or actions may be brought and prosecuted against Guarantor(s), irrespective of whether Buyer be joined in any such action or actions.

3. Guarantor(s) authorize(s) Seller, without notice or demand and without affecting its liability hereunder, from time to time to renew, compromise, extend, or to otherwise change the time for payment of, or otherwise change the terms of the "Credit Application and Agreement" or any party thereof.

4. Guarantor(s) waive(s) all presentments, demands for performance, notices of nonperformance, protests, notices of protests, notice of dishonor, and notices of acceptance of this Guaranty.

5. This Guaranty is entered into in, and shall be governed by and construed in accordance with, the internal substantive laws of the State of California, without regard to the choice of law rules thereof. Venue for purposes of any litigation concerning this Guaranty, depending upon the amount in dispute, shall be in Los Angeles Superior Court, Central District, or Los Angeles Municipal Court, Beverly Hills Judicial District.

6. This Guaranty shall survive the termination of the Credit Application and Agreement, irrespective of the reason for such termination.

7. This Guaranty shall constitute the entire agreement of Guarantor(s) and Seller with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Guarantor(s) unless express herein. The provisions of this Guaranty shall not be changed or discharged except by a written instrument signed by each guarantor and Seller to said effect.

8. Guarantor(s) shall pay Seller's reasonable attorney's fees, and all costs and other expenses incurred by Seller, in collecting or compromising any indebtedness which may be due and owing to Seller from the Guarantor(s) and/or the Buyer herein under, or in the enforcement of any other term or provision required to be performed by the Guarantor(s)and/or the Buyer hereunder, whether or not suit be instituted in respect thereto.

IN WITNESS WHEREOF, this Guaranty has been executed by Guarantor(s) on this day of _____

Guarantor's Signature

Print Name

Date

Guarantor's Signature

Print Name

Date

Guarantor's Signature

Print Name

Date

ADDENDUM TO PERSONAL GUARANTY

1. The undersigned, hereinafter called "Guarantor(s)," agree(s) that upon execution this Addendum shall become a part of the Personal Guaranty (Exhibit "B"), hereinafter called "Personal Guaranty", previously signed by the Guarantor(s) in connection with the "Credit Application and Agreement" between the "Buyer" referred to in the Personal Guaranty and Car Phone Factory, Inc., hereinafter called the "Seller."

2. Guarantor(s) agree(s) that the Personal Guaranty is an unconditional continuing guaranty. Until terminated as provided in this instrument, the Personal Guaranty shall cover all indebtedness of Buyer as contemplated under the Personal Guaranty, including indebtedness arising under successive transactions that either continue the liability of principal or from time to time renew it after it has been satisfied.

3. The Personal Guaranty will remain in full force and effect until written notice of termination has been received by Seller. Such termination shall not affect the guaranty as to merchandise purchased by Buyer prior to receipt of such notice of termination, but shall be effective as to all merchandise purchased by Buyer from and after receipt of the notice of termination.

4. Guarantor(s) agree(s) that in executing the Personal Guaranty, Guarantor(s) was/were conducting a trade, business or profession, and that the Personal Guaranty agreed to by the Guarantor(s) is part and parcel of an activity which occupies the time, attention and effort of the Guarantor(s) for the purpose of livelihood or profit on a continuing basis.

5. Guarantor(s) is/are engaged generally in the business of guaranteeing for a consideration the debts of others

6. Guarantor(s) is/are occupied to a substantial degree and on a continuing basis in promoting Guarantor(s) profit through provisions of credit or management to the Buyer.

7. If Buyer is a closely held corporation, and if Guarantor(s) is/are (a) principal shareholder(s) of Buyer, Guarantor(s) agree(s) to the following: (1) Guarantor(s) has/have habitually provided Buyer with operating capital through the medium of personal guarantees by the Guarantor(s); (2) Guarantor(s) understand(s) that any extension of credit under the "Credit Application and Agreement" is made in reliance upon Guarantor(s) continuing guaranty, and (3) Guarantor(s) is/are extensively occupied in the management of Buyer on a continuing basis and has/have a major stake in its success.

8. Guarantor(s) agree(s) that the execution of the Personal Guaranty constituted a commercial transaction and not a consumer transaction.

THE UNDERSIGNED GUARANTOR(S) HAS/HAVE READ THE FOREGOING ADDENDUM, AND FULLY UNDERSTAND(S) AND AGREE(S) TO ITS TERMS AND CONDITIONS, and hereby declare(s) under penalty of perjury under the laws of the State of California that the above is true and correct.

Guarantor's Signature	Print Name	Date
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Guarantor's Signature	Print Name	Date
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Guarantor's Signature	Print Name	Date
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The undersigned Seller agrees that this Addendum shall become a part of the Personal Guaranty, previously signed by Guarantor(s).

Seller's Signature	Print Name	Date
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