

## PERSONAL GUARANTY AGREEMENT

**THIS PERSONAL GUARANTY AGREEMENT** (the "Guaranty") is made by \_\_\_\_\_,  a natural person or \_\_\_\_\_, a  trust  partnership  corporation  LLC (the "Guarantor"), in favor of Phillip Capital Inc., an Illinois corporation (the "Secured Party").

**WHEREAS**, Secured Party has entered into a Customer Agreement with \_\_\_\_\_, a  natural person or a  trust  partnership  corporation  LLC (the "Debtor"), for the purpose of engaging in transactions in domestic and foreign futures contracts, physical commodities, exchanges for physical commodities, options on domestic and foreign futures contracts and physical commodities, and foreign exchange instruments and contracts (the "Agreement"); and

**WHEREAS**, it is a condition to Debtor's trading, continued trading, or enhanced trading under the Agreement and otherwise, that Guarantor shall execute and deliver this Guaranty to Secured Party in a form acceptable to Secured Party.

**NOW, THEREFORE**, in consideration of the promises and other good and valuable consideration, the adequacy, receipt, and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

1. **Guaranty.** Guarantor hereby unconditionally and absolutely guarantees the punctual payment when due, by acceleration or otherwise, of Debtor's payment obligations arising under the Agreement, or any other transactions, and any and all reasonable legal fees, costs, and other expenses incurred by Secured Party in enforcing such payment obligations under the Agreement, under this Guaranty or otherwise (the "Obligations"). This Guaranty is a guaranty of payment, and not of collection, and Secured Party may exercise its rights hereunder against Guarantor without first having to take any action against Debtor. Upon failure of Debtor to punctually pay any such Obligations, and upon written demand by Secured Party to Guarantor at the address set forth herein, Guarantor agrees to pay promptly or cause to be paid promptly (and in no event later than the fifth calendar day after demand) such Obligations; provided that delay by Secured Party in giving such demand shall, in no event, affect Guarantor's obligations under this Guaranty. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment made in full or partial satisfaction of the Obligations is rescinded or must otherwise be returned by Secured Party upon the insolvency, bankruptcy, or reorganization of Debtor or otherwise, all as though such payment had not been made. Guarantor acknowledges and represents that it has received a copy of the Agreement.
2. **Waiver.** Guarantor hereby waives:
  - (a) notice of acceptance of this Guaranty, of the creation and/or existence of any of the Obligations, and of any action by Secured Party in reliance hereon or in connection herewith;
  - (b) presentment, demand for payment, notice of dishonor or nonpayment, protest, and notice of protest with respect to the Obligations;
  - (c) any requirement that suit be brought against, or any other action by Secured Party be taken against, or any notice of default or other notice be given to, or any demand be made on, Debtor or any other person, or that any other action be taken or not taken as a condition to Guarantors Obligations under this Guaranty or as a condition to enforcement of this Guaranty against Guarantor; and
  - (d) any other event, occurrence, or circumstance which otherwise may constitute a legal or equitable defense of a guarantor or surety (except for the defense of payment or performance).
3. **Subrogation.** Guarantor shall be subrogated to all rights of Secured Party against Debtor in respect of any amounts paid by Guarantor pursuant to the Guaranty, provided that Guarantor shall be entitled to enforce or to receive any payment arising out of or based upon any such right of subrogation, only to the extent that it has paid all of the Obligations.

4. Amendments. No amendment of this Guaranty shall be effective unless signed by Guarantor and Secured Party. No waiver of any provision of the Guaranty, nor consent to any departure by Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by Secured Party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
5. Addresses for Notices. All notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing, and shall be sent to the parties at their respective addresses, set forth below, or at such other address as shall be designated in a written notice to the other parties, and (b) be effective upon delivery, when mailed by U.S. Mail, registered or certified, return receipt requested, postage prepaid, or personally delivered to the following addresses:

To Guarantor:	To Phillip Capital:
	Phillip Capital Inc. The Chicago Board of Trade Building 141 W. Jackson Blvd., Suite 3050 Chicago, IL 60604 Main: (312) 356-9000 Fax: (312) 356-9005  Attn: Legal

6. Effect of Certain Events. Guarantor agrees that its liability hereunder will not be released, reduced, or impaired by the occurrence of anyone or more of the following events:
  - (a) the insolvency, bankruptcy, reorganization, release, receivership, or discharge of Debtor;
  - (b) the renewal, consolidation, extension, modification, or amendment from time to time of the Agreement;
  - (c) the failure, delay, waiver, or refusal by Secured Party to exercise, in whole or in part, any right or remedy held by Secured Party with respect to the Agreement;
  - (d) the nonexistence, invalidity, unenforceability, or non perfection of any collateral for the Obligations, or the failure of Secured Party to foreclose upon, or take any other action with respect to, such collateral;
  - (e) lack of consideration or any other deficiency in the formation of the Agreement and any and all amendments and modifications thereof; or
  - (f) lack of corporate power or authority of Guarantor or Debtor.
7. Term. This Guaranty shall remain in full force and effect until the Termination Effective Date (as defined below). Guarantor may terminate this Guaranty by providing written notice of such termination to Secured Party and upon the effectiveness of such termination, Guarantor shall have no further liability hereunder, except as provided in the last sentence of this Section 7. No such termination shall be effective until ten (10) days after receipt by Secured Party of such termination notice (the "Termination Effective Date"). A return receipt for certified or registered mail shall be conclusive evidence of receipt of notice of cancellation. Any payments made after receipt of notice of such cancellation shall be applied first to the indebtedness of Debtor, which is subject to this Guaranty. No such termination shall affect Guarantor's liability with respect to any rights, liabilities, or Obligations already in existence at the time such written notice is received.
8. Authority. The undersigned represents and warrants that it has full power and authority to give this Guaranty, the execution, delivery, and performance of this Guaranty will not violate any law, ordinance, charter, bylaw, or rule applicable to the undersigned or any agreement by which the undersigned is bound, and that the execution, delivery, and performance of this Guaranty by it have been duly authorized by any necessary corporate or other action.

9. **Enforceable Obligation.** This Guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws of general applicability relating to or affecting creditors' rights and general equity principles.
10. **No Waiver; Cumulative Rights.** No failure on the part of Secured Party to exercise, and no delay in exercising, any right, remedy, or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Secured Party of any right, remedy, or power hereunder preclude any other or future exercise of any right, remedy, or power. Each and every right, remedy, and power hereby granted to Secured Party or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Secured Party from time to time.
11. **Successor and Assigns.** Neither party may assign its rights hereunder without the written consent of the other parties, such consent not to be unreasonably withheld. Any purported assignment in violation of this Section 11 shall be null and void. Subject to the foregoing, this Guaranty shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and legal representatives.
12. **Governing Law; Jurisdiction.** This Guaranty shall be exclusively governed by, and construed in accordance with, the laws of the State of Illinois, without regard to principles of choice of law. All actions or proceedings, whether initiated by Guarantor or Secured Party, with respect to any controversy arising out of or related to this Agreement, shall be litigated only in courts whose situs is in the State of Illinois. Guarantor hereby submits to the jurisdiction of the United States District Court of the Northern District of Illinois, Eastern Division, and any other court of competent jurisdiction whose situs is in Chicago, Illinois.
13. **Limitation by Law.** All rights, remedies, and powers provided in this Guaranty may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Guaranty are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Guaranty invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.
14. **Headings.** The headings used herein are for purposes of convenience only and shall not be used in construing the provisions hereof.

**IN WITNESS WHEREOF**, Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized officer effective as of this \_\_\_ day of \_\_\_\_\_, \_\_\_.

Signature of Guarantor  
▶

Print Guarantor's Name

Guarantor's Title

Guarantor's Address

Guarantor's Phone Number

Guarantor's SSN or TAX ID