

**PERSONAL GUARANTY**

**FOR VALUABLE CONSIDERATION**, the undersigned, \_\_\_\_\_ [insert full legal name of guarantor] and \_\_\_\_\_ [insert full legal name of spouse, if applicable] (collectively, "**Guarantor**"), hereby jointly and severally make this Personal Guaranty (the "**Guaranty**"), and guarantees to Daikin Comfort Technologies North America, Inc., Daikin Comfort Technologies Distribution, Inc., Daikin Comfort Technologies Manufacturing, L.P., Daikin Comfort Technologies Northeast, Inc., Daikin North America LLC, Daikin TMI Holdings, LLC, Daikin TMI, LLC, ABCO Refrigeration Supply Corp., Air Reps, LLC, Motili, Inc., Robinson Plumbing & Heating Supply Co., Inc., Stevens Equipment Supply, LLC, Thermal Supply, Inc., Universal Supply Group, Williams Distributing Co., Quietflex Manufacturing Company, L.P., Arista Air Conditioning LLC, and Venstar, LLC and each of their existing and future affiliates, successors, and assigns (each, and collectively, "**Lender**"), the due performance and full prompt payment whether at maturity or by acceleration or otherwise, of any and all obligations and Indebtedness of \_\_\_\_\_ [Insert full legal name of Primary Customer/borrower and all Affiliates identified in the credit application] ("**Borrower**"), to Lender. Lender has required, as a condition to making certain credit available to Borrower, that the Guarantor guarantee the Indebtedness (as hereinafter defined) on the terms stated herein, and Lender is relying on this Guaranty, including the accuracy of the statements contained herein and the performance of the conditions placed upon the Guarantor hereunder, in making such credit available to Borrower. It is necessary for the business purposes of the Guarantor that Borrower obtain such credit from the Lender.

1. The word "**Indebtedness**," as used herein, includes any and all advances (including future advances and those advances made by Lender to protect the security or preserve the priority or amount of its lien), and any and all other sums, debts, obligations and liabilities of any and every kind now owed or hereafter incurred by Borrower, regardless of whether said sums, debts, obligations, and liabilities exceed the amount of credit made available to Borrower.

2. The obligations hereunder are independent of the obligations of Borrower and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Borrower or whether Borrower is joined in any such action or actions.

3. Guarantor authorizes Lender, without notice or demand and without affecting Guarantor's liability hereunder, and further waives any right to require Lender, from time to time to:

- (a) Renew, amend, modify, compromise, extend, accelerate or otherwise change the time of method of payment, or otherwise change the terms of the Indebtedness, or of any documents evidencing the Indebtedness, or any part thereof;
- (b) Take and hold the original or additional security for the payment of this Guaranty or the Indebtedness guaranteed, and exchange, enforce, waive or release any such security;
- (c) Apply such security and direct the order or manner of sale thereof as Lender in its discretion may determine; and
- (d) Proceed against the Borrower, or against or exhaust any security held, or pursue any other remedy in Lender's power whatsoever.

4. Guarantor waives any defense arising by reason of any disability or other defense of Borrower or by reason of the cessation from any cause whatsoever of the liability of Borrower, except the defense of payment. Guarantor covenants to cause the Borrower to maintain and preserve the enforceability of any instrument now or hereafter executed in favor of the Lender, and to take no action of any kind which might be the basis for a claim that the Guarantor has any defense hereunder other than payment in full of all indebtedness of the Borrower to Lender. No delay on the part of the Lender in the exercise of any right, power, privilege or remedy, whether at law or in equity, with or against the Borrower or under this Guaranty, shall operate as a waiver of any such right, power, privilege or remedy, and this Guaranty shall not be released, modified or affected by any failure or delay on the part of Lender to enforce any such right, power, privilege or remedy. No compromise with or acceptance of partial payment from Borrower shall limit the rights of Lender hereunder, or otherwise.

5. If any payment applied by Lender to the Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of the Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of the Guaranty be deemed to have continued in existence, notwithstanding such application, and this Guaranty shall be enforceable as to such of the Indebtedness as fully as if such application had never been made.

6. No notice of default need be given to Guarantor. The Guaranty of the undersigned is a continuing guaranty under which Lender may proceed immediately against Guarantor and/or against Borrower following any breach or default by Borrower or for the enforcement of any rights which Lender may have against Borrower relating to any of the Indebtedness, at law or in equity. Payments and performance hereunder shall be made by Guarantor immediately upon receipt of notice from Lender that Borrower is in default. All payments pursuant to this Guaranty shall be without deduction, withholding or set-off and shall be free from any claim or counterclaim of Guarantor against Lender.

7. This is a guaranty of payment, and not of collection. The obligations of Guarantor hereunder are separate from the obligations of Borrower. Lender shall have the right to proceed against Guarantor hereunder following any breach or default by Borrower without first proceeding against Borrower and without previous notice to or demand upon either Guarantor or Borrower. Guarantor hereby subordinates all claims it might have against Borrower now or hereafter to Guarantor's obligations owing to Lender related to the Indebtedness.

8. It is the intent of Guarantor to be subject at all times to this Guaranty and be and remain jointly and severally, primarily and unconditionally liable to Lender to the same extent as if it were jointly and severally liable with Borrower for the full performance of each and every obligation relating to the Indebtedness. Guarantor hereby waives (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) any right to require Lender to proceed against Borrower or any other guarantor or any other person or entity liable to Lender, (d) any right to require Lender to apply to any default any security deposit or other security it may hold relating to the Indebtedness, (e) any right to require Lender to proceed under any other remedy Lender may have before proceeding against Guarantor and (f) any right of subrogation.

**9. GUARANTOR AGREES TO PAY TO LENDER WITHOUT DEMAND REASONABLE ATTORNEY'S FEES AND ALL COSTS AND OTHER EXPENSES INCURRED BY LENDER IN COLLECTING OR COMPROMISING ANY INDEBTEDNESS OF BORROWER HEREBY GUARANTEED OR IN ENFORCING THIS GUARANTY AGAINST GUARANTOR.**

(continued Guaranty)

10. This is a continuing guaranty. It shall remain in full force until and unless Guarantor delivers to Lender written notice revoking it as to Indebtedness incurred after such delivery. Such revocation shall not affect any of Guarantor's obligations under this Guaranty with respect to Indebtedness incurred prior to such delivery.

11. All rights, powers, and remedies of Lender under this Guaranty and under any other agreement now or at any time hereafter in force between Lender and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers, and remedies given to Lender by law. The prior or subsequent execution of guaranty agreement(s) by Guarantor or any other person relating to sums, debts, obligations, or liabilities of Borrower to Lender does not relieve Guarantor of Guarantor's obligations hereunder.

12. Guarantor warrants and covenants as follows:

- (a) Borrower is a [insert type of entity if Borrower is an entity] \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_, or, if Borrower is a natural person, Borrower is an individual currently residing in the State of \_\_\_\_\_; the name appearing above as Borrower's name is the correct and exact legal name of Borrower as it appears in the public records of such State; and
- (b) the execution and delivery of this Guaranty will not violate or constitute a breach of any agreement or restriction to which Guarantor is a party or is subject.

13. This Guaranty is binding upon Guarantor, his or her successors, personal representatives, estates, heirs and assigns.

14. The validity, construction and enforcement of this Guaranty are determined and governed by the internal laws of the State of Texas. If any one or more of the provisions contained herein shall for any reason be held to be invalid and/or unenforceable, such invalidity/unenforceability shall not affect the validity of any other provision of this Guaranty. This Guaranty shall then be construed as if such invalid/unenforceable provision(s) had never been contained herein and such invalid/unenforceable provision(s) shall be replaced with valid and enforceable provision(s), the commercial effect of which shall be as similar as possible to the invalid/unenforceable provision(s).

15. **EACH GUARANTOR HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN HARRIS COUNTY, TEXAS AND WAIVES ANY OBJECTION BASED ON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS GUARANTY, OR ANY DOCUMENT DELIVERED HEREUNDER OR IN CONNECTION HERewith, OR ANY TRANSACTION ARISING FROM OR CONNECTED TO ANY OF THE FOREGOING. EACH GUARANTOR WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS, AND CONSENTS TO ALL SUCH SERVICE OF PROCESS MADE BY MAIL OR BY MESSENGER DIRECTED TO THE ADDRESS SPECIFIED BELOW.** Nothing herein shall affect the Lender's right to serve process in any manner permitted by law, or limit the Lender's right to bring proceedings against any Guarantor or their property or assets in the competent courts of any other jurisdiction or jurisdictions.

16. **EACH GUARANTOR HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS GUARANTY, OR ANY DOCUMENT DELIVERED HEREUNDER OR IN CONNECTION HERewith, OR ANY TRANSACTION ARISING FROM OR CONNECTED TO ANY OF THE FOREGOING. EACH GUARANTOR REPRESENTS THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.**

17. **EACH GUARANTOR HEREBY WAIVES ANY RIGHT ANY OF THEM MAY NOW OR HEREAFTER HAVE TO CLAIM OR RECOVER FROM THE LENDER ANY CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES.**

18. If notice is required by law, upon the occurrence of any act of default on the part of the Borrower of the terms and conditions of any documents evidencing the Indebtedness, notice thereof shall be given by Lender to Guarantor in writing by depositing the same in the U.S. mails, postage prepaid, registered or certified mail, return receipt requested, addressed to Guarantor at Guarantor's address set forth below, or at such address as Guarantor may hereafter designate to Lender in writing, which such notice shall be deemed delivered upon mailing.

19. An electronic or facsimile copy of this Guaranty shall be deemed an original for all purposes and shall not be subject to challenge on such grounds.

IN WITNESS WHEREOF, the undersigned have caused this Guaranty to be executed effective as of \_\_\_\_\_ 20 \_\_\_\_\_

**GUARANTOR:**

X: \_\_\_\_\_

By: \_\_\_\_\_

(Please Print Name Clearly)

Address: \_\_\_\_\_

City: \_\_\_\_\_

State & Zip: \_\_\_\_\_

Social Security #: \_\_\_\_\_

**GUARANTOR:**

X: \_\_\_\_\_

By: \_\_\_\_\_

(Please Print Name Clearly)

Address: \_\_\_\_\_

City: \_\_\_\_\_

State & Zip: \_\_\_\_\_

Social Security #: \_\_\_\_\_

[Acknowledgments Follow on Next Page]

Customer #: \_\_\_\_\_ Primary Customer's Name: \_\_\_\_\_

(continued Guaranty)

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print Name of Notary Public

I am a Notary Public of the State of \_\_\_\_\_, and my commission expires on \_\_\_\_\_.

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print Name of Notary Public

I am a Notary Public of the State of \_\_\_\_\_, and my commission expires on \_\_\_\_\_.