

# FORBEARANCE AGREEMENT

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This Forbearance Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[LENDER LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. national banking association] with its principal place of business at [LENDER ADDRESS] ("**Lender**"); and

[BORROWER LEGAL NAME], a [STATE] [ENTITY TYPE] (or an individual residing at [BORROWER ADDRESS]) ("**Borrower**").

Lender and Borrower are each a "**Party**" and together the "**Parties**." Any guarantor signing below is a "**Guarantor**."

**Recitals.** Borrower is indebted to Lender under that certain [LOAN/CREDIT AGREEMENT / PROMISSORY NOTE] dated [ORIGINAL LOAN DATE], together with all related notes, security agreements, mortgages, deeds of trust, guaranties, and other documents (collectively, the "**Loan Documents**"). One or more events of default have occurred and are continuing under the Loan Documents (each, an "**Existing Default**"). Borrower has requested that Lender temporarily refrain from exercising its rights and remedies arising from the Existing Defaults, and Lender is willing to do so on the limited terms in this Agreement. In consideration of the mutual promises below, the Parties agree as follows.

## 1. Acknowledgment of Indebtedness

**1.1 Outstanding balance.** Borrower acknowledges and agrees that, as of the Effective Date, it is indebted to Lender in the aggregate principal amount of [\$ PRINCIPAL], plus accrued and unpaid interest of [\$ INTEREST], plus fees, costs, and other charges of [\$ OTHER] (collectively, the "**Obligations**"), all of which remain due and owing without offset, defense, counterclaim, or deduction of any kind.

**1.2 Validity of Loan Documents.** Borrower confirms that the Loan Documents are valid, binding, and enforceable in accordance with their terms, and that the Obligations are not subject to any reduction, recharacterization, or subordination except as expressly stated in this Agreement.

**1.3 Existing Defaults.** Borrower acknowledges that the Existing Defaults have occurred and are continuing, and that Lender has the present right to exercise all rights and remedies under the Loan Documents and applicable law but for this Agreement.

## 2. Forbearance

**2.1 Forbearance period.** Subject to Borrower's compliance with this Agreement, Lender agrees to forbear from exercising its rights and remedies with respect to the Existing Defaults during the period beginning on the Effective Date and ending on the earlier of (a) [FORBEARANCE END DATE] or (b) the occurrence of a Termination Event under Section 6 (the "**Forbearance Period**").

2.2 **Limited nature.** This Agreement constitutes a limited forbearance only. It does not waive, cure, or eliminate any Existing Default, and it does not establish a course of dealing or obligate Lender to grant any future forbearance, waiver, or accommodation.

2.3 **Reservation of rights.** Except as expressly limited during the Forbearance Period, Lender reserves all of its rights, powers, and remedies under the Loan Documents and applicable law, all of which remain in full force and effect.

2.4 **No cure.** Borrower acknowledges that the running of the Forbearance Period will not cure the Existing Defaults, which will be deemed continuing unless and until cured in accordance with the Loan Documents.

### 3. Borrower Covenants During Forbearance

3.1 **Forbearance payments.** Borrower will make the following payments to Lender during the Forbearance Period: **[DESCRIBE PAYMENT SCHEDULE, e.g. \$X on the first of each month, plus a lump-sum cure payment of \$Y by [DATE]]**, each applied in the order set forth in the Loan Documents or as Lender otherwise directs.

3.2 **Performance of Loan Documents.** Borrower will continue to perform all obligations under the Loan Documents that are not expressly modified by this Agreement, including payment, insurance, reporting, and maintenance covenants.

3.3 **Financial reporting.** Borrower will deliver to Lender **[MONTHLY / QUARTERLY]** financial statements, cash-flow reports, and such other information regarding its financial condition as Lender reasonably requests, within **[NUMBER]** days of the end of each reporting period.

3.4 **No further indebtedness or transfers.** Without Lender's prior written consent, Borrower will not incur additional indebtedness, grant liens on its assets, make distributions or dividends, or transfer assets outside the ordinary course of business during the Forbearance Period.

3.5 **Cooperation.** Borrower will cooperate with Lender's reasonable requests to preserve and protect the collateral securing the Obligations and to facilitate any inspection or appraisal of that collateral.

### 4. Conditions to Effectiveness

4.1 **Conditions precedent.** This Agreement becomes effective only when Lender has received: (a) this Agreement, duly executed by Borrower and each Guarantor; (b) payment of any forbearance fee under Section 5; (c) **[ANY ADDITIONAL COLLATERAL, GUARANTY, OR DOCUMENTATION]**; and (d) such other documents as Lender reasonably requires.

4.2 **Accuracy of information.** Borrower's execution of this Agreement constitutes a representation that all financial and other information it has provided to Lender in connection with this Agreement is true and correct in all material respects.

### 5. Forbearance Fee and Expenses

5.1 **Forbearance fee.** In consideration of Lender's forbearance, Borrower will pay Lender a non-refundable forbearance fee of **[\$ FEE]**, fully earned on the Effective Date and **[DUE ON THE EFFECTIVE DATE / ADDED TO THE PRINCIPAL BALANCE]**.

5.2 **Costs and expenses.** Borrower will reimburse Lender, on demand, for all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred in connection with the negotiation, preparation, and enforcement of this Agreement, to the extent permitted by applicable law.

5.3 **Default interest.** Nothing in this Agreement waives any default interest that has accrued or may accrue under the Loan Documents, except as expressly stated in the payment schedule under Section 3.1.

## 6. Termination Events

6.1 **Termination events.** Each of the following is a "**Termination Event**": (a) Borrower fails to make any payment required by this Agreement when due; (b) Borrower breaches any covenant or representation in this Agreement; (c) a new default (other than an Existing Default) occurs under the Loan Documents; (d) any voluntary or involuntary bankruptcy, insolvency, or receivership proceeding is commenced by or against Borrower or any Guarantor; or (e) Lender determines in good faith that the collateral or Borrower's financial condition has materially deteriorated.

6.2 **Effect of termination.** On the occurrence of a Termination Event, the Forbearance Period ends automatically without notice, and Lender may immediately exercise all rights and remedies under the Loan Documents and applicable law as if this Agreement had not been entered into, including acceleration of the Obligations.

## 7. Release

7.1 **Release of Lender.** Borrower and each Guarantor, on behalf of themselves and their successors and assigns, fully and forever release and discharge Lender and its officers, directors, employees, agents, and affiliates from any and all claims, demands, and causes of action, known or unknown, arising on or before the Effective Date and relating to the Obligations or the Loan Documents.

7.2 **Waiver of unknown claims.** To the fullest extent permitted by applicable law, Borrower and each Guarantor waive the benefit of any statute or rule of law that would otherwise limit a release to claims known to the releasing party at the time of the release. **[Consult counsel regarding any state-specific waiver language required to make this release effective.]**

7.3 **No release of Borrower.** Nothing in this Agreement releases Borrower or any Guarantor from any of the Obligations.

## 8. Reaffirmation by Guarantor

8.1 **Reaffirmation.** Each Guarantor acknowledges this Agreement, consents to its terms, and reaffirms that its guaranty of the Obligations remains in full force and effect and is not impaired, reduced, or discharged by this Agreement.

8.2 **No release of Guarantor.** Lender's forbearance does not release or modify any Guarantor's obligations except as expressly stated in this Agreement.

## 9. General Provisions

9.1 **No novation.** This Agreement is not a novation of the Loan Documents, which remain in full force and effect except as expressly modified here. In the event of a conflict, this Agreement controls with respect to the Forbearance Period.

9.2 **Governing law and venue.** This Agreement is governed by the laws of the State of **[STATE]**, without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction of the state and federal courts located in **[COUNTY, STATE]**.

9.3 **Further assurances.** Borrower will execute and deliver such further documents and take such further actions as Lender reasonably requests to carry out the purposes of this Agreement.

9.4 **Entire agreement; amendment.** This Agreement, together with the Loan Documents, is the entire agreement between the Parties on its subject and supersedes prior discussions. It may be amended only by a writing signed by the Parties.

9.5 **Severability and waiver.** If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver.

9.6 **Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

LENDER	BORROWER
Signature: _____	Signature: _____
Printed name: [NAME]	Printed name: [NAME]
Title: [TITLE]	Title: [TITLE / N/A]
Date: _____	Date: _____
<b>GUARANTOR (if any)</b>	
Signature: _____	
Printed name: [NAME]	
Title: [TITLE / N/A]	
Date: _____	

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