

# LOAN GUARANTY AGREEMENT

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

[GUARANTOR LEGAL NAME], an individual residing at / a [STATE] [ENTITY TYPE] with its principal place of business at [GUARANTOR ADDRESS] (the "**Guarantor**"); and

[LENDER LEGAL NAME], a [STATE] [ENTITY TYPE] with its principal place of business at [LENDER ADDRESS] (the "**Lender**").

The Guarantor and the Lender are each a "**Party**" and together the "**Parties**."

**Recitals.** The Lender has agreed, or has been asked, to extend credit or a loan to [BORROWER LEGAL NAME] (the "**Borrower**") under a [promissory note / loan agreement / credit agreement] dated [DATE] (the "**Loan Agreement**"), under which the Borrower owes or will owe the principal sum of [LOAN AMOUNT] plus interest and other amounts (the "**Guaranteed Obligations**"). As a material inducement for the Lender to extend or maintain that credit, and because the Guarantor will benefit directly or indirectly from the credit extended to the Borrower, the Guarantor agrees to guarantee the Guaranteed Obligations on the terms below. In consideration of the mutual promises below, the Parties agree as follows.

## 1. Guaranty of Payment and Performance

**1.1 Guaranty.** The Guarantor absolutely, unconditionally, and irrevocably guarantees to the Lender the full and prompt payment and performance of the Guaranteed Obligations when due, whether at stated maturity, by acceleration, or otherwise.

**1.2 Guaranty of payment, not collection.** This is a guaranty of payment and performance, not merely of collection. The Lender may enforce this Guaranty against the Guarantor without first proceeding against the Borrower, any other guarantor, or any collateral, except to the extent applicable law requires otherwise notwithstanding this provision.

**1.3 Scope.** The Guaranteed Obligations include all principal, interest (including interest accruing after any insolvency proceeding), fees, costs of collection, and reasonable attorneys' fees that the Borrower owes under the Loan Agreement.

**1.4 Continuing guaranty.** This Guaranty is a continuing guaranty and applies to all Guaranteed Obligations arising before and after the Effective Date until the Guaranteed Obligations are paid in full and the Loan Agreement is terminated.

## 2. Nature and Extent of Liability

**2.1 Limited or unlimited guaranty.** The Guarantor's liability under this Guaranty is **[UNLIMITED / LIMITED to a maximum of [CAP AMOUNT] plus accrued interest, fees, and costs of enforcement on that amount]**.

**2.2 Joint and several.** If there is more than one Guarantor, each Guarantor is jointly and severally liable for the full amount of the Guaranteed Obligations, and the Lender may proceed against any one or more of them in any order.

**2.3 Primary obligation.** The Guarantor's obligations are primary, direct, and independent of the Borrower's obligations, and may be enforced whether or not the Lender has any recourse against the Borrower.

**2.4 No setoff.** The Guarantor will pay all amounts due under this Guaranty without setoff, counterclaim, or deduction, except as required by applicable law.

### **3. Waivers by the Guarantor**

**3.1 Waiver of notices.** To the fullest extent permitted by applicable law, the Guarantor waives notice of acceptance of this Guaranty, presentment, demand, protest, notice of dishonor, notice of default, and notice of any change in the Guaranteed Obligations.

**3.2 Waiver of defenses.** The Guarantor waives any defense based on the Lender's failure to pursue the Borrower or any collateral first, and any defense arising from the Borrower's incapacity, bankruptcy, dissolution, or lack of authority, except defenses that applicable law makes non-waivable.

**3.3 Waiver of subrogation until paid in full.** Until the Guaranteed Obligations are paid in full, the Guarantor waives any right of subrogation, reimbursement, or contribution against the Borrower, and any right to participate in collateral held by the Lender.

**3.4 Reinstatement.** If any payment of the Guaranteed Obligations is rescinded, avoided, or returned (for example, as a preference in a bankruptcy proceeding), this Guaranty is automatically reinstated as to that amount.

### **4. Modifications to the Loan Without Releasing Guarantor**

**4.1 Lender's freedom to act.** The Lender may, without notice to or consent from the Guarantor and without releasing the Guarantor: (a) renew, extend, accelerate, or otherwise change the time or terms of payment of the Guaranteed Obligations; (b) increase or decrease the rate of interest; (c) release, substitute, or add collateral or other guarantors; or (d) settle or compromise any Guaranteed Obligation.

**4.2 No impairment.** No such action impairs, reduces, or discharges the Guarantor's obligations, except to the extent of payments actually received and applied to the Guaranteed Obligations.

**4.3 Acknowledgment of risk.** The Guarantor acknowledges that these provisions expand its potential liability and that it has had the opportunity to seek independent counsel before signing.

### **5. Representations and Warranties of Guarantor**

**5.1 Authority.** The Guarantor has full power and authority to enter into and perform this Guaranty, and this Guaranty is a valid and binding obligation enforceable against the Guarantor in accordance with its terms.

**5.2 Financial condition.** The Guarantor is solvent, and entering into this Guaranty will not render the Guarantor insolvent or unable to pay its debts as they become due.

**5.3 No conflict.** This Guaranty does not violate any law, court order, or other agreement binding on the Guarantor.

**5.4 Independent investigation.** The Guarantor has made its own assessment of the Borrower's financial condition and is not relying on any representation by the Lender about the Borrower's ability to repay.

## 6. Financial Information and Covenants

**6.1 Financial statements.** On the Lender's reasonable request, the Guarantor will provide current financial statements and other information reasonably required to evaluate the Guarantor's financial condition.

**6.2 Notice of material change.** The Guarantor will promptly notify the Lender in writing of any material adverse change in the Guarantor's financial condition or ability to perform under this Guaranty.

**6.3 Accuracy.** All financial information the Guarantor provides will be true and complete in all material respects as of its date.

## 7. Default and Remedies

**7.1 Default.** The Guarantor is in default under this Guaranty if the Borrower defaults under the Loan Agreement and fails to cure within any applicable cure period, or if the Guarantor breaches any obligation under this Guaranty.

**7.2 Remedies.** On default, the Lender may demand immediate payment of the Guaranteed Obligations (subject to any cap in Section 2.1) and pursue all remedies available at law or in equity, which are cumulative and not exclusive.

**7.3 Costs of enforcement.** The Guarantor will pay the Lender's reasonable costs of enforcing this Guaranty, including reasonable attorneys' fees and court costs, to the extent permitted by applicable law.

## 8. General Provisions

**8.1 Governing law and venue.** This Guaranty is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules. The Parties submit to the jurisdiction of the state and federal courts located in [COUNTY, STATE]. Maximum interest, the enforceability of waivers, and creditor-protection rules vary by jurisdiction; local law controls where it differs from this Guaranty.

**8.2 Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

**8.3 Assignment.** The Lender may assign this Guaranty together with the Guaranteed Obligations. The Guarantor may not assign its obligations without the Lender's prior written consent.

**8.4 Entire agreement; amendment.** This Guaranty is the entire agreement between the Parties on its subject and supersedes prior discussions. It may be amended only by a writing signed by both Parties.

**8.5 Severability and waiver.** If any provision is unenforceable, the rest remains in effect. The Lender's failure or delay in enforcing a provision is not a waiver.

**8.6 Counterparts and electronic signature.** This Guaranty 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 Guaranty as of the Effective Date.

**GUARANTOR**

**LENDER**

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Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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Printed name: **[NAME]**

Printed name: **[NAME]**

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Title: **[TITLE or N/A]**

Title: **[TITLE]**

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Date: \_\_\_\_\_

Date: \_\_\_\_\_

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