

DEPARTMENT OF TRANSPORTATION
OFFICE OF SMALL AND DISADVANTAGE BUSINESS UTILIZATION
SHORT TERM LENDING PROGRAM

GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT dated as of [DATE] (this Agreement) is made by the United States Department of Transportation (DOT) and [NAME OF BANK], a National Banking Corporation, its successors and permitted assigns [NAME OF BANK] concerning the Bank's extension of a [AMOUNT OF LOAN/WORDS] (\$LOAN AMOUNT) Loan (Loan) to [NAME OF BORROWER], [STATE IN WHICH INCORPORATED] Corporation, (Borrower).

SECTION 1. GUARANTEE

1.01 The Guarantee. Subject to the terms and conditions set forth in this Agreement, DOT hereby guarantees, irrevocably and unconditionally (except to the extent expressly provided in Sections 1.02, 1.03, 1.04, 1.05 or by applicable law) to the Bank payment of seventy five percent (75%) of the outstanding and unpaid principal amount of the loan, interest on the principal amount of the loan and interest on any due and unpaid amounts owing by the Borrower to the Bank, provided however that the maximum liability of DOT shall not at any time exceed [GUARANTEE AMOUNT/WORDS], the Guaranteed Amount.

1.02 Coverage of the Guarantee and Compliance with STLP Cooperative Agreement and STLP Policies and Procedures Manual.

(a) The Guarantee is entitled to the full faith and credit of the United States of America. The Guarantee constitutes a guarantee of payment and not of collection. In no event shall the liability of the DOT on the Guarantee exceed the Guaranteed Amount.

(b) If the [NAME OF BANK] fails to comply with this Guarantee Agreement and STLP Cooperative Agreement and STLP Policies and Procedures Manual in the making or servicing of any STLP loan, the Guarantee shall not be effective and shall automatically terminate. Denial of liability on the Guarantee shall only occur if DOT determines that the [NAME OF BANK] has engaged in negligence, misconduct, or failed to comply with this Guarantee Agreement the STLP Cooperative Agreement, or STLP Policies and Procedures Manual.

1.03 Term of the Guarantee. All principal advances made to the Borrower by [NAME OF BANK] in accordance with Paragraph 1.02 (b.) and prior to the expiration date of the active period will be guaranteed by the DOT until collected, provided that [NAME OF BANK] is in compliance with Sections 2.01 and 2.02 under this Guarantee Agreement. The active period will commence on the Date of Activation of the Loan and expire one (1) year from the Date of Activation of the Loan. Extensions of the active period, up to ninety (90) days, may be granted with reason and at the DOT's sole discretion,

incorporating any addendums that contain conditions on the loan approval. Additional renewal active periods of one year may be considered. However, they will be handled as a new loan guaranty request. Requests for renewals of the active period or extensions of the active period must be sent by the [NAME OF BANK], in writing, to the DOT no later than thirty (30) days prior to the original expiration date. It is further agreed that if a renewal is not in place by the end of the original active period or the extension, the Guarantee of new principal advances will expire on the last day of the original or extended active period, whichever is later.

1.04 Timely Demand. In the event that the [NAME OF BANK] fails to make demand on DOT within the time period required in Section 2.02(vi), the Guarantee of the unpaid installment of principal and/or interest as to which such timely demand was not made shall automatically terminate with respect thereto. This termination shall be without prejudice to the right of the [NAME OF BANK] to make demand on DOT under this Agreement in respect of any other due and unpaid installment(s) of principal or interest.

1.05 Prohibited Amendment or Transfers. In the event that the Bank, without DOT's prior written consent, agrees to any material amendment, modification, or waiver or assigns, conveys, sells, or otherwise transfers any interest in or right or obligation under this Agreement or the Loan, or any Note, then DOT shall have the right to terminate the Guarantee by providing written notice to the Bank.

1.06 Notice of Acceleration. In the event that, without the prior written consent of DOT, the Bank declares all or any part of the Borrower's indebtedness under the Loan to be immediately due and payable or to be due and payable upon the demand of the Bank, then DOT shall have the right to terminate the Guarantee with respect to all or a portion of the Guaranteed Amount. The automatic acceleration of the Loan or any Note as a result of a bankruptcy or insolvency event does not constitute such an event. Any termination of the Guarantee by DOT shall be deemed effective as of the date of the declaration by the Bank.

SECTION 2. CLAIM PROCEDURES

2.01 Failure to Pay. In the event that (i) the Borrower for any reason fails to pay in full any installment of principal (other than any proposed voluntary prepayment) or interest under the Loan or any Note for more than thirty (30) calendar days after the due date of such installment; (ii) the Bank has made written demand on the Borrower within one hundred and twenty (120) calendar days after the due date of such installment; and (iii) a period of fifteen (15) calendar days has elapsed since written demand for payment was made by the Bank on the Borrower (which demand may be omitted only if and to the extent that the making thereof would be prohibited by any applicable law), then the Bank may make demand on DOT under this agreement for payment (subject to Sections 1.03.,1.04, 1.05) of DOT's pro rata share, not to exceed the Guaranteed Amount.

2.02 Demand on DOT. The Bank's demand on DOT must: (i) be in writing; (ii) be made only

by the Bank; (iii) identify the installment(s) of principal and/or interest unpaid as of the date of such demand; (iv) include a copy of the Bank's written demand for payment on the Borrower (or in the event that such demand was omitted in accordance with law, evidence of the applicable law); (v) include an Assignment and Certification in the form of Annex A; (vi) be made not later than sixty (60) calendar days from the date the Bank's demand for payment was made on the Borrower.

2.03 Assignment to DOT. On and as of the date on which DOT pays of its pro rata portion of the default amount, not to exceed the Guaranteed Amount, DOT shall become subrogated to, and the Bank shall be deemed to have assigned to DOT, without recourse and without need for any further action, all or that portion of the Guaranteed Percentage of the Bank's right, title, and interest in and to the principal of and interest on the Loan and each Note in respect thereof and to such extent, DOT shall have the right to enforce or participate in any claim (including without limitation, any claim in bankruptcy), right or remedy that the Bank then has or may thereafter acquire against the Borrower under the Loan or the Note. In addition to the Assignment and Certification required, the Bank shall, upon request by DOT, promptly execute and deliver such documents and take such other actions as DOT may reasonably request to evidence or give effect to such subrogation and assignment, it being understood and agreed that the execution and delivery of any such document or the taking of any such action shall not be a condition to DOT's obligation to pay that portion of the Guaranteed Amount.

2.04 Payment by DOT.

(a) Within forty-five (45) Business days after the date on which the Bank shall have properly documented its demand on DOT for payment pursuant to Section 2.02 (the "Demand Date"), the DOT shall, subject to Sections 1.03, 1.04 and 1.05, pay its pro rata share of the default amount, not to exceed the Guaranteed Amount, to the Bank in a single payment calculated as of the date of actual payment thereof by DOT.

(b) Payment of DOT's obligation due under this Agreement shall be made by DOT to the Bank, and such payment to the Bank shall discharge fully and completely DOT's liability under this Agreement. After the Demand Date, any funds received by the Bank or DOT from or on behalf of the Borrower in respect of any of the Borrower's obligations under the Loan Agreement or Note shall be applied in accordance with the terms of the Loan Agreement.

2.05 DOT Payment Does Not Discharge Borrower. Any statute or judicial decision to the contrary notwithstanding, no payment by DOT to the Bank under this Agreement shall be deemed to reduce, discharge, satisfy or terminate any obligation of Borrower under the Loan Agreement or any Note.

SECTION 3. MISCELLANEOUS

3.01 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE FEDERAL LAW OF THE UNITED STATES OF AMERICA IF AND TO THE EXTENT SUCH FEDERAL LAW IS APPLICABLE, AND OTHERWISE IN ACCORDANCE WITH THE LAW OF THE STATE OF [STATE WHERE BANK LOCATED].

3.02 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto.

3.03 Entire Agreement. This Agreement contains the entire agreement among the parties hereto regarding the subject matter hereof. In the event that any term of the Loan Agreement or any Note conflicts with any term of this Agreement, the terms and provisions of this Agreement shall control to the extent of such conflict.

3.04 Amendment or Waiver. This Agreement may not be changed, discharged or terminated (except as expressly provided herein) without the written consent of the parties hereto, and no provision hereof may be waived without the written consent of the party to be bound thereby.

3.05 Counterparts. This Agreement may be signed in separate counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

3.06 Severability. To the extent permitted by applicable law, the illegality or unenforceability of any provision of this Agreement shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, in duplicate, this [DAY] of [MONTH], [YEAR].

[NAME OF BANK]
[NAME OF OFFICIAL]
[TITLE OF OFFICIAL]

United States Department of Transportation
Brandon Neal
Director, Office of Small and Disadvantaged
Business Utilization

ANNEX A

FORM OF ASSIGNMENT ASSIGNMENT AND CERTIFICATION

This Assignment and Certification is made pursuant to the terms of the Guarantee Agreement dated as of [DATE] (the "Agreement") between the United States Department of Transportation (DOT) and [NAME OF BANK], a National Banking Corporation (Bank). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned in the Agreement.

1. Assignment. For value received, the Bank hereby assigns to DOT, without recourse, all of its right, title and interest in and to the principal of and interest on the Loan and under the Loan Agreement and each Note in respect thereof, to the extent, and only to the extent, of the Bank's Guaranteed Percentage of the Loan represented by DOT's pro rata share of the default amount, not to exceed the Guarantee Amount, paid by DOT to the Bank.

2. Certifications. The Bank hereby certifies that (a) all or a portion of the Guaranteed Amount demanded to be paid by DOT to the Bank is properly calculated and due and owing to the Bank under the terms of the Agreement and (b) it has not, without the prior written consent of DOT:

- (i) agreed to any material amendment, written modification or written waiver in violation of Section 1.04 of the Agreement;
- (ii) assigned, conveyed, sold or otherwise transferred any interest in or right or obligation under this Agreement, or any Note in violation of Section 1.05 the Agreement; or
- (iii) accelerated or caused the Agent to accelerate all or any part of the Loan or any Note in violation of Section 1.06 of the Agreement.

3. Acknowledgment. The Bank acknowledges and agrees that this Assignment and Certification is subject to the terms of the Agreement, including, without limitation, the following:

(a) Any funds received by the Bank or DOT from or on behalf of the Borrower in respect of any of the Borrower's obligations under the Loan Agreement or Note shall be applied in accordance with the terms of the Loan Agreement or Note.

(b) The Bank shall, upon request by DOT, execute and deliver such documents and take such other actions as DOT may reasonably request to establish, preserve or enforce the rights, title and interest of DOT in, to and under the Loan Agreement and each Note, and any right or remedy that DOT has or may acquire against the Borrower thereunder, it being understood and agreed that the execution and delivery of any such document or the taking of any such action shall not be a condition to DOT's obligation to pay the Guaranteed Amount.

IN WITNESS WHEREOF, the Bank has caused this instrument to be duly executed and delivered this [DAY] of [MONTH], [YEAR].

By: _____
(Signature)

(SEAL) Name: _____
(Print)

Attest _____ **Title:** _____
Secretary

_____,
[NAME OF BANK]