

## GUARANTY

FOR VALUABLE CONSIDERATION, the receipt and legal sufficiency of which is acknowledged, and to induce SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION ("Lender") to extend credit or other financial accommodations to or for the account of \_\_\_\_\_, a \_\_\_\_\_, ("Borrower"), the undersigned, \_\_\_\_\_ (the "Guarantor"), irrevocably, absolutely and unconditionally guarantees to Lender the full and prompt payment, when due, whether at stated maturity, on demand, by acceleration or otherwise, of any and all liabilities of Borrower to Lender, together with all interest thereon (including specifically all interest accruing from and after the commencement of any case, proceeding or action under any existing or future laws relating to bankruptcy, insolvency or similar matters with respect to Borrower) in connection with that certain promissory note dated the date hereof executed by the Borrower in favor of Lender (the "Note") and all attorneys' fees, costs and expenses of collection incurred by Lender in enforcing any of such liabilities.

The term "Liabilities of Borrower" shall include, without limitation, all liabilities of Borrower under the Note, whether direct or contingent, joint, several or independent, now or hereafter existing, due or to become due to, or held or to be held by, Lender in connection with the Note, whether created directly or acquired by assignment or otherwise.

If Borrower fails to pay any liability of Borrower when due, whether at stated maturity, on demand, by acceleration or otherwise, Guarantor will immediately pay that amount to Lender in lawful currency of the United States, without set-off, counterclaim or deduction of any kind, at the office of Lender.

This is a guaranty of payment and not merely of collection. Accordingly, Lender will not be required to make any demand, commence any action or exhaust any remedy against Borrower or any other party or realize on any collateral pledged by Borrower before seeking payment under this Guaranty. This Guaranty will continue until all Liabilities of Borrower are finally and indefeasibly paid in full.

If any payment received by Lender from Borrower on account of the Liabilities of Borrower is required to be repaid to Borrower or any other party on its behalf, Guarantor's obligations in respect of that payment will automatically be reinstated. Any payment on account of or reacknowledgement of the Liabilities of Borrower by Borrower, or any other party liable therefor, shall be deemed to be made on behalf of the Guarantor and shall serve to start anew the statutory period of limitations applicable to the Liabilities of Borrower.

The liability of Guarantor under this Guaranty will be absolute, irrevocable and unconditional despite (i) any renewal, extension, compromise, acceleration or other change in the time for payment, or change in any other term, of any Liability of Borrower, (ii) any surrender of any promissory note by Lender to Borrower against Borrower's execution and delivery to Lender of one or more replacement promissory notes, (iii) the taking or holding of any security or collateral for payment of any liability and any exchange, release, enforcement, realization on or disposition of such security or collateral, or any failure to perfect or realize on any security or

collateral, (iv) any legal disability of Borrower to perform its obligations, (v) any invalidity, irregularity or unenforceability of any promissory note or any security therefor, or (vi) any other circumstances which might otherwise constitute a defense available to, or a discharge of, Borrower in respect of any Liability of Borrower under the Note or of Guarantor in respect of this Guaranty.

Guarantor acknowledges that Guarantor's obligations under this Guaranty shall at all times continue to be absolute, unconditional, valid and enforceable irrespective of any other agreements or circumstances which might otherwise constitute a defense to this Guaranty and the obligations of Guarantor under this Guaranty or the obligations of any other person or party relating to this Guaranty or the obligations of Guarantor hereunder.

This Guaranty sets forth the entire agreement of Lender and Guarantor, and Guarantor absolutely, unconditionally and irrevocably waives any and all right to assert any defense, set-off, counterclaim or cross-claim of any nature whatsoever with respect to this Guaranty or the obligations of Guarantor under this Guaranty or the obligations of any other person or party (including, without limitation, Borrower) relating to this Guaranty or otherwise with respect to the Liabilities of Borrower in any action or proceeding brought by the holder hereof to collect the Liabilities of Borrower or any portion thereof, or to enforce, the obligations of Guarantor under this Guaranty. Guarantor acknowledges that no oral or other agreements, representations or warranties exist with respect to this Guaranty except as specifically set forth in this Guaranty.

Guarantor represents to Lender that it is interested in the operations of Borrower and expects to derive financial and business advantage from the loan that Lender may grant to Borrower. Guarantor agrees to deliver to Lender financial statements of each of the undersigned, if any, who is a corporation within ninety (90) days after the end of each fiscal year of the Guarantor. Guarantor hereby agrees to present to Lender any other financial statements, income tax returns and any and all information, financial or otherwise, that Lender may, from time to time, reasonably require. Guarantor further agrees: that any release which may be given by Lender to any one or more of Guarantors shall not release any other Guarantor from the Guaranty; that the liability of each Guarantor hereunder shall continue in full force and effect until all Liabilities and obligations covered hereby are fully paid, satisfied, and discharged, and shall not be reduced, affected, impaired, or discharged, in whole or in part, by reason of either (a) the death of any individual Guarantor, or the dissolution or liquidation, or the merger, consolidation, or other change in form of Borrower, or of any corporate Guarantor or (b) the fact that any liability or obligation may be, or may arise out of any transaction which may be, illegal, invalid, irregular, or unenforceable, for any reason; that the liability of each Guarantor hereunder shall not be reduced, affected, impaired or discharged, in whole or in part, by any payment to Lender, from any source, which Lender thereafter returns or refunds, in whole or in part, by reason of the assertion of any claim of any kind relating thereto, including, without limitation, any claim of breach of warranty, preference, illegality, invalidity, or fraud and that Lender may defend, compromise or pay any such claims, as Lender in its sole discretion may elect; and that the liability of each Guarantor hereunder shall not be affected by any invalidity, irregularity, or nonforfeiture of the Liabilities of Borrower.

The execution and delivery hereafter to Lender by Guarantor of a new instrument of guaranty shall not terminate, supersede, or cancel this instrument, unless expressly provided therein, and all rights and remedies of Lender hereunder or under any instrument of guaranty

hereafter executed and delivered to Lender by Guarantor shall be cumulative and may be exercised singly or concurrently.

No executory agreement unless in writing and signed by Lender and Guarantor and no course of dealing between Guarantor and Lender shall be effective to change or modify, or to discharge in whole or in part, this Guaranty. This Guaranty may not be modified or amended other than by a written instrument signed by an authorized officer of Lender and by Guarantor.

Guarantor waives presentment, demand, protest, notice of the occurrence of any debt and notice of dishonor with respect to any liability of Guarantor hereunder and any requirement that Lender exhaust any right or take any action against Borrower or any other party or any security and all other demands and notices whatsoever. One or more separate actions may be brought and prosecuted against Guarantor under this Guaranty whether or not any action is brought against Borrower or Borrower is joined as a party in any such action.

No delay on the part of Lender in exercising any right or remedy under this Guaranty or failure to exercise the same shall operate as a waiver in whole or in part of any such right or remedy. Any rights and claims of Guarantor against Borrower or any of its property arising by reason of any payment by Guarantor to Lender pursuant to this Guaranty are subordinate and subject in right of payment to the prior payment in full of all Liabilities of Borrower to Lender under the Note.

This Guaranty will inure to the benefit of Lender and its successors and assigns and will be binding on Guarantor and its successors and assigns. Guarantor may not assign any of its rights or obligations under this Guaranty without the prior written consent of Lender. No waiver of any rights or powers of Lender or consent by it shall be valid unless in writing signed by an authorized officer. Lender will not be deemed, by any act or omission, to have waived any of its rights or remedies with respect to any Liability of Borrower or this Guaranty unless such waiver is in writing and signed by an authorized officer of Lender. If more than one party executes this Guaranty, the obligations and Liabilities of each of them will be joint and several and the term "Guarantor" will include each of them.

This Guaranty is, and shall be deemed to be, a contract entered into under and pursuant to the laws of the State of New York and shall be in all respects governed, construed, applied and enforced in accordance with the laws of the State of New York. No defense given or allowed by the laws of any other state or country shall be interposed in any action or proceeding hereon unless such defense is also given or allowed by the laws of the State of New York. The undersigned agrees that this Guaranty is, and is intended to be, an instrument for the payment of money only, as such phrase is used in §3213 of the Civil Practice Law and Rules of the State of New York. Guarantor agrees to submit to personal jurisdiction in the State of New York in any action or proceeding arising out of this Guaranty and, in furtherance of such agreement, Guarantor hereby agrees and consents that without limiting other methods of obtaining jurisdiction, personal jurisdiction over Guarantor in any such action or proceeding may be obtained within or without the jurisdiction of any court located in New York County and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon Guarantor by registered or certified mail to or by

personal service at the last known address of Guarantor, whether such address be within or without the jurisdiction of any such court. Guarantor further agrees that the venue of any litigation in connection with the Liabilities of Borrower or in respect of any obligations of Guarantor under this Guaranty shall, to the extent permitted by law, be in Suffolk County and that Suffolk County is not an inconvenient forum.

This Guaranty is not limited to any particular period of time; this Guaranty shall continue, and there shall be no release of the undersigned from the obligations of this Guaranty, until all of the terms, covenants and conditions of the Note evidencing the Liabilities of Borrower have been terminated.

In the event a petition is filed under the United States Bankruptcy Code with regard to Borrower or the commencement of any action or proceeding for the benefit of the creditors of Borrower, this Guaranty shall at all times thereafter remain effective in regard to the amount of any Liabilities of Borrower paid by any payments or other transfers of assets to Lender received from or on behalf of Borrower and which are or may be held voidable on the grounds of preference or fraudulent conveyance. The provisions of this paragraph shall survive the termination of this Guaranty and the final and indefeasible payment in full of the Liabilities of Borrower under the Note.

Guarantor hereby represents and warrants that any and all financial statements of such Guarantor heretofore delivered to Lender by Borrower or by or on behalf of such Guarantor are true and correct in all material respects and fairly present the financial condition of such Guarantor as of the respective dates thereof, and no material adverse change has occurred in the financial condition reflected therein since the respective dates thereof. From time to time and at any time, such Guarantor shall provide Lender with such financial information regarding such Guarantor as Lender may request.

**GUARANTOR HEREBY ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES, AND LENDER BY ITS ACCEPTANCE OF THIS GUARANTY ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO THIS GUARANTY.**

\_\_\_\_\_, 20\_\_\_\_

**Witness:**

**Guarantor:**

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