

**UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT**

**BIOREFINERY, RENEWABLE CHEMICAL, AND BIOBASED  
PRODUCT MANUFACTURING ASSISTANCE PROGRAM**

**LENDER'S AGREEMENT**

*Capitalized terms will have the meaning defined in the applicable Program regulations.*

Participating Lender:	Tax Identification Number:
Business Address:	Telephone Number:

**I. General Provisions**

**A. Purpose.**

The approved Lender (Lender) is designated as a Lender for the purpose of processing and servicing guaranteed loans authorized under the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program. (9003 Program). The Lender enters into this Agreement as a condition for obtaining the guarantees.

The United States of America, acting through the Rural Business – Cooperative Service (Agency), agrees to enter into Loan Note Guarantees with the Lender pursuant to the applicable Program regulations for the 9003 Program, and to participate in a percentage of any loss on any such loans not to exceed the amount established in the Loan Note Guarantee. The terms of any Loan Note Guarantee are controlling.

**B. Full Faith and Credit.**

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States. The Program’s Full Faith and Credit provisions are detailed in 7 CFR 4279.220(a).

**II. Loan Origination**

- A. The Lender agrees loan funds will be used for the purposes authorized in 7 CFR 4279, subpart C and any applicable Conditional Commitment.
- B. Neither the Lender nor any of the Lender's officers will have an ownership interest in the Borrower or is an officer or director of the Borrower, and neither the Borrower nor its officers, directors, stockholders, or other owners will have more than a 5 percent ownership interest in the Lender.
- C. The Lender will certify to the Agency, prior to issuance of the Loan Note Guarantee for each loan, that there has been no Material Adverse Change during the period of time from the Agency's issuance of the Conditional Commitment to issuance of the Loan Note Guarantee, in accordance with 7 CFR 4279.281(b)(9)
- D. Lender certifies that a loan agreement or loan instruments concurred in by the Agency has been or will be signed with the Borrower.

*According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control numbers for this information collection are 0570-0017. The time required to complete this information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

- E. Lender will submit the required guarantee fee with Form RD 1980-19, "Guaranteed Loan Closing Report," at the time Form RD 4279-5, "Loan Note Guarantee," is requested.

### III. Lender's Sale or Assignment of Guaranteed Loan

- A. The Lender may sell all or part of the guaranteed portion of the loan or retain the entire loan pursuant to 7 CFR 4279.223. The Lender may proceed under the following options:
  - 1. Single Note Assignment. Lender may assign all or part of the guaranteed portion of the loan to one or more Holders by using Form 4279-6, "Assignment Guarantee Agreement," pursuant to 7 CFR 4279.223(a).
  - 2. Multi-Note System. When this option is selected by the Lender, 7 CFR 4279.223(b) will apply.
  - 3. Participations.
    - i. The Lender may obtain participation in the unguaranteed portion of the loan under its normal operating procedures. Participate, as it pertains to the 9003 Program, is defined in 7 CFR 4279.202.
    - ii The Lender is required to hold in its own portfolio the minimum retention required by 7 CFR 4279.224.
- B. When a guaranteed portion of a loan is sold by the Lender to a Holder, 7 CFR 4279.221 will apply.

### IV. Servicing

- A. The Lender will service the entire loan and will remain mortgagee and secured party of record, notwithstanding the fact that another Person may hold a portion of the loan, in accordance with 7 CFR 4287, subpart D.
- B. It is the Lender's or its Agent's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses, or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; and that periodic inspections during construction are made.
- C. Lender's (or Agent operating on the Lender's behalf) servicing responsibilities include, but are not limited to, the responsibilities detailed in 7 CFR 4279.307.

### V. Default

- A. The Lender will notify the Agency when a Borrower is 15 days past due on a payment or if the Borrower is otherwise in default. The Lender will notify the Agency of the status of a Borrower's default on Form RD 1980-44 "Guaranteed Loan Borrower Default Status," in accordance with 7 CFR 4287, subpart D. Actions taken by the Lender requiring written concurrence of the Agency include, but are not limited to the following or any combination thereof:
  - 1. Deferment of principal payments (subject to rights of any Holder);
  - 2. An additional temporary loan by the Lender to bring the account current;
  - 3. Reamortization of or rescheduling the payments on the loan (subject to rights of any Holder);
  - 4. Transfer and assumption of the loan in accordance with 7 CFR 4287 subpart D;
  - 5. Reorganization;
  - 6. Liquidation; and
  - 7. Subsequent loan guarantees.
- B. The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder within 30 days of written demand by the Holder, pursuant to 7 CFR 4279.225(a).
- C. If Lender does not repurchase as provided by paragraph B, the Agency will purchase from Holder as detailed in 7 CFR 4279.225(b).
- D. Lender may also repurchase the guaranteed portion of the loan for servicing consistent with 7 CFR 4279.225(c) and the Loan Note Guarantee.

### VI. Liquidation

If the Lender concludes, pursuant to Program regulation, that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, liquidation may be considered, consistent with 7 CFR 4287.357.

- A. Determination of Loss and Payment. In all liquidation cases, final settlement will be made with the Lender after the collateral is liquidated. The Agency will have the right to recover losses paid under the guarantee from any party liable. Agency policies and procedures regarding the determination of losses and payments are detailed in 7 CFR 4287.358.
- B. Maximum amount of interest loss payment. Notwithstanding any other provisions of this Agreement, the amount payable by the Agency to the Lender cannot exceed the limits set forth in the Loan Note Guarantee.
- C. Liquidation expenses. Certain reasonable liquidation expenses will be allowed during the liquidation process, in accordance with 7 CFR 4287.358(c)(4).
- D. Protective Advances. Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instruments, pursuant to 7 CFR 4287.356.
- E. Future Recovery. After a loan has been liquidated and a final loss has been paid by the Agency, any future funds which may be recovered by the Lender will be prorated between the Agency and the Lender, in accordance with 7 CFR 4287.369.
- F. Debt Collection Improvement Act. Pursuant to the Debt Collection Improvement Act of 1996 (DCIA), the Agency is required to refer debt owed to the Government to the Department of the Treasury for collection. The Agency will use all remedies available under DCIA to collect the debt from the Borrower, guarantors, and any other liable third party and, any proceeds received from such efforts will not be shared with the Lender. The Agency will notify the Lender when this referral occurs, at which time the Lender will cease collection efforts.
- G. Transfer and Assumption. Transfers and Assumptions will be in accordance with 7 CFR 4287.334.

**VII. Bankruptcy**

It is the Lender's responsibility to protect the guaranteed loan and all of the Collateral securing it in bankruptcy and any related appellate proceedings. Lender responsibilities, reports of loss to the Agency and bankruptcy loss payments are described in 7 CFR 4287.370.

**VIII. Duration and Modification**

- A. Duration of Agreement. This Lender's Agreement applies to all 9003 Program loans made by the Lender from the date of this Lender's Agreement until terminated or superseded by another Lender's Agreement.
- B. Modification of Agreement. This Agreement may only be modified only in writing.
- C. Other Requirements. This Agreement is subject to all requirements of 7 CFR 4279, subpart C and 7 CFR 4287 subpart D, in effect on the date of this Agreement.
- D. All forms required by this Agreement may be obtained from any Rural Development State or local office.

**IX. Endorsement**

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*Lender: Complete this block of Section IX*

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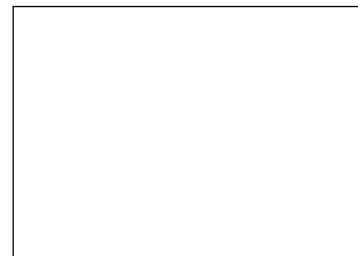
LENDER \_\_\_\_\_  
(Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_ (Name Typed or Printed)

Title: \_\_\_\_\_

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



Attest: \_\_\_\_\_

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*This block of Section IX will be completed by the Agency.*

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UNITED STATES OF AMERICA  
Rural Business – Cooperative Service

By: \_\_\_\_\_  
*(Signature)*

Title: \_\_\_\_\_

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

\_\_\_\_\_  
*(Name Typed or Printed)*