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FSA-2201
(XX-XX-XX)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

Position 2

LENDER'S AGREEMENT

NOTE: *The purpose of this agreement is to establish the lender as an approved participant in the guaranteed loan programs of the Farm Service Agency, U.S. Department of Agriculture. This agreement provides the terms and conditions for originating and servicing such loans, including lines of credit.* ***Provide the requested information, read this agreement in its entirety and sign in the space on page 6. Your signature indicates consent with this agreement.***

PART A – BACKGROUND INFORMATION

1. Lender's Name and Mailing Address	2. Lender 9 Digit Tax Identification Number
	3. Telephone Number *(Include Area Code)*

4. Check the Lender's status as approved by Agency:

☐ Preferred Lender (PLP) ☐ Certified Lender (CLP) ☐ Standard Eligible Lender (SEL) ☐ Micro Lender (MLP)

5. The following branch offices of the lender are covered under this agreement: *(Include a complete address for each branch)*

6. The lender is authorized to submit loan guarantees in the following FSA Offices:

PART B – DUTIES AND RESPONSIBILITIES OF FSA *("AGENCY")*

1. **Payment of Claims -** Agency agrees to make payment on its claims in accordance with the terms of the guarantee and Agency regulations in 7 C.F.R. Part 762. The maximum loss payment may not exceed the amount determined in the guarantee, including the percentage of principal and any accrued interest, protective advances, and emergency advances. The guarantee is supported by the full faith and credit of the United States and is incontestable except under the circumstances of fraud or misrepresentation of which the lender has actual knowledge at the execution of the guarantee or which the lender participates in or condones.

2. **Personnel Available for Consultation -** Agency shall make personnel available for consultation on interpretations of Agency regulations and guidelines. The lender may consult with Agency personnel regarding unusual underwriting, loan closing, and loan liquidation questions.

PART C – GENERAL REQUIREMENTS OF THE LENDER

1. **Eligibility to Participate -** The lender must meet the requirements contained in 7 C.F.R. Part 762 and be approved by the Agency to be a participant in the Guaranteed Loan Program.

2. **Knowledge of Program Requirements** - The lender is required to obtain and keep itself informed of all program regulations and guidelines, including all amendments and revisions. The lender must establish and maintain adequate and written internal policies for loan origination and servicing to meet these requirements. These policies will be made available to the Agency for review when requested.

3. **Notification** - The lender shall immediately notify the Agency in writing if the lender:

   a. Becomes insolvent;
   b. Has filed for any type of bankruptcy protection, has been forced into involuntary bankruptcy, or has requested an assignment for the benefit of creditors;
   c. Has taken any action to cease operations, or to discontinue servicing or liquidating any or all of its portfolio guaranteed by the Government;
   d. Has changed its name, location, address, tax identification number, or corporate structure;
   e. Has been debarred, suspended, or sanctioned in connection with its participation in any Federal guaranteed program;
   f. Has been debarred, suspended, or sanctioned by any Federal or State licensing or certification authority; or
   g. Has made changes to its risk-based pricing practice.

4. **Employee Qualifications** - The lender shall maintain a staff that is well trained and experienced in origination and loan servicing functions, as necessary to ensure the capability of performing all the acts within its authority.

5. **Conflict of Interest** - When the lender submits an application for a guarantee, the lender will inform the Agency in writing of any relationships which could result in a conflict of interest or the appearance of a conflict of interest. Reportable relationships include:

   a. The lender or its officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners having a financial interest in the loan applicant or borrower.

   b. The loan applicant or borrower, a relative of the loan applicant or borrower, anyone residing in the household of the loan applicant or borrower, any officer, director, stockholder or other owner of the loan applicant or borrower holds any stock or other evidence of ownership in the lender.

   c. The loan applicant or borrower, a relative of the loan applicant or borrower, or anyone residing in the household of the loan applicant or borrower is an Agency employee.

   d. The officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners of the lender having substantial business dealings (other than in the normal course of business) with the loan applicant or borrower.

   e. The lender or its officers, directors, principal stockholders, or other principal owners have substantial business dealings with an Agency employee.

PART D – UNDERWRITING REQUIREMENTS

1. **Responsibility**

   The lender is responsible for originating, servicing, and collecting all guaranteed loans in accordance with Agency regulations.

2. **Origination Process**

   a. General Eligibility. The lender shall make a preliminary determination whether loan applicants meet the general eligibility requirements in Agency regulations. Agency will make the final determination.

   b. Delinquency on Federal Debt. The lender shall determine whether the loan applicant is delinquent on any Federal debt. The lender shall use credit reports and any other credit history in making this determination. If the loan applicant is delinquent on or a judgment debtor on any Federal debt, processing of the application may only continue in accordance with Agency regulations.

   c. Evaluations and Appraisals of Collateral. The lender shall ensure that the value of any collateral property or property to be purchased is determined by a qualified person, including a certified appraiser when required by law or regulation.

   d. Change in Borrower's Condition. Before the Agency issues a loan guarantee, the lender will certify that there has been no adverse change in the borrower's condition, financial or otherwise, since submission of the application for guaranteed loan. For use in this provision alone, the term "borrower" includes any member, joint operator, partner or stockholder.

   e. Limitation on Guarantee. Late charges of any kind including default charges and default interest will not be covered by the guarantee.

3. **Loan Closing** - All loans guaranteed by the Agency shall be closed by attorneys, escrow companies, escrow departments of lending institutions, or other persons, or entities skilled and experienced in conducting loan closings. The lender shall:

   a. Ensure funds for the particular loan or line of credit will be used only for the purposes authorized in Agency regulations and as contained in the conditional commitment;

   b. Ensure that documents, including the mortgage and any security agreements, chattel mortgages or equivalent documents relating to it
   have been properly signed, are valid and contain terms enforceable by the lender;

   c. Ensure that all security with appropriate lien priorities is obtained in accordance with the conditional commitment and Agency regulations;

   d. Ensure that all closing documents required to be recorded are recorded accurately, in the appropriate offices, and in a timely and accurate manner;

   e. Ensure that security interests are perfected in collateral according to applicable regulatory requirements and procedures;

   f. Ensure that all required hazard insurance will be obtained in accordance with Agency regulations or is now in effect;

   g. Collect all fees and costs due and payable by the borrower in the course of the loan transaction and disburse payment directly to the parties for services rendered;

   h. Ensure that construction, relocation, repairs, or development are completed in accordance with applicable drawings and specifications;

   i. Ensure the borrower has marketable title to security property now owned, and will obtain such title to any additional property to be acquired with loan funds, subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth in Agency regulations;

   j. Secure the entire loan equally with the same security and the same lien priority for both the guaranteed and unguaranteed portions of the loan, under the assurance that the unguaranteed portion of the loan will not be paid first nor given priority over the guaranteed portion of the loan;

   k. Submit the required guarantee fee with the guaranteed loan closing report.

4. **Restriction and Disclosure of Lobbying Activities** - If any funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this commitment providing for the United States to guarantee a loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into any transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

PART E – SERVICING REQUIREMENTS

1. **Responsibilities** - The lender will service the entire loan as mortgagee and secured party of record in a reasonable and prudent manner, notwithstanding the fact that another party (holder) may hold a portion of the loan.
2. **Supervision -** The lender's responsibilities regarding borrower supervision include, but are not limited to, the following:
   a. Ensure loan funds are not used for any unauthorized purpose.

PART E – SERVICING REQUIREMENTS *(CONTINUED)*

   b. Ensure borrower compliance with the covenants and provisions provided in the note, loan agreement, security instruments, any other agreements, and 7 C.F.R. Part 762.
   c. Perform an annual analysis of the borrower's financial condition to determine the borrower's progress when required by Agency regulation.
   d. Account for all collateral
   e. Discuss any observations about the farm business with the borrower.
   f. Ensure the borrower and any party liable for the loan is not released from liability for all or any part of the loan, except in accordance with Agency regulations.
3. **Reporting Requirements -** The lender recognizes that the Agency, as guarantor, has a vital interest in ensuring that all acts performed by the lender regarding the subject loans are performed in compliance with this agreement and Agency regulations. Information on the status of guaranteed loans is necessary for this purpose, as well as to satisfy budget and accounting reporting required by the Department of Treasury and the Office of Management and Budget. The lender agrees to provide Agency with all the data required under Agency regulations and any additional information necessary to monitor the status of its guaranteed loan portfolio, and to satisfy external reporting requirements.

   The lender also agrees to provide to the Agency upon request, copies of audited financial statements, reports on internal controls, copies of compliance audits, and such other information that may be required of the Agency to monitor the lender's performance.
4. **Negligent Servicing -** The guarantee cannot be enforced by the lender to the extent a loss results from a violation of usury laws or negligent servicing regardless of when the Agency discovers such violation or negligence. Negligent servicing is defined as the failure to perform those services which would be considered normal industry standards of loan management or failure to comply with any servicing requirement of 7 C.F.R. Part 762 or the lender's agreement or the guarantee. The term includes the concept of a failure to act or failing to act timely consistent with actions of a reasonable lender in loan making, servicing, and collection.
5. **Payments -** Payments from the borrower shall be reviewed by the lender and processed upon receipt according to Agency regulations, and may include escrow premiums for hazard insurance and real estate taxes. The lender shall promptly disburse to any holder the holder's **pro rata** share according to their respective interests in the loan, less only the lender's servicing fee.
6. **Collateral**
   a. Insurance. The lender shall ensure that adequate insurance is maintained in accordance with Agency regulations, including the maintenance of property, casualty, flood, and hazard insurance containing a loss payable clause in favor of the lender as the mortgagee or secured party.
   b. Escrow Accounts. The lender may establish separate escrow accounts. All escrow accounts must meet applicable Federal and State laws and regulations, and must be fully insured by the FDIC or other Federal or state regulatory agency or cross collateralized with unencumbered Government securities.
   c. Inspection. The lender shall inspect the collateral as often as necessary to properly service the loan and ensure the collateral is being properly maintained.
   d. Taxes. The lender shall ensure that taxes, assessments, or ground rents against or affecting collateral are paid.
7. **Delinquent Accounts**
   a. A guaranteed loan is in default after 30 days have passed and the borrower has not made a payment as due or has otherwise violated a loan agreement. The lender is responsible for resolution of the default. The lender will notify the Agency using an FSA default status report when a borrower is 45 days past due or otherwise in default. This report will be submitted every 60 days thereafter and will contain a summary of collection, restructuring or liquidation steps taken since the previous report.
   b. The lender may take actions to correct the default as provided in 7 C.F.R. Part 762. A loan that has been sold on the secondary market can only be restructured if the loan is repurchased or upon written concurrence from the holder.
   c. The lender will work in good faith with the borrower to allow them to cure the default, where reasonable. The lender must participate in mandatory farmer-creditor mediation in accordance with 7 C.F.R. Part 762, State law and the rules that govern the mediation program that operates in the State in which the borrower resides.
   d. The lender must consider the borrower for interest assistance as provided in 7 C.F.R. Part 762. If the lender determines that default can be cured by rescheduling the loan with interest assistance, lender will request a determination of the borrower's eligibility by the Agency. Liquidation or foreclosure cannot be initiated until 60 days after consideration.

PART E – SERVICING REQUIREMENTS *(CONTINUED)*

8. **Sales or Participation**
   a. The guaranteed portion of loans may be sold in accordance with 7 C.F.R. Part 762. Lines of credit cannot be sold, but may be participated with other lenders.
   b. When a loan has been sold, the holder can demand that the lender repurchase the unpaid guaranteed portion of a loan in accordance with the FSA assignment of guarantee.
   c. If the lender is unable to repurchase, the holder may make a demand for repurchase to the Agency. Repurchase by the Agency in no way alters lender responsibilities to the loan under this agreement or the loan guarantee. A restructuring action may not be executed once the Agency has repurchased the guaranteed portion of the loan and within 180 days the lender must reimburse the Agency for the repurchase or liquidate the loan in accordance with Agency regulations. Lender must send the pro rata share of the borrower's payments directly to the Agency until liquidation is complete.
   d. Failure to reimburse the Agency within 180 days for repurchase, if not waived by the Agency, is a violation of this agreement.
9. **Default/Liquidation**
   a. Protective Advances. Protective advances must constitute a debt of the borrower to the lender and be secured by the security instrument. Agency written authorization is required for protective advances in accordance with the terms and amounts specified by 7 C.F.R. Part 762. Terms and amounts for PLP lenders are included in the lender's Credit Management System.
   b. Additional Loan or Advances. In cases of a line of credit, the lender may make an emergency advance when a line of credit has reached its ceiling and additional funds are needed to prevent an imminent loss of crops or livestock that would take place if the emergency advance were not made. The lender must provide Agency with an analysis as required by Agency regulations.
   c. Future Recovery. After a loan has been liquidated and a final loss claim has been paid by the Agency, any future funds which may be recovered from the borrower by the lender, will be pro-rated between the Agency and the lender.
   d. Bankruptcy. The lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. Loss payments on bankruptcy cases will be processed according to the terms described in Agency regulations.
   e. Liquidation. Liquidations must receive prior Agency concurrence when required by regulations.
   f. Loss Claims. An estimated loss claim must be submitted by the lender no later than 150 days after the payment due date unless the account has been completely liquidated and then a final loss claim must be filed. Interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date. Estimated and final loss claims will be processed in accordance with the terms described in Agency regulations.
10. **Servicer -** If the lender contracts for servicing of guaranteed loans, the lender is not relieved of responsibility for proper servicing of the loans.

PART F – AGENCY REVIEWS OF LENDER'S OPERATIONS

The Agency may conduct reviews, including on-site reviews, of the lender's operations and the operations of any agent of the lender, for the purpose of verifying compliance with this agreement and Agency regulations and guidelines. These reviews may include, but are not limited to, audits of case files; interviews with owners, managers, and staff; audits of collateral; and inspections of the lender's and its agents underwriting, servicing, and liquidation guidelines. The lender and its agents shall provide access to all pertinent information to allow the Agency, or any party authorized by the Agency, to conduct such reviews.

PART G – CONFORMANCE TO STANDARDS

1. The lender shall conform to the standards outlined in this agreement and Agency regulations for participation in the Agency's guaranteed loan program. MLP, CLP and PLP must maintain compliance with the criteria set forth in 7 C.F.R. Part 762. The Agency shall determine lender adherence to the standards based on:
   a. Adequacy in meeting requirements for origination, servicing, and liquidation of loans and lines of credit, including protection of collateral;
   b. Satisfaction of the reporting requirements of the Agency;
   c. Success in operating in a sound, prudent and businesslike manner;
   d. Portfolio performance compared to overall performance of the Agency's guaranteed loan program; and
   e. Results of on-site reviews of the underwriting and servicing performed by the lender.
2. **Determination of Non-Conformance** - The Agency shall carefully consider the circumstances and available facts in determining whether there is a pattern of lender non-conformance with applicable standards. The Agency shall determine the propriety of any decision made by the lender based on facts available at the time the specific action was taken. It is understood by the Agency and intended by this agreement that the lender has the authority to exercise reasonable judgement in performing acts within its authority. However, the Agency reserves the right to question any act performed or conclusion drawn that is inconsistent with this agreement or Agency regulations or prudent lending practices.

PART G – CONFORMANCE TO STANDARDS *(Continued)*

3. **Agency Action** - If the lender is determined to be in non-conformance with any Federal law, State law, Agency regulation, guideline, or the terms of this agreement, the Agency may take action in accordance with appropriate/governing laws and regulations.
4. **Lender Right of Appeal** - The Agency will provide the lender an opportunity to appeal adverse Agency actions in accordance with Agency regulations.

PART H – LIST OF AGENCY REGULATIONS AND GUIDELINES AND DESIGNATION OF LENDER AUTHORITY TO PERFORM CERTAIN ACTS

1. **List of Agency Regulations** - The guaranteed loan program is administered under 7 C.F.R. Part 762. The lender is required to comply with these regulations as well as any future amendments not inconsistent with this agreement.
2. **Authority to Perform Certain Acts -**

   a. Agency regulations describe the authorities and responsibilities for lenders. In addition, PLP lenders will process and service loans as described in their application for PLP status approved by the Agency. This application is described in the Credit Management System attached to this agreement. The lender further agrees to inform the Agency and obtain approval on changes to any policy or process described in the application for PLP status.

   b. Lenders participating in electronic data submission with the Agency shall designate a Security Administrator to access the Agency's Guaranteed Loan System (GLS). The lender's Security Administrator will be certified to delegate access to other lender employees. The Security Administrator and all other lender employees who access must have completed the Agency's login requirements by obtaining an eAuthentication account with Level 2 Access. The lender agrees to immediately notify the Agency of such employees who have met these requirements and when any such employees terminate employment. The lender also agrees to notify the Agency in the event of any loss, theft or unauthorized disclosure or use of any user identification number or password. Individual user identification number and passwords may not be transferred between employees.

   The lender will ensure that all supporting documentation required by the Agency be submitted to the appropriate offices, in a timely and accurate manner. All forms of data transmitted through electronic data submission are considered received on the date they are submitted. If, in the Agency's judgment, standard business cannot be conducted by electronic data submission, the Agency will, at its discretion and upon notice to the lender, return to paper-based systems.

PART I – DURATION AND MODIFICATION

1. **Duration and Termination**

   a. **Duration of Agreement** - For MLP, CLP and PLP, the agreement is valid for five years unless terminated by the lender or the Agency as described below or revoked according to Agency regulations. For SELs, this agreement will be valid indefinitely unless terminated by the lender or Agency as described below.

   b. **Modification of Agreement** - This agreement may be modified or extended only in writing and by consent of all parties.

   c. **Termination by Agency** - This agreement may be terminated by the Agency in accordance with Agency regulations.

   d. **Termination by the Lender** - This agreement may be terminated by the lender by providing 30 days written notice to the Agency.

   e. **Effect of Termination on Responsibilities and Liabilities** - Responsibilities or liabilities that existed before the termination of the agreement with regard to outstanding guarantees will continue to exist after termination unless the Agency expressly releases the lender from such responsibilities or liabilities in writing. The lender shall remain obligated to service and liquidate the guaranteed loans remaining in the portfolio unless and until the Agency or the lender transfers the loans. These requirements concerning loan management by the lender and rights of the Agency under this agreement shall remain in effect whether the agreement is terminated by the lender or Agency.

   f. **Revocation of CLP or PLP status** - If the Agency revokes CLP or PLP status, loans made while the lender held this status must continue to be serviced under this agreement and according to Agency regulations applying to SELs or CLP, whichever status the lender then holds.

   g. **Revocation or suspension of MLP status –** If the Agency revokes or suspends MLP status, loans made while the lender held this status must continue to be serviced under this agreement and according to Agency regulations applying to MLP.

2. **Entire Agreement** - This agreement, Parts A through K inclusive along with any attachments, and any regulations or guidelines incorporated by reference, shall constitute the entire agreement. There are no other agreements, written or oral, regarding the terms in this agreement which are or shall be binding on the parties.

PART J - CERTIFICATION

I certify that I have read and understand the requirements in 7 C.F.R. Part 762,and agree to the participation requirements and other provisions of this agreement.

1. Name and Title of Authorized Lender's Representative	2. Signature of Authorized Lender's Representative	3. Date *(MM-DD-YYYY)*

PART K – FOR FSA USE ONLY

1. Name and Title of Agency Official	2. Signature of Agency Official	3. Date *(MM-DD-YYYY)*

4. Effective Date of Agreement	5. Agreement Expiration Date *(MLP, CLP and PLP only)*

Privacy Act Statement: *The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a - as amended). The authority for requesting the information identified on this form is the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 et. seq.). The information will be used to determine eligibility and feasibility for loans and loan guarantees, and servicing of loans and loan guarantees. The information collected on this form may be disclosed to other Federal, State, and local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in the applicable Routine Uses identified in the System of Records Notice for USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information may result in a denial for loans and loan guarantees, and servicing of loans and loan guarantees.*

Public Burden Statement (Paperwork Reduction Act): *According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0155. The time required to complete this information collection is estimated to average 15 minutes 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden by emailing to: askusda@usda.gov.*

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Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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