

**FEDERAL RESERVE BANK
OF NEW YORK**
Fiscal Agent of the United States

[Circular No. 2840]
September 15, 1944]

REGULATION V
"1944 V-Loan Guarantee Agreement"

*To All Banks, Other Financing Institutions and Others Concerned
in the Second Federal Reserve District:*

The War Department and the Navy Department have approved a revised form of Guarantee Agreement, identified as "1944 V-Loan Guarantee Agreement" (Form of September 15, 1944) and certain Explanatory Notes with respect thereto, copies of which are enclosed herewith. This revised form is to be used for all Guarantee Agreements the execution of which is authorized by the War Department or the Navy Department on or after September 15, 1944 and for this purpose it supersedes all previous standard forms of V loan Guarantee Agreements heretofore approved by them. It is our understanding that the United States Maritime Commission has under consideration the adoption of a similarly revised form.

The revised form of agreement has been adopted in view of the enactment of the Contract Settlement Act of 1944 and the inauguration of the T Loan program which is outlined in our Circular No. 2837, dated September 12, 1944. There is no provision in the revised form for suspension of maturity upon cancellation of war contracts. However, if, at the maturity of a loan, settlement of terminated contracts has not been completed, application for a T-Loan Guarantee Agreement may be made for interim financing for the remainder of the settlement period.

The 1944 V-Loan Guarantee Agreement form does not contain a provision similar to Section 5 of previous V loan guarantee agreement forms providing for a step-up in the guaranteed percentage under certain circumstances. That fact will be taken into consideration in the determination of the guaranteed percentage under the new form.

As stated in No. 5 of the enclosed Explanatory Notes, in general, whenever it is agreed to extend a guaranteed loan originally under the 1942 or 1943 form of guarantee agreement, the consent of the Guarantor to such extension will be given only if the Borrower and the Financing Institution agree to accept the 1944 V-Loan Guarantee Agreement. However, if upon maturity of such a loan the Borrower needs only a relatively short extension to complete his war production contracts or, if such a loan matures prior to January 1, 1945 and time is needed to arrange for refinancing, the Guarantor will generally agree to an extension without the adoption of the new form of guarantee agreement, provided that (1) the maturity of the loan is extended for a total period of not more than six months; (2) no substantial modifications are made in the terms of the loan (except modifications requested by the Guarantor); and (3) the Borrower agrees to forego the benefits of section 6 of the 1942 or 1943 form of guarantee agreement. In addition, in any case in which it deems it necessary, the Guarantor may permit an extension without the adoption of the new form of guarantee agreement for such period of time as may appear to be required in order to effect an orderly liquidation of the loan.

New schedules of guarantee fees and commitment fees have been prescribed in connection with 1944 V-Loan Guarantee Agreements as follows:

Per cent of loan guaranteed	Guarantee fee (per cent of interest payable by borrower on guaranteed portion of loan)
80 or less	10
85	15
90	20
95	30
over 95	50

The maximum commitment fee that may be charged the Borrower by a Financing Institution is $\frac{1}{4}$ of 1 per cent per annum, or in the alternative a flat fee for the entire term of the commitment of not to exceed \$50. Under the new schedule, the commitment fee is not shared by the Guarantor.

The maximum rate of interest is $4\frac{1}{2}$ per cent per annum, as compared with a maximum of 5 per cent heretofore.

The War and Navy Departments have indicated that they will give consideration to requests for substitution of the 1944 V-Loan Guarantee Agreement for existing V-Loan Guarantee Agreements.

Applications may continue to be filed on the forms previously used when applying for V and VT loans.

Additional copies of the 1944 V-Loan Guarantee Agreement and Explanatory Notes will be furnished to you upon request.

ALLAN SPROUL,
President.

1944 V-LOAN GUARANTEE AGREEMENT

No. _____

The { War Department of the United States
Navy Department of the United States
United States Maritime Commission } (herein called "Guarantor"), acting through

the Federal Reserve Bank of _____ as fiscal agent of the United States, and the Financing Institution, as hereinafter defined, hereby agree each with the other as follows:

Section 1. Definitions

As used in this agreement—

(A) The words "Financing Institution" shall mean

(B) The word "Borrower" shall mean _____

(Name)

of _____

(Address)

the said Borrower being engaged in a business or operation which is deemed by the Guarantor to be necessary, appropriate or convenient for the prosecution of the war.

(C) The words "the loan" shall mean a financing arrangement between the Financing Institution and the Borrower, the terms and conditions of which are briefly described as follows:

(The description of the loan shall include the following items in the following order: Type of loan (straight loan or revolving credit), principal amount (maximum amount of credit in the case of a credit), interest rate, and maturity (latest maturity in the case of a credit). Provisions as to collateral and other protective provisions prescribed by the Guarantor should also be described here, or, if preferred, by referring to an annexed loan agreement or other similar instrument; but the terms and the provisions of such agreement or instrument should not be made a part of or incorporated in the guarantee agreement.)

(D) The word "obligation" shall mean the instrument or instruments evidencing the Borrower's indebtedness under the loan and any renewals or extensions thereof.

(E) The term "guaranteed percentage" shall mean (1) _____ per cent, or (2) the percentage specified above as increased by an adjustment thereof under section 8 or section 9 of this agreement.

(F) The term "unguaranteed percentage" shall mean the difference between 100 per cent and the guaranteed percentage.

(G) The words "collateral for the loan" shall mean all collateral or security specified in the description of the loan under paragraph (C) of this section or taken or accepted in substitution for such specified collateral or security, and any collateral or security hereafter taken or accepted for the specific protection of the loan.

(H) The words "interest in the obligation" shall mean the amount of the obligation owned by the Guarantor or by the Financing Institution, as the case may be.

(I) The word "Holder" shall mean the party to this agreement which has possession of the obligation and shall be determined in accordance with the provisions of sections 4 and 10 of this agreement.

(J) The words "Reserve Bank" shall mean the Federal Reserve Bank of _____ as fiscal agent of the United States acting on behalf of the Guarantor in accordance with the provisions of Executive Order No. 9112 of March 26, 1942, and applicable provisions of law.

(K) A "war production contract" shall mean any contract (other than a contract solely for the construction or acquisition of facilities to be used by the Borrower) made or order accepted by the Borrower for the sale or furnishing by the Borrower of materials, equipment, supplies, facilities, or services or for the processing or treatment by the Borrower of materials, which (a) constitutes a prime contract with the War Department, Navy Department, or Maritime Commission or (b) constitutes a contract made or order accepted by the Borrower to aid directly or indirectly in the performance of any prime contract with any of said Government agencies.

Section 2. Guarantee as to Sharing of Losses and Expenses

(A) All losses of principal and interest on the loan, and all expenses as defined in paragraph (D) of this section, shall be shared ratably by the Guarantor and the Financing Institution in accordance with the guaranteed percentage and the unguaranteed percentage, respectively, as such losses, expenses and percentages exist on the date of settlement between the Financing Institution and the Guarantor, regardless of whether or not any purchase has been made under this agreement.

(B) The date of settlement between the Financing Institution and the Guarantor shall be such date as may be agreed upon by the parties or, if no such date is agreed upon, the thirtieth day after the date on which either party to this agreement receives from the other party a written request for such settlement, but no such request will be made by the Guarantor prior to maturity nor prior to the time when the amount of the ultimate losses and expenses appears to be determinable with reasonable certainty.

(C) In determining losses under paragraph (A) of this section, all amounts which, on the date of settlement, have not been paid shall be regarded as losses even though they may appear to be recoverable thereafter. All net recoveries realized after the date of settlement, from whatever source realized, shall be shared ratably by the Guarantor and the Financing Institution on the basis prescribed in this section.

(D) For the purposes of this section, expenses shall mean all reasonable out-of-pocket expenses (including reasonable counsel fees incurred by the Financing Institution or the Reserve Bank prior to but not after any purchase under this agreement) which relate to the enforcement of the loan or the preservation of the collateral and which are incurred during the period of any default in the payment of principal or interest, and which have not been recovered from the Borrower.

Section 3. Agreement to Purchase

(A) Upon written demand or demands made by the Financing Institution on the Reserve Bank at any time prior to the date of settlement between the Guarantor and the Financing Institution, the Guarantor will purchase from the Financing Institution, on the tenth (10th) day after the receipt by the Reserve Bank of such a demand, the guaranteed percentage of the unpaid principal amount of the loan, less any amounts which have been previously purchased by the Guarantor under any provision of this agreement and have not been repaid. Such purchases will be made by the Guarantor from time to time either as a whole or in such portions as may be demanded in writing as above specified.

(B) Any purchase by the Guarantor pursuant to any provision of this agreement shall be made at the Reserve Bank, and the amount that the Guarantor shall pay shall be the face amount of the portion of the unpaid principal amount of the obligation so purchased, as of the date of the demand, plus all unpaid accrued interest on such portion, with appropriate adjustment for guarantee fees, computed as of the date of purchase. Such purchase shall be made for cash, except that if the Guarantor owns an interest in any obligation which has been issued under a revolving credit arrangement and if, at or before the maturity of such obligation, the Reserve Bank receives written demand from the Financing Institution for the purchase of the same or a lesser amount of a new obligation to be issued in place of such maturing obligation, payment for the portion of the new obligation purchased pursuant to such demand will be made by the Guarantor by surrendering, at or before maturity, its interest in the maturing obligation, in the amount of the demand by the Financing Institution and without regard to the ten day period specified in paragraph (A) of this section.

Section 4. Administration of Loan and Possession of Obligation and Collateral

(A) Prior to any purchase under this agreement, the Financing Institution shall administer the loan and shall hold the obligation and the collateral for the loan. Whenever the Guarantor becomes the owner of any part of the loan under this agreement, the Financing Institution shall continue to administer the loan and to hold said obligation and collateral, and shall forthwith deliver to the Reserve Bank a certificate reciting that the Financing Institution holds said obligation and collateral for the account of the Guarantor to the extent of the Guarantor's interest therein. In any such case, however, upon written demand by the Reserve Bank, the Financing Institution shall forthwith endorse the obligation to the Reserve Bank without recourse or warranty and shall assign the collateral (or its interest therein if such collateral cannot be assigned because it is held for the account of more than one Financing Institution) to the Reserve Bank without recourse or warranty, except as to the genuineness of the signature of the Borrower to any instrument, and shall forthwith deliver to the Reserve Bank possession of the obligation and of the collateral (or an assignment of its interest therein as above provided). Thereupon the Reserve Bank shall issue to the Financing Institution a certificate reciting that the Reserve Bank holds said obligation and collateral for the account of the Financing Institution to the extent of the Financing Institution's interest therein. Thereafter the Guarantor, through the agency of the Reserve Bank, shall administer the loan and shall hold said obligation and collateral for the account of the Guarantor and the Financing Institution as their interests in the obligation may appear. The Guarantor and the Financing Institution shall at all times during the existence of this agreement have the right to examine and inspect said obligation and collateral.

(B) Whenever the Guarantor becomes the Holder of the obligation, the Financing Institution will at any time at the written request of the Guarantor furnish to the Guarantor such instruments as may be reasonably necessary or appropriate to enable the Guarantor to administer the loan and enforce the obligation and collateral for the loan in accordance with the terms of the loan.

(C) Nothing contained in this or any other section of this agreement shall be construed to prevent the Financing Institution from offering the obligation as collateral for advances by a Federal Reserve Bank, if such obligation is otherwise eligible and acceptable as collateral for such advances.

Section 5. Ratable Application of Collections

All amounts at any time paid or credited on the obligation, from whatever source realized, shall be applied ratably for the benefit of the Financing Institution and the Guarantor according to their respective interests in the

obligation. All amounts so paid or credited upon the obligation after the date of a demand by the Financing Institution or the Guarantor, as the case may be, for a purchase under this agreement and prior to the date of such purchase shall be applied as above provided according to such respective interests of the Guarantor and the Financing Institution as such interests exist immediately after such purchase. The Holder of the obligation and collateral shall receive all payments from the Borrower in connection with the obligation and shall promptly remit to the other party to this agreement such other party's share thereof.

Section 6. Application of Proceeds of Collateral and Other Assets

(A) There shall first be applied to the full payment of the loan before they are applied to the payment of other indebtedness of the Borrower to the Financing Institution: (1) All proceeds of any collateral for the loan; and (2) all proceeds of accounts receivable and of inventories (including finished products and work in process) arising under the Borrower's war production contracts, to the extent that such accounts receivable or inventories are taken or appropriated by the Financing Institution, except war production contracts under which claims may heretofore have been, or may with the written consent of the Guarantor hereafter be, specifically assigned to the Financing Institution as security solely for other indebtedness of the Borrower to the Financing Institution. If any funds on deposit, or other amounts payable to the Borrower by the Financing Institution, or other assets of the Borrower (except those described in clause (2) above) which are not specifically pledged as security for any indebtedness shall be taken or appropriated by the Financing Institution, the Financing Institution shall apply such funds and the proceeds of such other assets pro rata against the then unpaid balance of the loan and the then unpaid balance of such other indebtedness of the Borrower to the Financing Institution. Funds on deposit, amounts payable, and other assets shall not be considered to be specifically pledged for any indebtedness, within the meaning of this section, if the right of the Financing Institution to apply the proceeds thereof to such indebtedness exists only by virtue of the right of banker's lien or setoff or only by virtue of a "spreader", "overlap" or "cross-lien" provision in any note or loan agreement.

(B) There shall first be applied by the Guarantor to the full payment of the loan, before they are applied to the payment of other indebtedness of the Borrower to the Guarantor, all proceeds obtained by the Guarantor from: (1) accounts receivable and inventories (including finished products and work in process) arising under the Borrower's war production contracts, and (2) any right of priority accruing to the Guarantor on account of any claim by the Guarantor against the Borrower, and (3) any right of setoff in respect of amounts due to the Borrower on any war production contract (except a right of setoff arising out of a claim under the same contract); except that the foregoing shall not apply to any pledge, lien, or other security taken by the Guarantor as collateral for an advance payment or loan by the Guarantor to the Borrower.

Section 7. Actions as to Obligation or Collateral

The Holder shall not, without the prior written consent of the other party to this agreement, (a) make or consent to any material alteration in the terms of the loan or collateral for the loan; (b) make or consent to any release, sale, transfer, further pledge, subordination or substitution of any of said collateral for the loan; or (c) give any consent or waiver under any provision of the loan restricting the use of funds of the Borrower. However, the consent of the other party shall not be necessary with respect to any release or substitution of such collateral required or authorized by the terms of the loan as such terms are described in paragraph (C) of section 1 of this agreement or in any instrument referred to therein, and no notice of any such action need be given to the other party. The Holder, unless prior objection thereto shall have been made in writing by the other party, may extend the term of the loan, but, without the prior written consent of the other party, not more than once and for not more than sixty (60) days; but notice of any such extension shall be thereafter promptly transmitted to the other party. The taking of additional collateral or security shall not be considered a material alteration in the terms of the loan or collateral for the loan.

Section 8. Refusal of Guarantor to Consent to Accelerated Maturity

The Financing Institution, if it be the Holder, shall not exercise any option to accelerate the maturity of the obligation without the prior written consent of the Guarantor. If such an option exists (whether or not conditioned upon the giving of notice to the Borrower) on the part of the Holder to accelerate the maturity of the obligation and (a) the Guarantor fails to give its written consent, within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution to do so, to the acceleration of the maturity of the obligation or (b) if the Guarantor be the Holder and does not, within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution that the Guarantor do so, initiate appropriate action to accelerate the maturity of the obligation, the guaranteed percentage shall thereupon, in either event, effective ten (10) days after the receipt of such request, be 100 per cent. The Guarantor may, after giving notice to the Financing Institution, exercise any option to accelerate the maturity of the obligation without obtaining the consent of the Financing Institution, and the loan shall so provide.

Section 9. Failure to Sue or Consent to Suit

The Financing Institution, if it be the Holder, shall not, without the prior written consent of the Guarantor, bring suit to enforce payment of the obligation or any instalment thereof, or directly or indirectly institute bankruptcy, receivership or insolvency proceedings against the Borrower, or foreclose on or otherwise enforce realization of the collateral by exercise of a power of sale or by legal proceedings; but the Guarantor, if it be the Holder, after giving notice to the Financing Institution, may take any action specified in this sentence without obtaining the consent of the Financing Institution. If at any time all or any portion of the principal or interest of said obligation is due and unpaid and (a), while the Financing Institution is the Holder, the Guarantor fails to give its written consent within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution to do so, to the taking of any action specified in the preceding sentence or (b) if the Guarantor be the Holder and does not, within thirty (30) days after the Reserve Bank shall have received a written request from the Financing Institution that the Guarantor take action as aforesaid, take the action requested or one of the other steps specified in the preceding sentence, the guaranteed percentage shall thereupon in either event, effective ten (10) days or thirty (30) days, as the case may be, after the receipt of such request, be 100 per cent.

Section 10. Voluntary Purchase by Guarantor

Whenever the Guarantor elects, it may purchase, and the Financing Institution shall sell to it, the guaranteed percentage of the unpaid principal amount of the obligation, less any amounts which have been previously purchased by the Guarantor under any provision of this agreement and have not been repaid; but no such purchase shall be made except ninety (90) days or more after the original advance on the loan or shall become effective until ten (10) days (or such lesser period as the Guarantor may specify) after the Guarantor shall have sent to the Financing Institution a demand for such purchase by telegram or registered mail. In the event of any purchase under this section the Guarantor shall, at the request of the Financing Institution, or may, at its own option, immediately become the Holder in the manner provided in section 4 without the written demand therein specified.

Section 11. Reports as to Borrower's Condition

The Holder shall promptly notify the other party of any default in the payment of principal, or of any default which shall continue for ten (10) days in the payment of interest, on the part of the Borrower. As long as the Financing Institution has any interest in the loan, each party shall notify the other party of any other default on the part of the Borrower in connection with the loan, or of any unfavorable change in the financial condition or in the business of the Borrower or in the collateral for the loan, of which such party has acquired actual knowledge in connection with the administration of said loan and which in its opinion at the time is material. The Financing Institution shall, upon the request of the Reserve Bank, furnish to the Reserve Bank any other information relating to the financial condition of the Borrower and the progress of the loan which it has acquired in connection with the administration of said loan.

Section 12. Fees Payable to Guarantor

The Financing Institution shall pay to the Reserve Bank at the end of each monthly or quarterly period, as fixed by the Reserve Bank, an amount equal to _____ per cent of any interest payable by the Borrower on the average daily amounts of that part of the unpaid principal of the obligation which the Guarantor was obligated during such period to purchase upon demand of the Financing Institution.

Section 13. Effect of Violation of Agreement

(A) If the Financing Institution shall violate, or fail to comply with, any of the terms of this agreement or any of the terms or conditions of the loan or shall through gross negligence make a material misrepresentation of fact in the application therefor, or in anything constituting a part of the application, it shall become liable to the Guarantor in an amount equal to the damages sustained by the latter by virtue of such violation, failure to comply, or misrepresentation; but the Guarantor shall not be relieved by such violation, failure to comply, or misrepresentation from any of its obligations to the Financing Institution under the terms of this agreement.

(B) In the absence of gross negligence on the part of the Financing Institution:

- (1) No invalidity or ineffectiveness of any collateral or of any assignment thereof accepted by the Financing Institution; and
- (2) No action or omission to act on the part of the Financing Institution in reliance on a statement or certificate signed by an appropriate officer or member of the Borrower with respect to the financial condition, business or operations of the Borrower or the purpose for which funds of the Borrower have been or are intended to be used;

shall constitute a violation of, or failure to comply with, any of the terms of this agreement or any of the terms or conditions of the loan on the part of the Financing Institution. No invalidity of any provision of the loan agreement (or other similar instrument), if any, referred to herein, arising from statute or decision of any court, shall in any way relieve the Guarantor hereunder.

Section 14. Interpretation of Agreement

(A) This agreement constitutes the entire contract between the Guarantor and the Financing Institution, and no claim of waiver, modification, consent, or acquiescence with respect to any of the provisions of this agreement shall be made against either party except on the basis of a letter or other written instrument executed by or on behalf of such party.

(B) No provision of the loan agreement (or other similar instrument), if any, shall increase, limit or vary the rights or obligations of the Financing Institution, the Guarantor or the Borrower under this agreement.

Section 15. Prohibition Against Assignment

This agreement shall not be assignable by either party, but this shall not prevent the Financing Institution from granting to other financing institutions participations in the obligation, provided, however, that the Guarantor shall recognize and deal only with the Financing Institution.

Section 16. Officials Not to Benefit

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on their behalf by their duly authorized agents this _____ day of _____, 194_____.

[SEAL OF
FINANCING
INSTITUTION]

WAR DEPARTMENT OF THE UNITED STATES
NAVY DEPARTMENT OF THE UNITED STATES
UNITED STATES MARITIME COMMISSION

By Federal Reserve Bank of
As Fiscal Agent of the United States

By _____
(Name) (Title)

Attest:

(Financing Institution)

(Name)

(Title)

By _____
(Name) (Title)

EXPLANATORY NOTES

WITH RESPECT TO THE 1944 V-LOAN GUARANTEE AGREEMENT

1. The Guarantee Agreement is issued pursuant to the authority contained in the First War Powers Act, 1941, Executive Order 9112, the Act of June 11, 1942 (56 Stat. 351), the Contract Settlement Act of 1944, and other pertinent provisions of law.

2. Generally the Guarantee Agreement is to be used only in cases where a Borrower is engaged in war production and has a present need for funds to finance such war production. The Borrower may obtain termination protection to the extent that the Financing Institution agrees to permit borrowings against cancelled war production contracts. If a Borrower shows the need of borrowings for production purposes as well as for releasing working capital on terminated contracts or on the terminated portions of contracts, the borrowings will ordinarily be limited only by the loan formula and the maximum amount of the credit. Where a Borrower shows no need for borrowing for production purposes other than to purchase tax notes, V-Loan financing will not generally be made available.

3. The form of 1944 V Guarantee Agreement is to be standard in all cases. In appropriate circumstances, however, the definition of "war production contract" contained in section 1(K) may be varied after submission of the matter to Washington for approval. No other special provision or condition modifying the guarantee agreement will be permitted in any circumstances except after joint consultation between the guaranteeing agencies.

4. It is contemplated that there will usually be a Loan Agreement between the Borrower and the Financing Institution and that each Loan Agreement will contain a borrowing formula based upon war production contracts. The loan formula shall relate to unexpired war production contracts, or to both unexpired and expired war production contracts. In any case where the loan formula permits borrowings with respect to expired war production contracts, the loan may contain provisions substantially similar to the report and "paydown" provisions of Paragraphs 7(c) and 8 of the standard Termination Loan Agreement. The term "expired war production contracts", unless otherwise defined in the loan agreement, will include a war production contract *in its entirety* which has been terminated in whole or in part.

5. In general, whenever it is agreed to extend a guaranteed loan originally under the 1942 or 1943 form of guarantee agreement, the consent of the Guarantor to such extension will be given only if the Borrower and the Financing Institution agree to accept the 1944 V-Loan Guarantee Agreement. However, if upon maturity of such a loan the Borrower needs only a relatively short extension to complete his war production contracts or, if such a loan matures prior to January 1, 1945 and time is needed to arrange for refinancing, the Guarantor will generally agree to an extension without the adoption of the new form of guarantee agreement, provided that (1) the maturity of the loan is extended for a total period of not more than six months; (2) no substantial modifications are made in the terms of the loan (except modifications requested by the Guarantor); and (3) the Borrower agrees to forego the benefits of section 6 of the 1942 or 1943 form of guarantee agreement. In addition, in any case in which it deems it necessary, the Guarantor may permit an extension without the adoption of the new form of guarantee agreement for such period of time as may appear to be required in order to effect an orderly liquidation of the loan.

6. The fact that the 1944 V-Loan Guarantee Agreement form does not contain a provision analogous to Section 5 of previous V-Loan guarantee forms will be taken into consideration by the Services in negotiating the guaranteed percentage under the new form.

7. There is no provision in the 1944 V-Loan Guarantee Agreement form for suspension of maturity upon cancellation of war contracts. However, as appears from Note 2 above, the Borrower may obtain certain termination protection. Moreover, if, at the maturity of a loan, settlement of expired contracts has not been completed, the Services still have a responsibility under the Act to provide interim financing for the remainder of the settlement period.