

North Carolina State Board
of Cosmetic Art Examiners



STATE OF NORTH CAROLINA

COUNTY OF _____

GUARANTY BOND

Bond No _____

KNOW ALL PERSONS BY THESE PRESENTS THAT:

WHEREAS, _____

a school or college of beauty culture, or cosmetic art school, college, academy or cosmetic art training school seeks from the State Board of Cosmetic Art Examiners under North Carolina General Statutes (G.S. 88B-17); and

WHEREAS, the State Board of Cosmetic Art Examiners, under the authority delegated to it under G.S. 88B-17, has established a policy of requiring among its minimum standards for licensure that an institution which may apply to the said Board for a license to conduct post-secondary educational instruction activity in this State have adequate resources to provide a quality education, financial soundness, ability to fulfill commitments to students, and a fair and equitable student refund policy;

WHEREAS, the State Board of Cosmetic Art Examiners has established the policy that an institution seeking such licensure at least partially manifest its satisfaction of the aforesaid minimum standards by executing a bond of amount specified by the State Board of Cosmetic Art Examiners under an announced formula; and

WHEREAS, G.S. 88B-17, requires a surety Bond sufficient to provide indemnification to any student, or his or her parent or guardian, who has suffered loss of tuition by reason of the failure of the school to offer or complete student instruction, academic services, or other goods or services related to enrollment for any reason;

NOW, THEREFORE, _____
(institution)
hereinafter called "Principal", and _____,
hereinafter called "Guarantor", a corporation duly organized and existing under and by virtue of the laws of the State of _____ and authorized to transact business in the State of North Carolina, are held and firmly bound in the aggregate guaranty sum of dollars (_____) unto certain persons called "students" (or unto such other persons or agents as shall be legally of equitably entitled to the refunds herein contemplated), for the payment of a refund of all tuition, fees or parts thereof paid in advance by students to Principal as consideration for instruction, academic services, or other goods and services relative to course enrollment for which such students have contracted with Principal but not received nor been reimbursed by Principal. (For the purpose of the Guaranty Bond, the term "student" shall mean any person who has contracted with Principal for participation in post-secondary educational instruction activity provided by Principal in North Carolina, or his parent or guardian, or any lender who can demonstrate that he or it has loaned funds to finance the student's education and that such loan has not yet been repaid.)

THE CONDITIONS of this bond are:

1. Payments by students to Principal contemplated under this bond are all charges or fees that are institutionally required by Principal and prepaid by students as anticipatory compensation to Principal for providing to students instruction, academic services, and other goods and services related to course enrollment. Such payments include, but are not limited to, tuition, instructional materials fee, laboratory fee, library fee, and book fee.
2. If Principal shall well and faithfully perform its obligations to students by tendering and providing the instruction, academic services, and other goods and services related to course enrollment for which the respective students have contracted with Principal and for which advance payment has been made then in respect to each such student, this bond shall be null and void, otherwise to remain in full force and effect.
3. Whenever any student shall fail to receive the instruction, academic services, and other goods and services related to course enrollment for which advance payment has been made and for which such student has contracted with Principal, by reason of the failure of Principal to offer or complete such instruction, academic services, or other goods and services related to course enrollment for any reason (including the suspension, revocation, or nonrenewal of Principal's license to conduct post-secondary educational instruction activity, bankruptcy, foreclosure, or the school ceasing to operate), the student, or such other persons or agency, or agents as are legally or equitably entitled to the student's refunds herein contemplated, shall as condition precedent to claim under this bond make written demand of

Principal for reimbursement pro tanto to advance tuition or other fees paid for such unreceived instruction, academic services, or other goods and services related to course enrollment; provided, that no claim for a refund for Principal as condition precedent to claim under this bond nor any demand of Guarantor under this bond shall be made with respect to the quality of instruction, academic services, or other goods and services related to course enrollment that Principal may actually have provided.

4. If, after such written demand under Condition 3, hereinabove, Principal neglects or refuses to pay such refund for a period of 30 days, the student, or such other persons or agents as are legally or equitably entitled to said refund, may make written demand for said refund of Guarantor; and said Guarantor does hereby undertake to indemnify and to reimburse said student or such other person or agent legally or equitably entitled to such indemnity of refund. When a lender can demonstrate that he or it has loaned funds to finance the student's education and that the loan has not been repaid then the bond proceeds shall be paid to the lender and student jointly.
5. If, after such written demand under Condition 4 hereinabove, Guarantor neglects or refuses to pay such refund for a period of 60 days, the student, or such other person or agent legally or equitably entitled to said refund, may commence and maintain a civil action against Principal and Guarantor on this bond for recovery of the amount paid by but not refunded to the student as hereinbefore described, together with court costs, including a reasonable attorney's fee fixed by the court; but the liability of Principal and Guarantor

together to each claimant hereunder shall not exceed the total of the claimant's prepaid fee plus court costs, including reasonable attorney fees, incident to any civil action for reimbursement, to which the respective claimant may be legally or equitably entitled.

6. The aggregate liability of Guarantor as respects any and all claimants under this bond, inclusive of any court costs, shall in no event exceed the aggregate guaranty sum of this bond.
7. With respect to written demands made pursuant to Condition 4 hereinabove, Guarantor shall satisfy demands in the order that written demands have been received by Guarantor; provided, that written demands received by Guarantor on the same day shall be deemed of equal priority.
8. When used in this bond, the term "written demand" shall mean writing that includes at least: (1) the identity of the student with respect to whom the demand is made; (2) an itemization of the instruction, academic services, and other goods and services related to course enrollment for which written demand for refund is made; (3) evidence that payment had been made to Principal for the instruction, academic services, and other goods and services related to course enrollment that were contracted but not received by the student with respect to whom written demand is made; and (4) if claim is made by other than the enrolled student, documentation of legal or equitable entitlement to the student's claim for refund.
9. Guarantor agrees promptly to notify Principal of any written demand made against Guarantor under this bond; but presentation to Guarantor of written

demand of Principal that has continued to be unsatisfied for 30 days shall be prima facie a valid claim under this bond that , nothing else appearing, Guarantor is obligated to pay as provided herein and with respect to which Guarantor shall not be held liable to Principal.

10. With respect to civil actions for refunds pursuant to Condition 5 hereinabove that are reduced to judgment, the priority of such judgments shall be determined under the laws of North Carolina concerning priority of judgments.

11. In the event that Guarantor is required to indemnify any claimants hereunder, Guarantor shall be subrogated to all rights which would other wise accrue to Principal in respect thereto if paid by Principal.

12. The term of this bond shall begin on the _____ day of _____, _____ at noon, but shall be continued for annual periods upon payment of the premium required by the Guarantor.

13. The liability of guarantor shall be subject to termination by Guarantor at any time by giving 30 days written notice thereof currently to both Principal and to the State Board of Cosmetic Art Examiners by means of certified mail. Such notice shall state the date of intended cancellation, and Guarantor so filing such notice shall not be discharged from any liability already accrued under this bond or which may accrue hereunder before the expiration of the 30 days immediately preceding a proper and effective cancellation of this bond.

14. This bond shall be filed by Principal and with the Clerk of Superior Court of the county in which Principal's institution is located.

15. A copy of this bond shall be deposited by Principal in the Business Office of Principal's institution for viewing by anyone wishing to see it; and the location and accessibility of said copy of the bond shall be stated in the catalog of Principal's institution at that part of the catalog setting forth institutional refund policies.

16. No charge or waiver of any of the terms or conditions of this bond shall be valid as against Guarantor except by proper endorsement added hereto and duly executed by the duly appointed agents of Guarantor and Principal and of the State Board of Cosmetic Art Examiners.

17. Authority of an agent of Guarantor to execute this bond shall be manifest by attaching hereto an adequate Power of Attorney executed by Guarantor in favor of the agent.

IN WITNESS WHEREOF, Principal and Guarantor have caused this bond to be executed by their duly appointed agents.

This the _____ day of _____, _____.

PRINCIPAL:

(Seal)

BY: _____

GUARANTOR:

(Seal)

BY: _____

Attorney-in-fact

AFFIDAVIT AND ACKNOWLEDGMENT OF PRINCIPAL

I, _____, a Notary Public of
_____ County, North Carolina, hereby certify that
_____ personally appeared before me and
solemnly affirmed that he/she is the duly authorized agent of Principal
_____ for the purpose of executing this bond and
acknowledged his/her signature hereinabove.

Sworn to and subscribed before me, this the _____ day of _____,
_____.

My Commission expires _____.

(Seal)

Notary Public

AFFIDAVIT AND ACKNOWLEDGMENT OF GUARANTOR

I, _____, a Notary Public of
_____ County, North Carolina, hereby
certify that _____
personally appeared before me and solemnly affirmed that he/she is the duly authorized
agent of Guarantor _____ for purposes of executing
this bond, that said Guarantor is duly authorized to do business in the State of North
Carolina, and that all representations regarding Guarantor made in this bond are
acknowledged by said agent in His/her capacity to bind said Guarantor; and said agent
acknowledged his/her signature hereinabove.

Sworn to and subscribed before me, this the _____ day of _____,
_____.

My Commission expires _____.

(Seal)

Notary Public