Guarantees are Legal

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What is a Guarantee?
A guarantee is a written promise by you (the guarantor) that the person who is obtaining credit (the debtor or borrower) will keep to all the terms and conditions of their contract (the credit contract, or loan agreement). The guarantee means that if the person borrowing the money is unable to repay the loan then you, as the guarantor, will become legally liable to pay whatever is owed. Your guarantee may either be oral or written. A written guarantee is best because it will withstand any attacks, whereas an oral one is difficult to prove.

Who is a Guarantor?
The guarantor is the party who agrees to be responsible for the payment of someone else's debts. That is, you are the guarantor if you promise to repay a loan that the borrower of the money does not repay. The lender will usually ask for a guarantee when lending money especially if they think the borrower will have difficulty repaying the loan.

The guarantor makes the promise or guarantee to a creditor or lender so that the lender will have a certain amount of confidence in the deal because he/she will know that should the borrower not be in a position to repay the amount taken, the guarantor will take responsibility for it.

Most guarantees provide that the lender or creditor can call on the guarantor to pay the debt in full without requiring any payments from the borrower and without seeking any other normal remedies against the borrower.

Why ask for Guarantees?
People on low incomes and many young people, often find it hard to get a loan without having someone guarantee it. The lender may have doubts about the person's ability to repay the loan, especially if they are not in a good job or if they are not earning sufficient income to provide for the loan as well as their living costs. So the lender seeks a guarantor.

The lender will be happier arranging a loan if there is an adult guarantor with the means to meet the repayments should the borrower default. When you, as the guarantor, sign the contract of guarantee you will be agreeing to meet all the terms and conditions of the borrower's loan if the borrower stops paying.

It's a Legal Contract
Guaranteeing a loan is a contract and is therefore a legally binding arrangement between the parties. It is what as known as a contract to perform a promise or discharge liability (of the third person who is the borrower) in case of his/her default.

There are basically 3 parties involved:

The surety or guarantor.

The principle debtor or borrower.

The creditor or lender.

If you are guaranteeing a loan for a purpose, you can withdraw any time before the credit is approved. If you are called on to honour a guarantee you have given, the first thing you need to do is see a lawyer straight away. In any event you should not enter into any guarantee without getting advice, preferably from a lawyer or your accountant.

Guarantee in Writing
To be enforceable against you, the guarantee of another person's debt has to be in writing and must be signed by you.

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