

——兼评《最高人民法院关于适用〈中华人民共和国民法典〉
合同编通则若干问题的解释》第3条

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8	—			2022	3	11
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9	2020	01	725			
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14	2017	182		
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39 Wais, in Dannemann/Schulze, German Civil Code (BGB), § 154, Verlag C. H. Beck, 2020, p. 203.

40 Busche, in: Münchener Kommentar BGB, Band 1, 9. Aufl. 2021, § 154 Rn. 1.

41 Flume, Allgemeiner Teil des Bürgerlichen Rechts, Band 2, 4. Aufl. 1992, § 34, S. 634; Busche, in: Münchener Kommentar BGB, Band 1, 9. Aufl. 2021, § 155 Rn. 1.

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56	—	2022	2	150
57		2021	2	103
58	—	2022	2	150
59	2020	01		725
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65 Lissa Lamkin Broome, *Supergeneric Collateral Descriptions in Financing Statements and Notice Filing*, 46 *Gonzaga Law Review* 447, 452 (2010);

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On the Necessary Terms of Guarantee Contracts
—Commenting on Article 3 of the *Interpretation of the Supreme People’s Court
on Several Issues Concerning the Application of the General Provisions of the
Contract Part of the Civil Code of the People’s Republic of China*

LIU Lei

Through the contract loophole filling rules and the original *Interpretation on Contract Part in the Civil Code* of Article 3 established a unified enumeration of the necessary terms of the standard from the *Civil Code* in Article 684 of the enumeration of the necessary terms of the contract of suretyship must be filtered out only “the category and amount of the principal obligation secured by the suretyship”, but this is not all the necessary terms of the guarantee contract. The necessary terms of the guarantee contract can be divided into the objective necessary terms and subjective necessary terms. The objective necessary terms of the guarantee contract should include the guarantee mode and the main main creditor’s rights and debts terms. The former requires that it be clear that the party is providing security in the form of a guarantee, the latter need to clarify the identity of the main creditor and the main debtor, the type and amount of principal claims guaranteed. The subjective necessary terms of the guarantee contract, need to be based on whether either party has express or implied intention to guarantee the contract in addition to the objective necessary terms of the other provisions are also listed as necessary terms to judge.

Guarantee Contract; Necessary Terms; Main Creditor’s Rights and Debts; Type of Guarantee; Contractual Loophole