

Lender Participation Agreement
South Carolina State Small Business Credit Initiative Capital Access Program
(SC SSBCI CAP – loans \$5,000,000 and under)

This Agreement is entered into this _____ day of _____, 20__ by and between the Business Development Corporation of South Carolina (BDC), specially chartered by The State of South Carolina (State) and _____, _____, a _____, whose address is _____ (the "Lender"). (EIN#: _____)

Legislative Authority

WHEREAS, pursuant to Small Business Jobs Act of 2010 (Act), the Act was created to provide, among other things, loan insurance for participating Financial Institutions that originate loans to Small Businesses; and

WHEREAS, the Lender desires to participate in South Carolina's Federally funded Capital Access Program (SC SSBCI CAP) and to enroll loans made to small businesses for coverage under SC SSBCI CAP, also known as the Program; and

WHEREAS, Business Development Corporation in its capacity as Custodian for the State with respect to the administration of the SC SSBCI CAP, and the Lender desire to set forth the terms and conditions on which the Lender shall participate in the Program and enroll loans there under.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

In addition to the words and terms defined elsewhere in the Agreement, each of the following words and terms as used in the Agreement shall have the following meaning unless the context or use indicates another or different meaning or intent, and such definition shall be equally applicable to both the singular and plural forms of the terms as the content may require:

"Borrower" means the recipient of a loan that has been enrolled in the Program or will be filed by the Lender for enrollment in the Program under Article IV hereof.

“Business Purpose” includes, but is not limited to, start up costs, working capital, business acquisitions, franchise financing, equipment loans, inventory financing, commercial real estate acquisitions, construction and expansion.

“Claim” means any claim filed by the Lender pursuant to Section 5.3.

“Early Loan” means any Enrolled Loan where the date of the note of the Enrolled Loan is two years or less from the date of the execution of this Agreement by the Lender.

“Eligible Loan” means a loan made by the Lender to a Borrower for which the representations and warranties set forth in Section 2.2 are true.

“Enrolled Loan” means a loan enrolled in the Program pursuant to the terms of Article IV hereof.

“Financial Institution” means any insured depository institution, insured credit union, or community development financial institution (CDFI).

“Lender” means any insured depository institution, insured credit union, or community development financial institution (CDFI) as referred to as Lender in the opening recital of this document.

“Lender Premium” shall have the meaning ascribed to such term in Section 5.1 hereof.

“Matching Premium” shall have the meaning ascribed to such term in Section 5.1 hereof.

“Passive Real Estate Ownership” means ownership of real estate for the purpose of deriving income from speculation, trade or rental, except that such term shall not include (i) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate or (ii) ownership of real estate for the purpose of construction or renovation, until the completion of such construction or renovation.

“Reserve Fund” means an administrative account maintained in the name of and under control of BDC as custodian for the State to account for funds accumulated pursuant to this Agreement to cover losses sustained by the Lender on Enrolled Loans.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by BDC. BDC currently operates the South Carolina Capital Access Program (SC CAP) which differs from this Program primarily by loan size. This Program includes loans \$5,000,000 and less as compared to the SC CAP which includes loans of \$100,000 and less. The two programs are both run by BDC and separate Lender Participation Agreements are required with each program. This Agreement is only for the SC SSBCI CAP.

With respect to any Enrolled Loan under this Agreement, BDC makes the following representations and warranties as of the time of its enrollment:

(a) BDC was established under the provisions of Chapter 37 of Title 33 of the Code of Laws of South Carolina and

(b) BDC is acting as custodian for South Carolina pursuant to a contract between BDC and SC Jobs Economic Development Authority (JEDA) in order to comply with the requirements of SC SSBCI CAP as provided for in the Small Business Jobs Act of 2010.

(c) The funding for this Program has been or will be received by BDC from the State Small Business Credit Initiative (SSBCI) through the Small Business Jobs Act of 2010.

Section 2.2. Representations by the Lender. With respect to each loan that the Lender files for enrollment in the Program pursuant to Article IV (a "Filed Loan"), the Lender makes the following representations and warranties as of the time of such filing:

(a) The Lender has obtained from the Borrower the following representations, warranties and assurances and, based on knowledge that the Lender has, the Lender has no reason to believe that such representations and warranties are not true:

(i) The Borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity that carries on a business activity for profit or non-profit. For purposes of this Program, a small business shall mean a business that must have 500 employees or less and the loan cannot exceed \$5,000,000 and the business has a principal place of business within the State of South Carolina.

(ii) The proceeds of the Filed Loan will be used by the Borrower for Business Purposes predominantly within the State of South Carolina.

(iii) The Borrower is not an executive officer, director, or principal shareholder of the Lender or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of any such executive officer, director, principal shareholder or member of the immediate family. For purposes of this provision, the terms "executive officer", "director", "principal shareholder",

“immediate family”, and “related interest” shall refer to the same relationship to the Lender, whether or not the Lender is a member bank, as the relationship specified for those terms in connection with member banks in Part 215 Title 12 of the Code of Federal Regulations, including amendments of such Part 215 which may be made from time-to-time.

(v) The aggregate principal amount of all Enrolled Loans to the Borrower from the Lender and any Affiliate of the Lender (including the Filed Loan) do not exceed \$5,000,000

(b) The Lender further represents, warrants and affirms as follows:

(i) That the Lender has received from the Borrower a written representation, warranty and waiver in the form set forth in Exhibit A stating that Borrower has no legal, beneficial or equitable interest in the non-refundable premium charges or any other funds credited to the Reserve Fund established to cover losses sustained by the Lender on Enrolled Loans.

(ii) The loan has not been made in order to place under the protection of the approved state CAP prior debt that is not covered under the approved state CAP and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender.

(iii) The loan is not a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender.

No principal of the financial institution lender has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purpose of this certification, “principal” is defined as “if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.”

(iv) That the Lender has disclosed to the Borrower the information concerning the Program set forth on Exhibit B hereto, or such modified exhibit as may be specified by BDC from time-to-time upon written notice to the Lender.

(v) That the Lender has complied with all federal and state laws, rules and regulations pertaining to the making of the Filed Loan.

(vi) That Lender is a “financial institution” as defined in Article I.

Article III

ESTABLISHMENT OF THE RESERVE FUND

Upon execution of this Agreement, BDC shall establish an administrative deposit account in the name and under the control of BDC for the purpose of receiving all Lender Premiums, the “Reserve Fund”.

Article IV

Section 4.1. A Filed Loan may be made with such interest rate, fees, and other terms and conditions as the Lender and Borrower may agree. In the event a Filed Loan is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn down under such line of credit.

Section 4.2. In order to enroll a loan in the Program, the Lender shall, within ten (10) days after the day the Lender makes the Loan, file the loan for enrollment by delivering to BDC the following:

(a) A copy of Exhibit C, or such modified exhibit as may be specified by BDC from time-to-time in writing to the Lender, in completed form and bearing an execution signature of an authorized officer of the Lender.

(b) The Lender Premium due in accordance with Section 5.1.

For the purposes of this Agreement, the date on which the Lender makes a loan shall be deemed to be the date on which the loan documents relating to the loan are executed. For the purposes of the Agreement, the Filing of a loan for Enrollment shall be deemed to occur on the date the documentation required by this Section is received by BDC.

Section 4.3. Upon receipt by BDC of the documentation identified in Section 4.2 hereof, BDC shall (i) enroll the loan unless the information provided pursuant to Section 4.2 indicates that the loan is not an Eligible Loan, and (ii) mail, email, or otherwise deliver to the Lender, within five (5) business days of such receipt, an acknowledgement that the loan has been Enrolled and that a Matching Premium has been credited to the Reserve Fund.

Section 4.4.

(a) In the event that an Enrolled Loan is refinanced, and the total amount to be covered under the Program does not exceed the covered amount of the loan that was previously enrolled, the loan, as refinanced, may continue as an Enrolled Loan, and there shall be no additional Lender Premium or Matching Premium due on account of such refinanced loan. For the Enrolled Loan to continue as an Enrolled Loan, Lender must deliver to BDC a new Enrollment Form indicating the Original Loan amount, the Original Account Number, the New Loan Amount and the New Account Number.

(b) If the refinancing of an Enrolled Loan under this Section results in the outstanding balance of an Enrolled Loan being increased, for purposes of this Agreement, the Lender and BDC will treat this loan as a new transaction.

Section 4.5. For the purposes of this Agreement, fluctuations in the outstanding balance of a line of credit, without increasing the covered amount under the Program, shall not be deemed to be a refinancing of the loan.

Section 4.6. If the outstanding balance of an Enrolled Loan which is not a line of credit is reduced to zero, such loan shall no longer be considered an Enrolled Loan. If an Enrolled Loan which is a line of credit has an outstanding balance of zero for a twelve (12) month period, such line of credit shall no longer be considered an Enrolled Loan, unless before the expiration of the twelve (12) month period, the Lender has reaffirmed in writing to the Borrower that the line of credit will remain open, and the Borrower has acknowledged in writing such reaffirmation.

ARTICLE V

USE OF THE RESERVE FUND

Section 5.1. Payments and Transfers to the Reserve Fund. The premium charges payable to the Reserve Fund by the Lender and the Borrower in connection with a loan being filed for enrollment with BDC pursuant to Section 4.2 shall be prescribed by the Lender provided that (i) the amount paid by the Borrower shall not be less than 1.0% or greater than 3.5% of the amount of the loan and (ii) the amount paid by the Lender shall be equal to the amount paid by the Borrower. The Lender may recover from the Borrower the cost of the Lender's payment hereunder in any manner agreed to by the Lender and the Borrower. Such premium charges of the Lender and Borrower are referred to herein collectively as the "Lender Premium".

With respect to each loan enrolled by the Lender in the Program pursuant to this Agreement, if funds have been provided to BDC by the State for purposes of

creating reserve funds with financial institutions that participate in the Program then, to the extent such funds remain available, BDC shall transfer into the Reserve Fund at or about the time such loan is so enrolled an amount equal to one hundred percent (100%) of amount paid into the Reserve Fund by Borrower and Lender which shall be referred to as the "Matching Premium".

In connection with a loan which the Lender anticipates will become an Enrolled Loan, if the Lender wishes to assure itself that allocated funds are available to enable BDC to transfer into the Reserve Fund the Matching Premium that will be due in accordance with this Section, the Lender may obtain a reservation from BDC of the appropriate amount, in accordance with procedures specified by BDC. Such reservation may be obtained before or after the Lender enters the contract for the loan, and shall be binding on BDC if BDC receives the documentation identified in Section 4.2 with respect to such loan within ninety (90) days after the date of the reservation.

Section 5.2. Control of Reserve Fund. All funds credited to the Reserve Fund shall be in the name and under the control of BDC. BDC may not withdraw funds from the Reserve Fund except as is specifically provided for in this Agreement and the Act.

Section 5.3. Claims by Lender to Reserve Fund. If the Lender charges off all or part of an Enrolled Loan, the Lender may file a Claim with BDC by submitting a completed claim form in the form attached hereto as Exhibit D, or such modified exhibit as may be specified by BDC, bearing the execution signature of an authorized officer of the Lender. Any Claim that is filed hereunder shall be filed contemporaneously with the action of the Lender to charge off all or part of the loan.

Lender's Claim may include in addition to the amount of principal and up to 6 months accrued interest charged off, an amount which represents its out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral so long as the total amount of the Claim does not exceed the principal amount covered under the Program upon enrollment.

With respect to each Enrolled Loan, the Lender shall determine when and how much of such loan to charge off in a manner consistent with its normal method for making such determinations on business loans that are not Enrolled Loans.

If the Lender files two (2) or more Claims contemporaneously, and if there are insufficient funds in the Reserve Fund at that time to cover the entire amounts of such Claims, the Lender may designate the order of priority in which BDC shall pay such claims in accordance with Section 5.4.

Section 5.4. Disbursement of Reserve Fund.

(a) Upon receipt by BDC of a Claim filed by the Lender in accordance with Section 5.3, BDC shall promptly pay, from funds in the Reserve Fund, such Claim as submitted, except that BDC may reject a Claim when the representations and warranties provided by the Lender in Section 2.2 hereof were known by the Lender to be false at the time the loan was filed for enrollment.

(b) If there are insufficient funds in the Reserve Fund to cover the entire amount of any Claim, BDC shall pay to the Lender an amount equal to the current balance in the Reserve Fund (a "Partial Payment") and the following shall apply:

(i) If the Enrolled Loan for which such Claim has been filed is not an Early Loan, such Partial Payment shall be deemed to fully satisfy such Claim, and the Lender shall have no other or further right to receive any amount from the Reserve Fund with respect to such Claim.

(ii) If the Loan is an Early Loan such Partial Payment shall not be deemed to be in full satisfaction of such Claim, and subsequent Lender Premiums on Enrolled Loans with note dates of two years or less from the date of this agreement will be paid to Lender until the Claim has been satisfied.

Section 5.5. Recovery by Lender Subsequent to Claim. If subsequent to payment of a Claim by BDC the Lender shall recover any amount with respect to the loan for which payment of the Claim was made, the Lender shall promptly pay to BDC for deposit in the Reserve Fund such amount as is recovered, less any out-of-pocket expenses incurred in connection with such recovery, but in any event only to the extent that such net recovery exceeds the Lender's loss on such loan after taking into account payment of such Claim and any prior net recoveries with respect to such loan. The Lender shall retain documentation in its file evidencing any such out-of-pocket recovery expenses.

For the purposes of this Section and Section 5.6, the Lender's loss on an Enrolled Loan shall include any losses on the loan involving principal, not more than six months accrued interest thereon, and documented out-of-pocket collection expenses. However, in no event will the lender be allowed to recover an amount greater than the original principal amount Enrolled on the loan.

Section 5.6. Subrogation

(a) If the payment of a Claim pursuant to Section 5.4 has fully covered the Lender's loss on an Enrolled Loan, or if the payment of a Claim pursuant to Section 5.4 when combined with any recovery from the Borrower has fully covered the Lender's loss, BDC, upon its request, shall be subrogated to the rights of the Lender with respect to any collateral security or other right of recovery in connection with the loan which has not been realized upon by the

Lender. The Lender thereafter shall assign to BDC any right, title or interest to any collateral, security, or other right of recovery in connection with the loan. If such assignment has been made, BDC shall not be required to undertake any obligations directly related to the exercise by BDC of its assigned rights of recovery in connection with the loan. The Lender agrees that it will fulfill any other obligations it may have under the loan documents in the same manner and to the same degree as required had the assignment not been made. The Lender shall provide BDC with all reasonable assistance thereafter as BDC may request in proceeding with respect to any such collateral, security or other right of recovery, except that such reasonable assistance shall not require the Lender to incur any out-of-pocket expenses. Any funds received by BDC as a result of enforcement actions taken with respect to any such collateral, security or other right of recovery shall be promptly deposited by BDC in the Reserve Fund, less any out-of-pocket expenses incurred by BDC in taking such enforcement actions.

(b) Notwithstanding any other provision of this Agreement, BDC shall not exercise its right of subrogation unless BDC determines, in its sole discretion, that the Lender has not exercised reasonable care and diligence in its collection activities with respect to the loan, or that there is a reasonable basis for believing that the Lender will not exercise such reasonable care and diligence in the future with respect to such collection activities.

(c) If BDC determines that it desires to exercise its right of subrogation in connection with an Enrolled Loan, and would be entitled to exercise such right except for the fact that the Lender's loss has not been fully recovered, BDC at its option, may pay, from funds in the Reserve Fund, an amount sufficient to result in the Lender's loss on its covered principal being fully covered. Upon making such payment pursuant to this subsection, BDC shall be subrogated to the rights of the Lender in accordance with Section 5.6(a) hereof.

ARTICLE VI

WITHDRAWAL OF EXCESS RESERVE FUNDS

Section 6.1. The Lender shall file an annual report with BDC listing all Enrolled Loans including the Loan Number, Borrower Name, Original Amount, Current Balance, Current Interest Rate, Date of the Note, Payment Status, Maturity Date, and the aggregate outstanding balance of all Enrolled Loans as of the annual reporting date specified by BDC. This report will be due to BDC on the first business day of the second month after the annual reporting date specified by BDC. (Example: If the annual reporting date is June 30, then the due date for the report would be August 1.) Such report shall not be required if the balance in the Reserve Fund as of that date is zero. In computing the aggregate outstanding balance of all Enrolled Loans, the balance of any Enrolled Loan shall in no event be considered to be greater than the original amount of such Enrolled Loan.

If (i) reports filed pursuant to this Section 6.1 indicate that for the immediately preceding twenty-four (24) month period the balance in the Reserve Fund continually exceeded the aggregate outstanding balance of all Enrolled Loans, or, (ii) the Lender shall notify BDC that it does not intend to enroll new loans under the Program, then BDC may withdraw from the Reserve Fund, on or before the last day of the month in which the most recent annual report was due, an amount not greater than the amount by which the Reserve Fund balance exceeded the aggregate outstanding balance of all Enrolled Loans as of the most recent report, unless (in the case of a withdrawal pursuant to clause (i)) the Lender has provided to BDC adequate documentation that at some time during such twenty-four (24) month period, the aggregate outstanding balance of all Enrolled Loans exceeded the balance then in the Reserve Fund. Any funds so withdrawn shall be held by BDC as custodian and on behalf of the State and may be used to fund the Matching Premium on loans Enrolled by any of the participants in the program.

Section 6.2 If such report as required in Section 6.1 is not filed within thirty (30) days of its original due date, BDC shall be entitled to withdraw from the Reserve Fund, based on BDC's determination from an inspection of the Lender's files pursuant to Section 9.3, an amount not greater than the amount by which the Reserve Fund balance exceeded the aggregate outstanding balance of all Enrolled Loans as of the date for which such report was required to be filed.

ARTICLE VII

WITHDRAWALS BY BDC

In accordance with the Act, BDC is permitted to withdraw from the Reserve Fund up to 5% of the first 33% advance of allocated funds for SC made by the US Treasury and up to 3% of future advances of allocated funds for SC made by the US Treasury. The purposes of these withdrawals is to cover BDC's expenses incurred for the administration of the program.

ARTICLE VIII

TERMINATION

Section 7.1 BDC may in its sole discretion terminate this Agreement. Such termination shall be applicable on the effective date specified in the notice of termination, except that such termination shall not apply to any loan which is made on or before the date on which the notice of termination is received by the Lender. However, if BDC is terminating the enrollment of loans not merely for the Lender but instead for all participating lenders under the Program, BDC shall

provide notice of at least ninety (90) days to the Lender. Any terminations under this Section shall be prospective only, and shall not apply to any loans previously enrolled under the Program, except that if a previously Enrolled Loan is refinanced, the amount covered under the Program shall not be increased beyond the covered amount as previously enrolled.

Section 7.2 Subsequent to a termination pursuant to Section 7.1 hereof, if the balance of the Reserve Fund is reduced to zero, this Agreement shall automatically terminate.

ARTICLE VIII

PLEDGE OF THE RESERVE FUND

BDC agrees that the funds in the Reserve Fund from time-to-time will be made available to pay Claims pursuant to Section 5.4, and BDC will not encumber or pledge the funds to any other party. Nothing contained herein is intended to diminish the control of the Reserve Fund granted to BDC in Section 5.2 or shall affect the rights of BDC to withdraw funds from the Reserve Fund pursuant to Section 5.2 or Article VI. Any funds withdrawn from the Reserve Fund by BDC in accordance with this Agreement shall no longer be subject to the agreement provided in the first sentence of this Article VIII.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Amendments to Agreement. BDC may, upon at least forty-five (45) days notice to the Lender, amend any provision of this Agreement. However, in the absence of the consent of the Lender, no such amendment shall be applicable to loans made prior to the effective date of the amendment, and no such amendment shall diminish Lender's rights with respect to funds in the Reserve Fund as of the effective date of the amendment.

Section 9.2. Information The Lender shall provide BDC with such information regarding its participation in the Program as BDC may reasonably request.

Section 9.3. Inspection of Files Upon notice to the Lender, BDC may inspect the files of the Lender relating to any loans enrolled under the Program during normal business hours of the Lender.

Section 9.4. Compliance with Applicable Law The Lender shall comply with all applicable federal and state laws, rules and regulations.

Section 9.5. Limitation of Rights This Agreement shall be for the exclusive benefit of the Lender and BDC, and shall not be construed to give any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to the Agreement.

Section 9.6 Severability If any clause, provision or section of this Agreement is held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.

Section 9.7 Notices All notices, certificates, requests or other communications hereunder shall be sufficiently given when delivered by messenger, by professional courier service or by registered or certified mail postage prepaid, return receipt, addressed as follows:

If to BDC:

Business Development Corporation of SC
111 Executive Center Drive
Suite 225, Enoree Building
Columbia, SC 29210

If to Lender:

Section 9.8. Binding Effect This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

Section 9.9 Reports of Regulatory Agencies The Lender hereby consents to the transmittal to BDC by any financial institution's regulatory agency of the federal or state governments, any information directly relating to the Lender's participation in the Program. Except as required by law, BDC shall hold any information acquired pursuant to this Section strictly confidential.

Section 9.10. No Personal Liability No member, officer or employee of the Business Development Corporation shall be liable personally under this Agreement or subject to any personal liability for any reason relating to the execution of this Agreement or the Program.

Section 9.11. Collateral. Except upon the exercise of BDC's right of subrogation as set forth in Section 5.6, BDC shall have no legal or equitable interest in any collateral, security, or other right of recovery in connection with any Enrolled Loan, and accordingly BDC's consent is not necessary for any amendment to the documents or agreements between the Lender and the Borrower relating to such loan. This Section shall not be construed to modify any obligation of the Lender to make payments to the Reserve Fund pursuant to Section 5.5.

Section 9.12. Reasonable Care and Diligence. Within the context of the objectives of the Program, the Lender agrees to exercise reasonable care and diligence in the making and collection of loans under the Program.

Section 9.13 Captions The captions in this Agreement are for convenience only and in no way define, limit or describe the scope of intent of any provisions or sections of this Agreement.

Section 9.14. Interpretation This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Carolina.

Business Development Corporation,
as Custodian for the
State of South Carolina

By _____
Name
Title:

Lender

By _____
Name
Title:

SOUTH CAROLINA STATE SMALL BUSINESS CREDIT INITIATIVE CAPITAL
ACCESS PROGRAM (SC SSBCI CAP)

EXHIBIT A

BORROWER'S REPRESENTATIONS REGARDING RESERVE FUND

The undersigned borrower (the "Borrower") acknowledges and understands:

- (a) that the loan to be made by _____^{*},
_____ ,

will be filed for enrollment by the Lender in the SC SSBCI CAP (the "Program"), a program funded by the Small Business Jobs Act of 2010 and established by the State of South Carolina and administered by the Business Development Corporation as custodian for the State of South Carolina;

(b) that the purpose of the Program is to assist the Lender in making loans that might otherwise not qualify for a loan from the Lender;

(c) that as a condition of having the loan filed for enrollment in the Program, the Borrower is required to pay a non-refundable premium charge to an administrative account called the Reserve Fund, which Reserve Fund has been established in accordance with the Program to help cover losses that the Lender may sustain on loans enrolled in the Program; and

(d) that the Borrower's payment of its non-refundable premium charge will be collected by the Lender for transmittal to the Reserve Fund, and that other payments or transfers will be made to the Reserve Fund by the Lender and BDC.

The Borrower further represents and gives assurance and affirms that:

- (a) The loan proceeds must be used for a "business purpose." A business purpose includes, but is not limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities; and lobbying activities as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
- (b) The loan proceeds will not be used to:

- (i) repay delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant taxing authority; or
 - (ii) repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
 - (iii) reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
 - (iv) purchase any portion of the ownership interest of any owner of the business.
- (c) The borrower is not:
- (i) an executive officer, director, or principal shareholder of the financial institution lender; or
 - (ii) a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lenders; or
 - (iii) a related interest of an such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three borrower restrictions, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

- (d) The borrower(1) is not:
- (i) a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or

(1) Note: Permissible borrowers include state-designated charitable, religious, or other non-profit or eleemosynary institutions, government-owned corporations, consumer and marketing cooperatives, and faith –based organizations provided the loan is for a “business purpose” as defined in Lender Participation Agreement Article 1.

- (ii) a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company certified as a Community Development Financial Institution; or
 - (iii) a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
 - (iv) a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or
 - (v) a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.
- (e) No principal of the borrowing entity has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, "principal" is defined as "if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity."
- (f) The borrower authorizes the Lender to report to BDC certain loan information as the BDC may reasonably require.

The Borrower acknowledges the foregoing and hereby represents and warrants that it has no, and has not been promised or told by anyone that it has any, legal, beneficial or equitable interest in the aforementioned non-refundable premium charges or any other funds credited to the Reserve Fund, and hereby waives any right, claim or interest to any and all such funds paid or credited to the reserve Fund from time to time.

OWNERSHIP (%): Male
 Female

RACE: American Indian or Alaska Native
 Asian
 Black or African-American
 Native Hawaiian or Pacific Islander
 White

ETHNICITY: Hispanic or Latino
 Not Hispanic or Latino

VETERAN STATUS: Veteran
 Non-Veteran

DISABLED BORROWER: Yes, No

Name of Borrower: _____

Primary Business Activity: _____

Current Annual Sales: _____

Total Employees: _____ Total South Carolina Employees: _____

Anticipated Jobs Created by this Loan: _____

Anticipated Jobs Retained by this Loan: _____

Authorized Signature: _____ Title: _____

Print Name: _____ Date: _____

SOUTH CAROLINA STATE SMALL BUSINESS CREDIT INITIATIVE CAPITAL
ACCESS PROGRAM (SC SSBCI CAP)

EXHIBIT B

NOTICE TO BORROWER

This notice is provided to Borrowers who may receive a loan from a Lender under the SC SSBCI Capital Access Program of the State of South Carolina.

The purpose of this program is to assist Lenders to make loans that might otherwise not qualify for a loan from a financial institution. The program utilizes a special loss reserve to assist the Lender in covering losses from a portfolio of loans that a Lender makes under the program. The Borrower pays a premium charge to the reserve, which is matched by a Lender premium payment to the reserve. The Business Development Corporation, as custodian for the State of South Carolina, will then match the combined total of the Borrower's payment and Lender's payment.

It is important to emphasize that the loan is a private transaction between the Lender and the Borrower. While the program may assist a Lender in being able to take more risk than normal, it is important to understand that it is still the Lender that is bearing the risk of the loan. Neither the Business Development Corporation nor the State of South Carolina is a party to the loan and neither plays any role at all in the Lender's decision regarding whether or not to make the loan, or in the setting of the interest rate, fees, duration, or any other terms or conditions of the loan. The Lender's rights and remedies are delineated in the loan contract and in law applicable to any financing from such financial institution. Neither the Business Development Corporation nor the State of South Carolina plays any role in any decision by the Lender with respect to enforcing the Lender's rights under the loan contract.

While the program is intended to assist the Lender in providing you with access to financing, you should understand that it is likely to be more expensive for the Borrower than would be the case with a conventional loan. Not only does the Borrower make a payment to the reserve, but it is expected that the Lender may, in some manner, recover from the Borrower the costs of the Lender's payment into the reserve.

EXHIBIT C



Business Development Corporation of South Carolina
111 Executive Center Drive, Suite 225
Columbia, South Carolina 29210
Phone (803) 798-4064
Fax (803) 798-1224

**SOUTH CAROLINA SMALL BUSINESS CREDIT
INITIATIVE CAPITAL ACCESS PROGRAM
SC SSBCI CAP)**

LOAN FILING FORM

Lender Information:

Name of Lender: _____

Loan Officer Information:

Name: _____

Position: _____

Street: _____

City, State, Zip: _____

Phone: (____) _____

Fax: (____) _____

E-mail Address: _____

Borrower Information:

Company Name: _____

Contact: _____

Street: _____

City, State, Zip: _____

County Business Located in _____

Date Business Incorporated: _____

Phone: (____) _____

Fax: (____) _____

E-mail Address: _____

Borrower Information (continued):

NAICS Code: _____

No. of Current Employees: _____

Est. of Jobs Created: _____

Est. of Jobs Retained: _____

Total Capital Invested
(Including this loan) _____

Annual Sales: \$ _____
(Estimate for Start-up)

Check if Applicable: Woman-owned Business (51% or more)
 Minority-owned Business
 Disabled Borrower

Loan Information:

Lender Loan No.: _____

Loan Amount: \$ _____
(Max \$5,000,000)

Borrower's Reserve Pmt: _____ % \$ _____
(Min 1 %, Max 3 ½ %)

Lender's Reserve Pmt: _____ % \$ _____
(Min 1 %, Max 3 ½ %)

Loan Type (check one): Term () Line ()

Maturity (Months): _____

Interest Rate (APR) _____

Date of Loan: _____

Fill Out the Following Items ONLY IF REFINANCING A SC SSBCI CAP LOAN

Original Amount of Loan Enrolled:
\$ _____

Refinanced Amount of Loan Enrolled:
\$ _____

Original Loan Number:
\$ _____

Refinanced Loan Number:
\$ _____

In filing this loan for enrollment, the Lender makes the representations and warranties specified for the Lender in Section 2.2 of the Agreement between the Lender and the Business Development Corporation as custodian for the State of South Carolina. The principal amount of the loan to be filed does not exceed five million dollars (\$5,000,000) and the borrower employs 500 or fewer employees. Lender certifies that to the best of his or her knowledge, all of the Borrower's representations included in Exhibit A are true and accurate.

Authorized Signature: _____

Date: _____

BDC USE ONLY:

Senate District No: _____ House District No: _____

COG Name: _____

CDFI Classification: _____

Date Reserve Payments Received by BDC: _____

Census Tract: _____

Processed by: _____

**Business Development Corporation of South Carolina
PO Box 21823
Columbia, SC 29221**

**SOUTH CAROLINA STATE SMALL BUSINESS CREDIT INITIATIVE CAPITAL
ACCESS PROGRAM (SC SSBCI CAP)**

Ph: 803.798.4064
Fax: 803.798.1224

EXHIBIT D – STANDARD CLAIM FORM

Lender Information:

Name of Lender: _____

Name of Borrower: _____

Reserve Account #: _____

Lender Loan #: _____

Claim Filed By:

Name: _____

Position: _____

Street: _____

City, State, Zip: _____

Phone: (____) _____

Fax: (____) _____

Outstanding Balances Immediately Prior to Charge-Off (*Note: You Must Attach Documentation of Out-of-Pocket Expenses and a Copy of Lender's Charge-Off Authorization*):

Principal: \$ _____

Accrued Interest (6-mos.max): \$ _____

Out-of-Pocket Expenses: \$ _____

Total Claim Amount: \$ _____

Date of Loan Charge-Off: \$ _____

Authorized Signature: _____

Date: _____