

**Collateral Support Program  
Certificate and Agreement of Borrower  
Between  
Lender and Borrower**

In consideration of the making of the Loan (the "Loan") by \_\_\_\_\_ ("Lender") to \_\_\_\_\_ as borrower (the "Borrower") under the Small Business Collateral Support Program ("CSP") within the State Small Business Credit Initiative Program ("SSBCI") of the U.S. Department of the Treasury ("Treasury") administered by the Idaho Housing and Finance Association ("IHFA") for the State of Idaho, the Borrower is giving this certificate and making the covenants and agreements herein. The undersigned has the requisite authority and power to sign below on behalf of the Borrower, and Borrower acknowledges, and accepts, the terms and conditions set forth in the Collateral Deposit Agreement (the "Collateral Deposit Agreement") between IHFA and the Lender, which Borrower has reviewed and acknowledges, consents to, and the Lender Participation Agreement ("Lender Participation Agreement") affirms all the terms and conditions therein. In addition, Borrower makes the following representations, warranties and covenants:

1. **Idaho Operations.** If applicable, the Borrower is duly organized (for-profit), validly existing and in good standing under the laws of the state under which the Borrower is organized and if the Borrower is not organized under the laws of the State of Idaho, the Borrower is qualified to do business in the State of Idaho. So long as any portion of the Loan is outstanding, the Borrower shall maintain substantially all of its employees for the project being financed (exclusive of sales staff) or operations for the project within the State of Idaho. Also, the Borrower is an Eligible Borrower as defined for purposes of the Collateral Deposit Agreement and the related Lender Participation Agreement.
2. **Criminal and Civil Matters.** Neither the Borrower nor or any of its affiliates, subsidiaries, officers, directors and any person who, directly or indirectly, holds a pecuniary interest in the Borrower of 20% or more: (i) have any criminal convictions incident to the application for or performance of a state contract or subcontract, and (ii) have any criminal convictions or have been held liable in any civil proceeding that negatively reflects on the person's business integrity, including without limitation, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or violation of state or federal antitrust statutes. Also, the Borrower is not in material violation of any federal or state law, judgment, decree, order, or governmental rule or regulation.
3. **Borrower Size.** Borrower currently expects not to have more than 100 employees.
4. **Business Purpose.** The Loan is an Eligible Loan under the Collateral Deposit Agreement. Further, 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.
5. **Prohibited Use of Loan.** The loan proceeds will not be used:
  - (a) for any impermissible purpose under the CSP, including without limitation any impermissible purposes set forth in Sections 3(n), (3)(p) and 4(a)(vii);
  - (b) to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or Local Government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or Local Government contract, grant, loan or cooperative agreement as such terms are defined in 31 U.S.C. §1352;
  - (c) to repay delinquent Federal or State income taxes unless the borrower has a payment plan in place with the relevant taxing authority;

- (d) to repay taxes held in trust or escrow, e.g. payroll or sales taxes;
- (e) to reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
- (f) to purchase any portion of the ownership interest of any owner of the business.

6. **Borrower Affiliations.** The Borrower is not:

- (a) an executive officer, director, or principal shareholder of the Lender;
- (b) a member of the immediate family of an executive officer, director, or principal shareholder of the Lender; or
- (c) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of the above 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.

7. **Borrower Business.** The Borrower is not:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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
- (e) a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

8. **No Conviction of Sex Offense.** No principal of the Borrower 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".

9. **CSP Reporting.** The Borrower shall cooperate with the Lender, IHFA, and any of their representatives, and provide the following information:

- (a) the census tract and zip code of the Borrower's principal location in the State of Idaho;

- (b) the Lender's Employer Identification Number (EIN);
- (c) the total principal amount of each such Loan loaned/authorized as a line of credit, and of that amount, the portion that is from non-private sources;
- (d) the date of the initial disbursement of the Loan;
- (e) the Borrower's annual revenues in its last fiscal year;
- (f) the Borrower's Full Time Equivalent employees;
- (g) the 6-digit North American Industry Classification System (NAICS) code for the Borrower's industry;
- (h) the year the Borrower was incorporated or, as applicable, organized;
- (i) the estimated number of jobs created or retained as a result of each Loan;
- (j) the amount of additional private financing occurring for or on behalf of the Borrower after the closing of the Loan documents; and
- (k) as may be requested by IHFA from time to time, any other information from time to time required by IHFA or under the CSP, including any rules, guidelines and regulations, which may be promulgated, or amended thereunder.

which shall be provided by the Borrower to the Lender and to IHFA and the State of Idaho as requested to provide reports and any other information required from time to time under the CSP, including any rules, guidelines and regulations which may be promulgated, or amended from time to time.

- 10. **Minority or Women Owned business Enterprises.** The Borrower [\_\_\_\_\_] is [\_\_\_\_\_] is not a Minority or Women Owned Business Enterprise as defined in the Lender Participation Agreement.
- 11. **No Interest in Collateral Deposit Account.** The Borrower has not been promised or told by the Lender, its employees or agents that it has any legal, beneficial or equitable interest in any payment or other funds credited to the Collateral Deposit Account.

Borrower shall take all action necessary to cause the terms and conditions in the Collateral Deposit Agreement to be satisfied in all respects.

Borrower further agrees that Lender may provide any information or knowledge the Lender may have about the Borrower or about any matter relating to the Loan or the Loan Documents as referenced in the Collateral Deposit Agreement to IHFA or its successors.

**[NAME OF BORROWER]**

\_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_