

**STATE SMALL BUSINESS CREDIT INITIATIVE 2.0  
SMALL BUSINESS CAPITAL ACCESS PROGRAM  
AGREEMENT BETWEEN THE  
MICHIGAN STRATEGIC FUND  
AND  
LENDER**

This **Small Business Capital Access Program Agreement** (this “Agreement” or “CAP Agreement”), dated **MONTH XX, 20XX** (“Effective Date”), is between the Michigan Strategic Fund (the “MSF”), whose address is 300 North Washington Square, Lansing, Michigan 48913 and **LENDER** (the “Lender”), whose address is **XXX**. The MSF and the Lender are, individually, a “Party” and, collectively, the “Parties”.

**RECITALS**

A. WHEREAS, the American Rescue Plan of 2021 reauthorized and amended the Small Business Jobs Act, 12 USC 5701, et. seq. (“SSBCI”) and appropriated additional funding to the United States Department of Treasury to be allocated and disbursed to approved states to strengthen programs that support private financing to small businesses in accordance with the SSBCI.

B. On January 25, 2022, the MSF Board approved: (i) the creation of the SSBCI 2.0-Michigan Business Growth Fund (the “MBGF”), an SSBCI program created by the MSF to disburse SSBCI funds in accordance with the SSBCI, and (ii) as part of the MBGF, the creation of a capital access program designed to facilitate financing of projects for small commercial borrowers (the “SSBCI-CAP” or “Program”).

C. On May 18, 2022, the US Department of Treasury approved the State of Michigan, through the MSF, to receive and disburse SSBCI funds within the SSBCI programs created by the MSF.

D. Under the direction and control of the MSF, the Michigan Economic Development Corporation (the “MEDC”), a public body corporate, provides administrative services for the MSF for the SSBCI-MLGP.

E. The MSF and the Lender now desire to sign this CAP Agreement to utilize SSBCI funds under the SSBCI-CAP toward enhancing financing availability for small businesses in Michigan for the purposes of economic development.

**ARTICLE I**

**DEFINED TERMS**

Except as defined elsewhere in this Agreement, all capitalized terms in this Agreement shall have the respective meanings set forth below, and such definitions shall be equally applicable to both the singular and plural forms of the terms as the content may require:

A. “**Agreement**” or “**CAP Agreement**” has the meaning set forth in the preamble.

B. **“Borrower”** means the recipient of a Loan from Lender which is, has been, or will be filed by the Lender for enrollment under the Program.

C. **“Borrower Acknowledgment and Borrower Assurances”** are those acknowledgments and assurances of the Borrower in the form set forth on Exhibit C.

D. **“Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses)”** are those certifications of the Borrower in the form set forth on Schedule C-1.

E. **“Borrower and Its Principal Owners’ Demographic-Related Data”** is the information and data provided by the Borrower and its principal owners, as applicable, in the form set forth on Schedule C-2.

F. **“Claim”** means a claim filed by the Lender pursuant to Section 5.3.

G. **“Effective Date”** has the meaning set forth in the preamble.

H. **“Eligible Loan”** means a Loan made by the Lender to a Borrower meets the requirements of the Program and this Agreement.

I. **“Enrolled Loan”** means a Loan enrolled in the Program by the MSF pursuant to this Agreement.

J. **“Event of Default”** has the meaning set forth in Section 7.1.

K. **“Lender”** has the meaning set forth in the preamble.

L. **“Lender Assurances”** are those assurances of the Lender in the form set forth on Exhibit A.

M. **“Loan”** means an extension of credit provided by the Lender to the Borrower.

N. **“Loan Enrollment Form”** means the form used by the Lender to submit a Loan for approval to become an Enrolled Loan, in the form set forth on Exhibit C.

O. **“Loan Manager”** means the person designated from time to time by the MSF or the MEDC to manage this Agreement. The MEDC or MSF shall designate a Project Manager to administer and monitor performance of this Agreement. The Project Manager may be changed at the discretion of the MEDC or the MSF. Notice of the designated Project Manager, and any change, shall be provided to Lender. The initial Project Manager is **XXXXXXXXXX** of the MEDC, whose current e-mail address is: [XXXX@michigan.org](mailto:XXXX@michigan.org).

P. **“MEDC”** has the meaning set forth in Recital D.

Q. **“MSF”** has the meaning set forth in the preamble.

R. **“MSF Fund Manager”** means that person designated by the Board of Directors of the MSF from time to time to serve as the manager for the MSF programs. Provided further, any reference to the MSF Fund Manager in this Agreement shall be deemed to include reference to

the MSF Fund Manager or MSF President or other MSF representative, with only one required to act.

S. **“Operating Company Certification”** are those certifications of an operating company in the form set forth on Exhibit D.

T. **“Operating Company Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses)”** are those certifications of the Operating Company in the form set forth on Schedule D-1.

U. **“Operating Company and Its Principal Owners’ Demographic-Related Data”** is the information and data provided by the Operating Company and its principal owners, as applicable, in the form set forth on Schedule D-2.

V. **“Original MSF CAP Reserve Fund”** has the meaning set forth in Section 5.1(b)(i).

W. **“Party”** or **“Parties”** has the meaning set forth in the preamble.

X. **“Program”** means the SSBCI-CAP as further described in Recital B.

Y. **“Reserve Fund”** has the meaning set forth in Section 3.1

Z. **“SSCBI”** has the meaning set forth in Recital A.

AA. **“SSCBI-CAP”** has the meaning set forth in Recital B.

BB. **“State”** means the State of Michigan.

## **ARTICLE II**

### **REPRESENTATIONS**

**Section 2.1 Representations by the MSF.** As of the Effective Date, and the date each Eligible Loan is enrolled in the Program as an Enrolled Loan, and the date the MSF pays any Claim hereunder, the MSF represents and warrants to the Lender:

(a) the MSF is a public body corporate and politic within a principal department of the State. The MSF has the power and authority to enter into and perform its obligations under this Agreement; and

(b) The MSF has taken all action on its part required to authorize, execute and deliver and perform its obligations under this Agreement. This Agreement, when executed will be valid, binding and enforceable in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws or principles of equity affecting the enforcement of creditors’ rights generally or by general principles of equity.

**Section 2.2 Representations by the Lender.** As of the Effective Date, the date each Eligible Loan is enrolled in the Program as an Enrolled Loan (including any subsequent permitted

enrollment as a result of refinancing), and the date the Lender files any Claim hereunder, the Lender represents and warrants to the MSF:

(a) The Lender is authorized to conduct business in the State and has the power and authority to enter into and perform its obligations under this Agreement;

(b) The Lender has taken all action on its part required to authorize, execute and deliver and perform its obligations under this Agreement. This Agreement, when executed will be valid, binding and enforceable in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws or principles of equity affecting the enforcement of creditors' rights generally or by general principles of equity.

(c) The Lender represents and warrants, otherwise covenants, and shall comply with all the Lender Assurances set forth on Exhibit B;

(d) The Lender shall not renew, refinance, extend, amend, or otherwise modify in any way any of the Loan documents of any Enrolled Loan without the prior written consent of the Project Manager; except as permitted under this subsection. The Lender shall not change any terms of any Exhibits, or any applicable schedules thereto, made part of this Agreement. The Lender may amend the Loan without the prior written consent of the Project Manager so long as such amendments do not (a) extend the final maturity of any of the Loans, (b) increase the maximum principal amount of any of the Loans or change the rate of interest on any of the Loans, (c) release or discharge any portion of the collateral securing any of the Loans, or (d) release or discharge any Borrower or any other obligor (including any guarantor) from any of their obligations under any of the Loan documents. The Lender shall provide notice to the Project Manager of any amendments to the Loan documents, along with executed copies of any applicable amendment documents, whether or not consent is required hereunder; and

(e) The Lender further affirms that neither the Lender nor its affiliates, or their respective officers, directors, managers, and members, or employees, have accepted, shall accept, have offered, or shall offer, directly or indirectly, anything of value to influence the MSF, MEDC, its Executive Committee and their respective directors, participants, officers, agents, and employees. Lender also affirms that neither Lender nor its affiliates or their respective officers, directors, managers, and members or employees have paid or agreed to pay any person, other than bona fide employees and consultants working solely for Lender or its affiliates, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the execution of this Agreement.

### **ARTICLE III**

#### **ESTABLISHMENT OF RESERVE FUND**

**Section 3.1 Reserve Fund.** As soon as institutionally possible for the MSF after full execution of this Agreement, the MSF shall establish a deposit account at the Lender in the name of the MSF for the purpose of receiving all required premium charges to be paid by the Lender and the Borrower, and transfers made by the MSF, pursuant to Article V (the "Reserve Fund").

## ARTICLE IV

### ENROLLMENT OF AN ELIGIBLE LOAN

**Section 4.1 Enrolling a Loan.** In order to enroll a Loan under the Program, the Lender shall request that the Loan Manager enroll the Loan under the Program within thirty (30) calendar days after the date of the Loan from Lender to Borrower, by delivering to the Loan Manager, the following:

- (a) a copy of the Loan Enrollment Form completed and signed by the Lender in the form of Exhibit A, together with the required attachments more fully described therein, and additionally including without limitation,
  - i. the completed and signed copy of the Lender Assurances in the form of Exhibit B.
  - ii. and the completed and signed Borrower's Acknowledgment and Borrower's Assurances made a part thereof (see Exhibit C);
  - iii. and the completed and signed Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule C-1);
  - iv. and if submitted by the Borrower, each of the Borrower's and principal owners of Borrower completed and signed Borrower and Its Principal Owners' Demographic-Related Data, (see Schedule C-2);
  - v. In addition, to the extent Borrower is a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company, Lender shall deliver to the Program Manager:
    1. a copy of the completed and signed "Operating Company Certification" in the form of Exhibit D;
    2. and the completed and signed Operating Company Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule D-1);
    3. and if submitted by Operating Company, each of the Operating Company's and its principal owners completed and signed Operating Company and Its Principal Owners' Demographic-Related Data, (see Schedule D-2).
- (b) Evidence of the payment of the non-refundable premium charges payable by Lender and Borrower as set forth in Section 5.1(a) into the Reserve Fund in connection with the Loan.

Notwithstanding anything to the contrary herein, at the request of the Program Manager from time to time, Lender shall provide the Program Manager a copy of any Loan document and any ancillary documents thereto.

**Section 4.2 MSF Acknowledgement.** Within thirty (30) business days of receipt by the Loan Manager of the fully completed items identified in Section 4.1, the Loan Manager shall (i) enroll the Loan, unless the Loan is not an Eligible Loan, or the Lender is otherwise not in compliance with this Agreement as determined by the Loan Manager in its sole discretion, and (ii) provide written notice to the Lender (x) acknowledging enrollment of the Loan and of the amount being paid by the MSF into the Reserve Fund pursuant to Section 5.1(b), or (y) notification of the reasons that the Loan is not an Eligible Loan or the Lender is otherwise not in compliance with this Agreement, such notice including that if the deficiencies are curable in the Loan Manager's sole discretion, the Lender shall have ten (10) business days thereafter to cure the deficiencies and to resubmit the request to enroll the Loan under the Program.

**Section 4.3 Amount Covered.** When requesting to enroll a Loan under the Program, the Lender may specify a Loan amount to be covered under the Program that is less than the total amount of the Loan.

**Section 4.4 Refinancing Enrolled Loans.**

(a) **Maintaining Covered Amount.** In the event that an Enrolled Loan is later refinanced and the total amount to be covered under the Program does not exceed the covered amount of the Enrolled Loan as previously enrolled, the Loan, as refinanced, may continue as an Enrolled Loan and there shall be no additional premium charges payable, or MSF transfer. into the Reserve Fund.

(b) **Enrolling Increased Amounts.** In the event that an Enrolled Loan is refinanced in an amount which, at the time of refinancing, increases the principal amount of that Enrolled Loan for a non-revolving loan, or the maximum draw amount for an Enrolled Loan structured as a revolving loan, and if the Lender desires to increase the amount of the Enrolled Loan under the Program, the Lender shall resubmit the request for enrollment of the entire Loan in accordance with Section 4.1; provided however all additional payments into the Reserve Fund shall be based on the increased amount of principal for the Enrolled Loan structured as a non-revolving loan, and the maximum draw amount for an Enrolled Loan structured as a revolving loan.

**Section 4.5 Disenrollment of an Enrolled Loan under the Program.** An Enrolled Loan under the Program shall be deemed disenrolled under the Program upon the occurrence of any one or more of the following:

(a) **Non-Revolving Loans.** In the event the outstanding balance of a non-revolving Enrolled Loan is reduced to zero; or

(b) **Revolving Loans.** In the event the outstanding balance of a revolving Enrolled Loan is reduced to zero, and the outstanding balance of zero is maintained for a period of twelve (12) consecutive months; or

(c) **Not an Eligible Loan.** In the event any Loan becomes an Enrolled Loan and later is determined not to be an Eligible Loan by the Loan Manager for any reason, the Enrolled Loan shall automatically be deemed not to be an Eligible Loan and further, automatically deemed disenrolled from the Program.

**ARTICLE V**

## USE OF THE RESERVE FUND

### **Section 5.1 Payments into Reserve Fund.**

(a) **Payments by Lender and Borrower.** The Lender shall set the premium charges payable to the Reserve Fund by the Lender and the Borrower in connection with a Loan being requested by the Lender for enrollment under the Program; provided however, the amount paid by the Borrower and Lender into the Reserve Fund shall not be less than 1.5% nor greater than 3.5% of the amount of the Loan, and the amount paid into the Reserve Fund by the Lender and Borrower shall be equal. Provided further, the Lender may recover from the Borrower the cost of the Lender's payment into the Reserve Fund, in any manner in which the Lender and Borrower agree.

(b) **Payments by MSF.**

i. **[Initial MSF Deposit.** At the written request of the Lender, within no later than thirty (30) days from the date of execution of this Agreement, the MSF will transfer funds from the MSF controlled reserve fund associated with the Agreement Michigan Strategic Fund Small Business Capital Access Program agreement between the MSF and the Lender, dated MONTH XX, 20XX, as amended or restated from time to time ("Original MSF CAP Reserve Fund"), to the Reserve Fund as referenced in Section 3.1 of this Agreement. Provided however, the maximum amount that may be transferred by the MSF from the Original MSF CAP Reserve Fund to the Reserve Fund under this Agreement shall not exceed 50% of the balance of the Original MSF CAP Reserve Fund as of the last day of the month preceding the date of this Agreement. The transfer shall occur as soon as institutionally possible for the MSF after the execution of this Agreement.]

ii. **Additional MSF Deposits.** Commensurate with enrollment of a Loan as an Enrolled Loan in the Program, the MSF shall pay into the Reserve Fund an amount equal to the combined amounts paid into the Reserve Fund by the Borrower and the Lender for each Enrolled Loan; provided however, **without taking into account any payment made by the MSF as described in Section 5.1(b)(i).** the maximum amount to be paid into the Reserve Fund by the MSF over any three (3) year period in connection with any one Borrower, or any group of Borrowers among which a common enterprise exists, shall not exceed One Hundred Fifty Thousand Dollars (\$150,000) unless otherwise approved by the Loan Manager, in its sole discretion. For the purpose of this paragraph the term "common enterprise" shall have the same meaning given to it in Part 32 of Title 12 of the Code of Federal Regulations, including amendments of those regulations.

**Section 5.2 Ownership, Control and Investments of Reserve Fund.** The Reserve Fund, and all funds deposited into the Reserve Fund, shall be the exclusive property of, and solely controlled by, the MSF. The MSF may not withdraw funds from the Reserve Fund except as permitted under this Agreement. Provided however, subject to the foregoing and all other terms and conditions of this Agreement, the MSF pledges that the Lender shall have a first security interest in the funds in the Reserve Fund to pay Claims as required hereunder, and the MSF will not encumber or pledge the funds to any other party.

**Section 5.3 Claims by Lender.** Subject to all the terms and conditions of this Agreement, if the Lender charges off all or part of an Enrolled Loan, and the Lender is otherwise in compliance with the Agreement, the Lender may file a claim with the MSF by submitting a fully completed claim form to the Loan Manager in the form attached as Exhibit E (“Claim”), or in such other form from time to time approved by the Loan Manager, in its sole discretion. Any Claim that is filed under this Agreement shall be filed contemporaneously with the action of the Lender to charge off all or part of the Enrolled Loan. The Lender shall determine when and how much to charge off on an Enrolled Loan in the manner that is consistent with its normal method for making such determinations on its commercial Loans which are not Enrolled Loans.

Notwithstanding anything to the contrary, Lender’s Claim may not exceed a charge off amount in excess of the principal amount of the Loan originally enrolled in the Program as an Enrolled Loan, plus up to ninety (90) calendar days accrued and unpaid interest. No costs, fees, or other expenses of any kind may be made part of the Claim.

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 those Claims, the Lender may designate to the Loan Manager, in writing, the order of priority in which the MSF shall pay the Claims.

**Section 5.4 Payment of Claims from Reserve Funds to Lender.** Subject to the terms and conditions of this Agreement, as soon as institutionally possible for the MSF after receipt by the MSF of a Claim filed by the Lender in accordance with Section 5.3, the MSF shall pay the permitted amounts due the Lender under Claim from the Reserve Fund. In the event there are insufficient funds in the Reserve Fund to cover the entire permitted amount of the Claim, after withdrawal by the MSF of any amounts from the Reserve Fund as permitted by this Agreement, the MSF shall pay to the Lender an amount equal to the balance of the Reserve Fund, and such payment by the MSF shall be deemed to have fully paid the Claim.

Within thirty (30) business days of receipt by the Loan Manager of the fully completed items identified in Section 4.1, the Loan Manager shall (i) enroll the Loan, unless the Loan is not an Eligible Loan, or the Lender is otherwise not in compliance with this Agreement as determined by the Loan Manager in its sole discretion, and (ii) provide written notice to the Lender (x) acknowledging enrollment of the Loan and of the amount being paid by the MSF into the Reserve Fund pursuant to Section 5.1(b), or (y) notification of the reasons that the Loan is not an Eligible Loan or the Lender is otherwise not in compliance with this Agreement, such notice including that if the deficiencies are curable in the Loan Manager’s sole discretion, the Lender shall have ten (10) business days thereafter to cure the deficiencies and to resubmit the request to enroll the Loan under the Program.

**Section 5.5 Recovery by Lender Subsequent to Claim.** If after payment of a Claim to the Lender by the MSF, the Lender recovers from a Borrower any amount for which payment of the Claim was made, the Lender shall promptly pay into the Reserve Fund the amount recovered (a) less Lender’s reasonable and customary out-of-pocket expenses and (b) less the amount of recovery in excess of the principal amount of the original amount of Loan as an Enrolled, plus so much of up to ninety (90) calendar days accrued and unpaid interest made part of the Claim. The Lender shall provide in writing, an itemized accounting to the Loan Manager of all such recovery, and deductions, and evidence of its ultimate payment into the Reserve Fund commensurate with its payment into the Reserve Fund.



**Section 5.6 Subrogation.** 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 on an Enrolled Loan, the MSF, upon the written request of the Loan Manager, 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 the MSF any right, title or interest to any collateral, security, or other right of recovery in connection with the Loan. Provided however, such assignment shall include that the MSF does not assume nor is the MSF responsible for, any obligations of the Lender pursuant to its Loan documents, except for any obligations directly related to the exercise by the MSF of its assigned rights of recovery in connection with the Loan. The Lender shall 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 the MSF with all reasonable assistance thereafter as the MSF 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 the MSF as a result of MSF enforcement actions taken with respect to any such collateral shall remain the sole and separate property of the MSF.

## **ARTICLE VI**

### **WITHDRAWALS FROM RESERVE FUND**

**Section 6.1** Only the MSF may make withdrawals from the Reserve Fund. The MSF may make withdrawals from the Reserve Fund upon the occurrence of any one or more of the following, and in each case, such funds shall remain the sole and separate property of the MSF:

- (a) **Interest or Income.** Interest or income earned on the funds credited to the Reserve Fund shall be deemed to be part of the Reserve Fund. The MSF may withdraw at any time from the Reserve Fund fifty (50%) percent of all interest or income that has been credited to the Reserve Fund, except that after the first such withdrawal the MSF may not withdraw more than fifty (50%) percent of all interest or income that has been credited to the Reserve Fund since the time of the last such withdrawal.
- (b) **Principal.** Upon request of the Loan Manager, the Lender shall file a report with the Loan Manager indicating the number and aggregate outstanding balance of all Enrolled Loans as of the previous December 31. 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 covered amount of the Enrolled Loan. If reports filed pursuant to this Section indicate that for the immediately preceding twenty-four (24) consecutive month period the balance in the Reserve Fund exceeded the aggregate outstanding balance of all Enrolled Loans, the MSF may withdraw from the Reserve Fund, an amount not to exceed the amount by which the Reserve Fund balance exceeded the aggregate outstanding balance of all Enrolled Loans as of the previous December 31.
- (c) **Disenrolled Loans.** The MSF may immediately withdraw from the Reserve Fund, funds deposited by the MSF that are attributable to any Enrolled Loan later determined by the Loan Manager, in its sole discretion, not to be an Eligible Loan.

- (d) **Termination.** The MSF may immediately withdraw all funds from the Reserve Fund in the event this Agreement is terminated by the MSF as permitted under Article VII, (after expiration of any applicable cure period, without a cure by Lender).

## **ARTICLE VII**

### **SUSPENSION AND TERMINATION**

**Section 7.1 Event of Default; Suspension of Enrollment of Loans/Payment of Claims/Termination of Agreement.** Notwithstanding anything to the contrary, the MSF's obligation to enroll any Loans or pay any Claims under this Agreement shall automatically be suspended and each may be terminated, and this Agreement may be terminated by the MSF Fund Manager, at its sole discretion, upon the occurrence, and during the continuance, of any one or more of the following events (each, an "Event of Default"), unless a written waiver is provided by the MSF Fund Manager, in its sole discretion:

- (a) any representation or covenant made by the Lender in support of this Agreement shall prove incorrect at the time that such representation was made in any material respect, including, but not limited to, any information provided in support of any request to enroll and Loan, file a Claim, or with respect to any report of the Lender hereunder,
- (b) any material failure by the Lender to comply with any of the terms, covenants and conditions on its part to be performed under this Agreement, including without limitation, failure to submit reports as required hereunder, which, if considered curable by the MSF is not cured by the Lender to the satisfaction of the MSF Fund Manager within the thirty (30) calendar days;
- (c) the Lender is in default, violation, breach, or non-compliance, of any kind or nature under any agreement or requirement, including submission of reports, with the MSF, or for any department or agency within the State, federal, local or any governmental agency, or the MEDC, which, if considered curable by the MSF is not cured by the Lender to the satisfaction of the MSF Fund Manager within the thirty (30) calendar days; or
- (d) any bankruptcy or insolvency proceedings are commenced by, or against, the Lender, with any such proceedings against the Lender not being set aside within sixty (60) calendar days from the date commenced.

**Section 7.2 Other Suspension of Enrollment of Loans.** Notwithstanding anything to the contrary, the MSF's obligation to enroll any Loans shall automatically be suspended and may be terminated, upon the occurrence, and during the continuance, of any decision by the MSF Fund Manager, in its sole discretion, to suspend or terminate any MSF obligation under this Agreement to enroll Loans under the Program for no reason or any reason (including without limitation, refusing to increase coverage of any Enrolled Loan as a result of a permitted refinance, or any lack of available or authorized funding) by providing written notice thereof to the Lender. Such cessation may include, but is not limited to, that the Lender's practices do not comply with the Program, or the Lender is using the Program to offset the costs of high default lending practices, all as determined in the sole discretion of the MSF Fund Manager.

**Section 7.3 Lack of Enrollment of a Loan/Termination of Agreement.** Notwithstanding anything to the contrary, this Agreement may be terminated by the MSF Fund Manager, at its sole discretion, in the event a Loan has not been enrolled as an Enrolled Loan within a ten (10) year period.

**Section 7.4. Available Remedies.** The suspension or termination of MSF obligations under this Agreement, or of this Agreement, or the withdrawal of any or all of the Reserve Funds as permitted by this Agreement, are not intended to be the sole or exclusive remedies available to the MSF, and each remedy shall be cumulative and in addition to every other provision or remedy given herein or now or hereafter existing at law, in equity, by statute or otherwise. The Lender shall pay all costs and expenses, including, without limitation, reasonable attorney's fees and expenses incurred by the MSF in collecting any sums due the MSF under this Agreement, in enforcing any of its rights under this Agreement, or in exercising any remedies available to the MSF.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**Section 8.1 Entire Agreement.** This Agreement, together with the exhibits and schedules thereto, sets forth the entire agreement of the Parties with respect to the subject matter, and supersedes all prior agreements, understandings and communications, whether written or oral, with respect to the subject matter of this Agreement.

**Section 8.2 Counterparts; Facsimile/Pdf Signatures.** This Agreement may be signed in counterparts and delivered by fax or in .pdf form or other electronic format, and in any such circumstances, shall be considered one document and an original for all purposes.

**Section 8.3 Severability.** All the clauses of this Agreement are distinct and severable and, if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or provision of this Agreement. To the extent possible, the illegal, void, or unenforceable provision shall be revised to the extent required to render the Agreement enforceable and valid, and to the fullest extent possible, the rights and responsibilities of the Parties shall be interpreted and enforced to preserve the Agreement and the intent of the Parties. Provided, if application of this section should materially and adversely alter or affect a Party's rights or obligations under this Agreement, the Parties agree to negotiate in good faith to develop a structure that is as nearly the same structure as the original Agreement (as may be amended from time to time) without regard to such invalidity, illegality or unenforceability.

**Section 8.4 Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 8.5 Governing Law.** This Agreement is a contract made under the laws of the State, and for all purposes shall be governed by, and construed in accordance with, the laws of the State.

**Section 8.6 Relationship between Parties.** The Lender and its officers, agents and employees shall not describe or represent themselves as agents of the State, the MSF, or the MEDC to any individual person, firm, or entity for any purpose.

**Section 8.7. Successors and Assigns.** The MSF may at any time assign its rights in this Agreement. The Lender may not assign its rights or obligations under this Agreement without the prior written consent of the MSF Fund Manager. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

**Section 8.8 Waiver.** A failure or delay in exercising any right under this Agreement will not be presumed to operate as a waiver unless otherwise stated in this Agreement, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right or the exercise of any other right.

**Section 8.9 Termination of Agreement.** Except as terms and conditions which shall survive indefinitely as provided herein, this Agreement shall terminate as provided by Article VII. Provided however, any available remedies to enforce payments of amounts due the MSF hereunder shall survive until all amounts due the MSF are paid in full.

**Section 8.10 Amendment.** This Agreement may not be modified or amended except pursuant to a written instrument signed by the Lender and the MSF.

**Section 8.11 Notice.** Other than submissions and communication to the Loan Manager as required herein, any notice or other communication under this Capital Access Agreement shall be in writing and e-mailed, or mailed by first class mail, postage prepaid, or sent by express, overnight courier to the respective Party at the address listed below or such other last known addresses or e-mail accounts, and shall be deemed delivered one business day after the delivery or mailing date.

If to the Lender:

LENDER  
ADDRESS  
ADDRESS

Attention: XXXXXXXX

Email: XXXXXXXX

If to the MSF:

Michigan Strategic Fund  
c/o Michigan Economic Development Corporation  
Capital Access Team

300 North Washington Square

Attention: XXXXXXXX

Email: [XXXXXX@michigan.org](mailto:XXXXXX@michigan.org)

**Section 8.12 Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective permitted successors and assigns.

*(remainder of page intentionally left blank)*

The Parties sign this Agreement effective on the Effective Date.

**LENDER**

\_\_\_\_\_  
Authorized Signer  
Title

Date: \_\_\_\_\_

**MICHIGAN STRATEGIC FUND**

\_\_\_\_\_  
Valerie Hoag  
Fund Manager

Date: \_\_\_\_\_

DRAFT

(SIGNATURE PAGE OF THE PARTIES TO THE CAPITAL ACCESS AGREEMENT)

**EXHIBIT A**

**LOAN ENROLLMENT FORM**

Each time the Lender seeks to enroll any Loan under the Program, the Lender shall return this form and all required attachments.

**SSBCI CAPITAL ACCESS PROGRAM 2.0  
LOAN ENROLLMENT FORM**

This Loan Enrollment Form is furnished by **LENDER**, (“Lender”), to the Michigan Strategic Fund (“MSF”) in connection with that certain loan from Lender to **[LENDER: INSERT BORROWER’S LEGAL NAME:]** \_\_\_\_\_ (“Borrower”), dated \_\_\_\_\_, and that certain SSBCI 2.0 Capital Access Program Agreement originally **dated MONTH XX, 20XX, CASE-XXXXXX**, between the MSF and the Lender, as amended, restated, modified, substituted, and extended from time to time (“Capital Access Agreement”). Unless otherwise defined herein, all capitalized terms shall have the meanings given in the Capital Access Agreement.

As of the date of signing this Loan Enrollment Form, Lender submits the following:

**A. CONTACT INFORMATION**

**Lender Contact Information:**

Name of Lender: \_\_\_\_\_  
Lender Employer Identification Number: \_\_\_\_\_  
Lender’s Regulatory Identification Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, And Zip: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

**B. Borrower Contact and Loan Information:**

Name: \_\_\_\_\_  
Principal Street Address: \_\_\_\_\_  
City, State, And Zip Code: \_\_\_\_\_  
County: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

Borrower Employer Identification Number \_\_\_\_\_  
NAICS Code: \_\_\_\_\_  
Year Borrower Incorporated or Organized: \_\_\_\_\_

Business Annual Revenue  
(in last FY) \_\_\_\_\_  
Business Net Income  
(in last FY) \_\_\_\_\_

Full Time Equivalent  
Employees (FTE's) of Business \_\_\_\_\_

Estimate of FTE's of Business to  
be created as a result  
of the Loan \_\_\_\_\_

Amount of Loan \_\_\_\_\_  
Of the Loan Amount,  
the amount that is from  
non-private sources: \_\_\_\_\_

Date of Loan: \_\_\_\_\_  
Date of initial disbursement (or projected date): \_\_\_\_\_

Loan Term: \_\_\_\_\_

Loan APR: \_\_\_\_\_ (Fixed or Adjustable)

Maximum Interest Rate: \_\_\_\_\_

Total Origination Charges: \_\_\_\_\_

Use of proceeds of Loan: \_\_\_\_\_

Is this Loan an increase  
to a prior Enrolled Loan: \_\_\_\_\_

If yes, list the balance of the  
prior Loan before the  
advance of this Loan: \_\_\_\_\_

Total Amount of Lender Payment  
to Reserve Fund \_\_\_\_\_

Total Amount of Borrower Payment  
to Reserve Fund \_\_\_\_\_

Loan Amount to be covered  
by Reserve Fund \_\_\_\_\_

**C. REPRESENTATIONS AND WARRANTIES**

1. Lender represents and warrants to the MSF:

- a. Except as permitted under the Capital Access Agreement, there have been no modifications, extensions, amendments, or adjustments made by Lender with respect to any Enrolled Loans.
- b. The Lender's representations, warranties, and covenants under the Loan documents, and the Capital Access Agreement, and pursuant to the Lender Assurances attached as Exhibit B, are and remain true and correct in all material respects.

- c. The Lender is in material compliance with all obligations and duties required of it under all Loan documents, and the Capital Access Agreement.
- d. The Borrower is in material compliance with all obligations and duties required of it under its Loan documents.
- e. Passive Real Estate: **LENDER MUST CHECK THE APPLICABLE BOX BELOW:**
  - the Borrower is NOT a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company, **OR**
  - The Borrower IS a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company. To the extent Borrower is a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company. The operating company is [**LENDER: INSERT THE OPERATING COMPANY'S LEGAL NAME:**] \_\_\_\_\_ (“Operating Company”). The Lender further represents and warrants the following:
    - i. The Operating Company is a co-borrower or a guarantor of the Loan, as applicable;
    - ii. Both the Borrower and Operating Company have executed all required certifications, including those included within all required Exhibits and schedules made a part of the Loan Enrollment Form;
    - iii. Each natural person holding an ownership interest constituting at least twenty percent (20%) of the Borrower and the Operating Company have provided a personal guaranty in favor of the Lender for the Loan; and
    - iv. Borrower and Operating Company have a written lease with a term at least equal to the term of the Loan, including options to renew exercisable solely by the Operating Company.
- f. Assurances. Attached is the Lender Assurances (see Exhibit B), and the Borrower Acknowledgment and Assurances (see Exhibit C), and if applicable, the Operating Company Certification (see Exhibit D).
- g. Sedi Requirements. Attached is the Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule C-1); and if applicable, attached is the Operating Company's Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule D-1).
- h. Demographic-Related Data. Attached, if chosen to be provided, is the Borrower and its principal owners completed Borrower and Its Principal Owners' Demographic-Related Data, (see Schedule C-2); and attached, if applicable, and if chosen to be provided, is the Operating Company and its principal owners completed Operating Company and Its Principal Owners' Demographic-Related Data, (see Schedule D-2).

Lender certifies that the above information is true and correct to the best of its knowledge, and it



LEGAL DRAFT – FINAL

submits this Loan Enrollment Form to the Project Manager as required by the Capital Access Agreement.

Lender requests that the Loan of \$ \_\_\_\_\_ be deemed an Enrolled Loan under the Capital Access Agreement.

Signed effective \_\_\_\_\_, \_\_\_\_\_

**LENDER**

\_\_\_\_\_  
By:  
Its:

---

**FOR LOAN MANAGER USE ONLY:**

**Review of Request to Enroll Loan:**

Amount of this Loan: \$ \_\_\_\_\_  
Verify Amount Paid by Lender to Reserve Fund \$ \_\_\_\_\_  
Verify Amount Paid by Borrower to Reserve Fund \$ \_\_\_\_\_

Amount of Program Matching Payment  
By MSF To Reserve Fund \$ \_\_\_\_\_

Pursuant to the Capital Access Agreement:

\_\_\_\_\_ The request that above Loan become an Enrolled Loan is approved and the Enrolled Loan amount covered by the Reserve Fund is \$ \_\_\_\_\_.

**[OR]**

\_\_\_\_\_ The request that the above Loan become an Enrolled Loan is rejected because \_\_\_\_\_.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Loan Manager  
Dated: \_\_\_\_\_

## EXHIBIT B

## LENDER ASSURANCES FORM

This Lender Assurances Form is furnished by **LENDER**, (“Lender”), to the Michigan Strategic Fund (“MSF”) in connection with that certain loan from Lender to [**LENDER: INSERT BORROWER’S LEGAL NAME:**] \_\_\_\_\_ (“Borrower”), dated \_\_\_\_\_, and that certain SSBCI 2.0 Capital Access Program Agreement originally dated **MONTH XX, 20XX**, CASE-**XXXXXX**, between the MSF and the Lender, as amended, restated, modified, substituted, and extended from time to time (“Capital Access Agreement”). Unless otherwise defined herein, capitalized terms used herein shall have the meaning given in the Capital Access Agreement.

**A. STATE OF MICHIGAN REQUIREMENTS**

1. **Auditor General, etc.** To ensure compliance with the terms of this Agreement and the Michigan Strategic Fund Act, MCL125.2001 et. seq.:

(a) the Lender shall permit the Auditor General of the State of Michigan (the “Auditor General”), the MSF, the MEDC, and the Chief Compliance Officer of the MSF (the “CCO”), and any representative, member, employee or agent of the foregoing to visit the Lender and any other location where the books and records of the Lender are normally kept to inspect the books and records, including financial records and all other information and data, relevant to the Loan, the Loan documents and the terms of this Agreement;

(b) the Lender shall permit the Auditor General, the MSF, the MEDC, the CCO, and any member, employee or agent of the foregoing to make copies or extracts from information and to discuss the affairs, finances and accounts of the Lender and Borrower related to the Loan, the Loan documents and this Agreement; and

(c) the Lender shall cooperate with the CCO, if contacted.

This Section shall survive for a period of three years from date of termination of the Agreement.

2. **Criminal and Civil Matters.** To the best of Lender’s knowledge, neither Lender nor any of its affiliates, subsidiaries, officers, directors and any person who, directly or indirectly, holds a pecuniary interest in the Lender 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.

3. **Indemnification and Hold Harmless.** The MSF, the State of Michigan, the CCO, the MEDC, its Executive Committee and their respective directors, participants, officers, agents and employees (collectively, the “Indemnified Person(s)”) shall not be liable to the Lender for any reason arising out of or related in any way to any Loan, Loan documents, or this Agreement. The Lender shall indemnify and hold the MSF, the State of Michigan, and the MEDC and other Indemnified Person harmless against all claims asserted by or on behalf of any individual person, firm or entity (other than an Indemnified Person), arising or resulting from, or in any way connected with, any Loan or Loan documents, any Enrolled Loan, or this Agreement, or any act or failure to act by the Lender, including all liabilities, costs and expenses, including reasonable counsel fees, incurred in any action or proceeding brought by reason of any such claim. The Lender shall also indemnify the MSF, the MEDC and other Indemnified Person from and against all costs and expenses, including

reasonable counsel fees, lawfully incurred in enforcing any obligation of the Lender arising from or under any Loan or Loan documents, any Enrolled Loan, or this Agreement. The Lender shall have no obligation to indemnify an Indemnified Person under this Section if a court with competent jurisdiction finds that the liability in question was solely caused by the willful misconduct or gross negligence of the MSF, the MEDC or other Indemnified Person, unless the court finds that despite the adjudication of liability, the MSF, the MEDC or other Indemnified Person is fairly and reasonably entitled to indemnity for the expenses the court considers proper. The MSF, the MEDC and the Lender agree to act cooperatively in the defense of any action brought against the MSF, the MEDC or another Indemnified Person to the greatest extent possible. Performance of the Lender's activities contemplated under this Agreement is within the sole control of the Lender and its employees, agents and contractors, and an Indemnified Person shall have no liability in tort or otherwise for any loss or damage caused by or related to the actions or failures to act, products and processes of the Lender, its employees, agents or contractors. This Section shall survive termination of this Agreement indefinitely.

**4. Jurisdiction.** The Lender agrees that it shall make a good faith effort to resolve any controversies that arise regarding this Agreement. If a controversy cannot be resolved, the Lender agree that any legal actions concerning this Agreement shall be brought in the Michigan Court of Claims or, as appropriate, Ingham County Circuit Court in Ingham County, Michigan. This Section shall survive termination of the Agreement indefinitely.

**5. Non-Discrimination and Unfair Labor Practices.** In connection with this Agreement, the Lender agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex (including sexual orientation and gender identity or expression as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, physical or mental disability, or genetic information (as defined in Executive Directive 2019-09) that is unrelated to the individual's ability to perform the duties of the particular job or position. The Lender further agrees that every subcontract or sub-recipient agreement entered into for performance of this Agreement will contain a provision requiring nondiscrimination in employment, as specified in this Agreement, binding upon each subcontractor. This covenant is required, as applicable under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and is consistent with Executive Directive 2019-09, and any breach thereof may be regarded as a material breach of this Agreement.

Under 1980 PA 278, MCL 423.321, *et seq.*, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. The United States Labor Relations Board compiles this information. The Lender shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Under MCL 423.324, the State may void any contract if, subsequent to the award of the contract, the name of the Lender as an employer, or the name of a subcontractor, manufacturer, or supplier of the Lender appears in the register.

**6. Other Prohibited Purposes of Loan.** Lender has not extended the Loan for the purpose of the development of a stadium or arena for use by a professional sports team or development of a casino or property associated or affiliated with the operation of a casino as prohibited by the Act (see MCL 125.2088c(3)(a) and (b)), or to induce the Borrower, a qualified business, or small business to leave the State of Michigan, or to contribute to the violation of internationally recognized workers' rights, of workers in a country other than the US, or to fund an entity incorporated in a tax haven country, as prohibited by the Act (see MCL 125.2088c(4)(c), (d), and I).

## **B. SSBCI PROGRAM REQUIREMENTS**

- 1. Qualified Financial Institution.** The Lender is a “Financial Institution”. Financial Institution means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702). The Lender is not operating under any supervisory enforcement action.
- 2. Patriot Act.** The Lender shall perform all of its obligations and duties as required under the Patriot Act of 2001, as amended, including without limitation, the provisions relating to the Customer Identification Program (CIP) and anti-terrorism, and the MSF may so rely on the Lender’s performance of any such requirements, including that the Lender is in compliance with the requirements of 31 CFR 103.121 (relative to anti-money laundering programs); and Lender acknowledges the aforesaid obligations and duties, and further certifies it is in compliance thereunder, including relative to implementation of reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify a person’s identity and determine whether the person appears on any lists of known or suspected terrorist organizations provided to the Lender by any government agency.
- 3. Treasury Inspector General.** The Lender shall make available to the federal Department of Treasury, the Treasurer Inspector General, and their respective employees, agents or contractors (“Federal Treasury”), all books and records related to the any Loan or Loan documents, any Enrolled Loan, and this Agreement, subject to the Right to Financial Privacy Act, 12 U.S.C § 3401, et. seq.), including detailed records. In accordance with SSBCI guidelines, this Section shall survive until the later of (i) July 31, 2031 or (ii) as otherwise required by 2 CFR §220.334. Lender shall cooperate with the Federal Treasury in any enforcement or compliance review activities of the Federal Treasury in any way related to this Agreement or the laws and regulations in connection therewith. Such enforcement or compliance review may include investigation, arbitration, mediation, litigation, and monitoring, and further, as may be required by Federal Treasury, the Lender shall comply with information requests, on-site compliance reviews and all required reporting.
- 4. No Conviction of Sex Offense.** No principal of the 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 purposes 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 a development company, or any other entity, 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”.
- 5. Civil Rights/LEP Services/Access.** The Lender shall comply, and shall require by contract that any applicable sub-grantee, contractor, subcontractor, successor, transferee, and assignee of Lender shall also comply, with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and other pertinent federal Executive Orders such as federal Executive Order 13166; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department’s implementing regulations, 31 C.F.R. part 28; Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Department’s implementing regulations at 31 C.F.R. part 23, which are herein incorporated by reference and made a part of this Agreement.

Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by

reference and made a part of this Agreement. Lender acknowledges federal Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Lender understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Lender shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Lender understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Lender’s programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

6. **Borrower Size.** The Loan has not been to support any Borrower that has more than 500 employees.

7. **Loan Purpose and Other Standards:**

- (a) The Loan has not been made in order to place under the protection of the approved SSBCI-CAP prior debt that is not covered under the approved SSBCI-CAP and that is or was owed by the Borrower to the Lender or to an affiliate of the Lender;
- (b) The Loan shall be a new extension of credit to the Borrower by the Lender:
  - i) and, if such Loan is to refinance the Borrower’s existing loan, line of credit, extension of credit, or other debt originally made by an unaffiliated lender, the proceeds of the Loan shall not be used to finance an extraordinary dividend or other distribution, or
  - ii) if any Loan is a refinancing of a loan previously made to the Borrower by the Lender or an affiliate of the Lender:
    - (1) the amount of such Loan is at least 150 percent of the outstanding amount of the matured loan. A matured loan or line of credit only includes such that have matured according to their terms and does not include a loan or line of credit that has been accelerated to maturity; and
    - (2) such Loan is based on a new underwriting of the small business’s ability to repay the Loan and a new approval by the Lender; and
    - (3) the prior loan has been paid as agreed and the Borrower was not in default of any financial covenants under the prior loan for at least the previous 36 months (or since origination, if shorter); and
    - (4) the proceeds of the Loan shall not be used to finance an extraordinary dividend or other distribution.
- (c) The Loan does not exceed the principal amount of \$5 million;
- (d) The interest rate for the Loan does not exceed the National Credit Union Administration’s (NCUA) interest rate ceiling for loans made by federal credit unions as described in 12 U.S.C. § 1757(5)(A)(vi)(I) and set by the NCUA board (See for reference, the National Credit Union Administration, Letter to Federal Credit Unions, “Permissible Loan Interest Rate Ceiling Extended,” August 2021);
- (e) The Loan documents do not include any of the following provisions: (1) confessions of judgment; (2) prepayment or “double-dipping” fees (“double dipping” occurs when a lender

issues new credit to refinance prior credit without forgiving a portion of the fee already paid and results in the Borrower paying a fee on top of a fee); or (3) upfront fees or charges paid by the small business, excluding fees to the state program, that exceed 3 percent for loans greater than \$25,000 or \$750 for loans equal to or less than \$25,000; and

- (f) The Loan documents include disclosure by the Lender of all key terms in an easy-to-understand manner. In addition to all other applicable federal and state securities and lending disclosure laws, rules and regulations which continue to apply and are not superseded by the following, such Lender disclosures should include, for example, the Loan amount; payment obligation and schedule; any terms giving the Lender control over the Borrower's cash balances, cash flows or ownership; any conversion rights and future rights to purchase equity; and any fees or extra costs.

**8. SBA loan.** The Lender is not attempting attempt to enroll the Loan in the SSBCI-CAP that is any portion of an SBA guaranteed loan, without obtaining the MSF's express prior written consent.

**9. Loan Enrollment.** As part of the Lender's process to pursue enrollment of the Loan to an Enrolled Loan, the Lender submits the following:

- (a) the completed and signed Lender Assurances (see Exhibit A);
- (b) the completed and signed Borrower's Acknowledgment and the Borrower Assurances (see Exhibit C);
- (c) the completed and signed the Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule C-1);
- (d) to the extent provided by the Borrower and its principal owners to Lender, the completed and signed Borrower and Its Principal Owners' Demographic-Related Data, (see Schedule C-2);
- (e) to the extent the Loan is a permitted passive real estate transaction, the completed and signed Operating Company Certification (see Exhibit D);
- (f) to the extent the Loan is a permitted passive real estate transaction, the completed and signed Operating Company Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule D-1); and
- (g) to the extent provided to Lender by the Operating Company and its principal owners, the completed and signed Operating Company and Its Principal Owners' Demographic-Related Data, (see Schedule D-2).

Lender shall submit to the Project Manager the fully completed and signed as required Loan Enrollment Form, together with all applicable exhibits and schedules thereto required by this Agreement.

**10. SSBCI Reporting.** The Lender shall cooperate with the MSF, the MEDC, and any of their representatives, to provide information necessary for the MSF to ensure effective administration of the program by providing the MSF no later than January 31 of each year through the termination of this Agreement with the following information for each such Loan, in such form as the from time to time prescribe:

- (a) the census tract and zip code of the Borrower’s principal location in the State of Michigan;
- (b) the Lender’s Employer Identification Number (EIN);
- (c) the Lender’s Regulatory Identification Number;
- (d) 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;
- (e) the date of the initial disbursement of the Loan;
- (f) the Borrower’s annual revenues in its last fiscal year;
- (g) the Borrower’s Full Time Equivalent employees;
- (h) the Borrower’s Employer Identification Number (EIN);
- (i) the 6-digit North American Industry Classification System (NAICS) code for the Borrower’s industry;
- (j) the year the Borrower was incorporated or, as applicable, organized;
- (k) the estimated number of jobs created or retained as a result of each Loan;
- (l) the amount of additional private financing occurring for or on behalf of the Borrower after the closing of the Loan documents; and
- (m) any other information from time to time requested by the MSF.

**LENDER**

\_\_\_\_\_  
By:  
Its:  
  
Dated: \_\_\_\_\_

(LENDER SIGNATURE PAGE TO LENDER ASSURANCES-EXHIBIT B)

## EXHIBIT C

**BORROWER ACKNOWLEDGMENT AND BORROWER ASSURANCES**

This Borrower Acknowledgment and Borrower Assurances form is provided in connection with that certain Loan from **LENDER** (“Lender”), to [**LENDER: INSERT BORROWER’S LEGAL NAME:**] \_\_\_\_\_ (“Borrower”), dated \_\_\_\_\_, and in connection with pursuing enrollment of such Loan in the SSBCI 2.0 Capital Access Program (“SSBCI-CAP”) operated by the Michigan Strategic Fund (the “MSF”) and as further required by the Capital Access Agreement between Lender and the MSF, originally dated **MONTH XX, 20XX, CASE-XXXXXX**, as amended, restated, modified, substituted, and extended from time to time (“Capital Access Agreement”). Unless otherwise defined herein, capitalized terms shall have the meanings set forth in the Capital Access Agreement. For the benefit of the MSF and the Lender, the Borrower represents and warrants to the Lender and the MSF:

**A. BORROWER ACKNOWLEDGMENT**

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 applicable to Borrower as set forth in the Capital Access Agreement and acknowledges, consents to, and affirms all the terms and conditions therein.

Borrower acknowledges and accepts 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 to the U.S. Department of the Treasury, the MEDC and/or the MSF or their successors, and as otherwise set forth in the Capital Access Agreement.

Borrower shall take all action necessary to cause the terms and conditions in the Loan documents, and the Capital Access Agreement as applicable to Borrower, to be satisfied in all respects.

Borrower must complete Schedule C-1. Borrower may also complete, and request its principal owners to complete, Schedule C-2 and if completed, Borrower shall submit each of the Borrower’s and the principal owners completed portions of Schedule C-2 and provide to the Lender for purposes of the SSBCI.

**Borrower acknowledges the SSBCI Privacy Notice and Privacy Act Statement, below, and affirms a copy of the SSBCI Privacy Notice and Privacy Act Statement will be provided by the Borrower to any principal owners of the Borrower choosing to complete Schedule C-2.**

***SSBCI Privacy Notice and Privacy Act Statement******Privacy Notice:***

*Information collection in connection with the Loan will be shared with the U.S. Department of the Treasury (Treasury). Treasury has published a Privacy and Civil Liberties Impact Assessment that describes what Treasury will do with the information your business provides in connection with the Loan. It can be found on the Treasury website. If you have any questions about this document, please email [Privacy@Treasury.gov](mailto:Privacy@Treasury.gov).*

***Privacy Act Statement for Sole Proprietorships:***

*The Privacy Act of 1974 (Privacy Act) protects certain information that the federal government has about “individuals” (United States citizens and lawfully admitted permanent residents). The Privacy Act does not generally apply to businesses, but some federal courts have found that this law applies to sole proprietors (they are deemed “individuals” under the Privacy Act). If you, as the applicant, are a sole proprietor, you may have rights under the Privacy Act.*



***Authority:** Small Business Jobs Act of 2010 (SBJA), Title III, 12 U.S.C. § 5701 et seq., as amended by the American Rescue Plan Act of 2021 (ARPA), section 3301; Executive Order No. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 86 Fed. Reg. 7009 (January 25, 2021); and Interim Final Rule, State Small Business Credit Initiative; Demographics-Related Reporting Requirements, 87 Fed. Reg. 13628 (March 10, 2022).*

***Purpose:** Information in connection with the Loan will be shared with Treasury. This information will be shared with Treasury so it can conduct oversight to ensure compliance with federal law, including requirements related to nondiscrimination and nondiscriminatory uses of federal funds. Treasury also receives this information (including any demographic information provided) to comply with reporting requirements under the authorities listed above and to advance fairness and opportunity in underserved communities in the allocation of federal resources.*

***Routine Uses:** The information you furnish may be shared in accordance with the routine uses outlined in Treasury .013, Department of the Treasury Civil Rights Complaints and Compliance Review Files; Treasury .015, General Information Technology Access Account Records; and Treasury .017, Correspondence and Contact Information. For example, one routine use under Treasury .013 is to disclose pertinent information to appropriate agencies when Treasury becomes aware of a potential violation of civil or criminal law. Under this routine use, Treasury may disclose demographic information to the appropriate agencies if Treasury becomes aware of a violation of applicable antidiscrimination laws. More information about this and other routine uses can be found in the System of Records Notices (SORNs) listed above, which are posted on Treasury's website.*

***Disclosure:** Providing this information is voluntary. **However, failure to furnish the requested information on this Exhibit C and its Schedules, as applicable (except for the demographic information requested in Schedule C-3) may result in the denial of the Loan. Providing the demographic information in Schedule C-3 is optional. If you decline to provide this information, it will not adversely affect the Loan.***

## **B. BORROWER ASSURANCES**

### **STATE OF MICHIGAN REQUIREMENTS**

- 1. Michigan Operations.** So long as any portion of the Loan is outstanding, 100% of any assets being financed by the Loan shall be located in Michigan and with respect to the business being financed, the Borrower shall maintain substantially all of its employees (exclusive of sales staff) or operations within the State of Michigan.
- 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,
- 3. Federally Funded State Program.** Notwithstanding anything to the contrary, Borrower understands that the Lender will seek to enroll the Loan in the SSBCI-CAP, an MSF program originally funded by the federal funds arising from the SSBCI, a federal program authorized by the American Rescue Plan of 2021, which reauthorized and amended the Small Business Jobs Act, 12 USC 5701, et. seq.

4. **Purpose of the SSBCI CAP.** The purpose of the SSBCI-CAP is to assist the Lender in making loans to certain borrowers that might otherwise not qualify for a loan from the Lender and to provide financing for Michigan small businesses and promote economic development in the State.
5. **Reserve Fund and Payments.** As a condition of having the Loan filed for enrollment in the SSBCI-CAP, the Borrower is required to pay a non-refundable premium charge to an administrative account called the Reserve Fund, which Reserve Fund is established by the MSF to help cover losses that the Lender may sustain on loans enrolled in the SSBCI-CAP; and 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 the MSF. **The Borrower understands 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 waives any right, claim or interest to any and all such funds paid or credited to the Reserve Fund.**
6. **Lender's Loan.** Borrower further understands that the Loan from the Lender is a private transaction between the Lender and Borrower. While the Program may assist the Lender in being able to take more risk than normal in extending the Loan, Borrower acknowledges that the Lender is bearing the risk of the Loan. The MSF is not a party to the Loan and plays no role at all in the Lender's decision regarding whether or not to make the Loan, or except as the Lender is required to comply with the Program, in the setting of the interest rate, fees, duration, or any other terms or conditions of the Loan, or in any enforcing the Lender's rights under the Loan.

### C. SSBCI PROGRAM REQUIREMENTS

1. **Borrower Size.** Borrower does not have more than 500 employees (as defined in Section 13 C.F.R. Part 121.106).
2. **Business Purpose.** The Loan proceeds must be used for a "business purpose." A business purpose includes, but is not limited to, startup costs, working capital, franchise fees, and acquisition of equipment, inventory, or services used in the production, manufacturing, or delivery of a business's goods or service, 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, and any tangible or intangible assets except goodwill. The definition of business purpose excludes acquiring or holding passive investments in real estate, 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.
3. **Prohibited Use of Loan.** The Loan proceeds will not be used:
  - (a) for any impermissible purpose under the SSBCI or the SSBCI-CAP;
  - (b) to repay delinquent Federal or State income taxes unless the Borrower has a payment plan in place with the relevant taxing authority;
  - (c) to repay taxes held in trust or escrow, e.g. payroll or sales taxes;
  - (d) to reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance;

- (e) to purchase any portion of the ownership interest of any owner of the business, except for the purchase of an interest in an employee stock ownership plan qualifying under Section 401 of the Internal Revenue Code, worker cooperative, or related vehicle, provided that the transaction results in the employee stock ownership plan or other employee-owned entity holding a majority interest (on a fully diluted basis) in the business; or
- (f) for the development of a stadium or arena for use by a professional sports team or development of a casino or property associated or affiliated with the operation of a casino as prohibited by the Act (see MCL 125.2088c(3)(a) and (b)), or to induce the Borrower, a qualified business, or small business to leave the State of Michigan, or to contribute to the violation of internationally recognized workers' rights, of workers in a country other than the US, or to fund an entity incorporated in a tax haven country, as prohibited by the Act (see MCL 125.2088c(4)(c), (d), and (e)).

**4. 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.

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

- (a) a business engaged in speculative activities that develop profits from fluctuations in price, 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 through normal risk of trade;
- (b) a business that earns more than half of its annual net revenue from lending activities; unless the business is (1) not a depository institution or a bank holding company certified as a Community Development Financial Institution, or (2) a tribal enterprise lender that is not a depository institution or a bank holding company;
- (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 if permitted by federal law, applicable law in the jurisdiction where the business is located or conducted (this includes businesses that make, sell, service, or distribute products or services in connection with the illegal activity, unless such use can be shown to be completely outside of the business's intended market; this includes direct and indirect marijuana businesses, as defined in the SBA Standard Operating Procedure 50 10 6, Lender and Development Company Loan Programs (effective October 1, 2020); or
- (e) a business engaged in gambling enterprises, unless the business earns less than 33% of

its annual net revenue from legal gambling activities, unless the business is a Tribal SSBCI participant, in which case the Tribal SSBCI participant is prohibited from using SSBCI funds for gaming activities, but is not restricted from using SSBCI funds for non-gaming activities merely due to an organizational tie to a gaming business<sup>19</sup>; “gaming activities” for purposes of Tribal SSBCI programs is defined as Class II and Class III gaming under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2703.

**6. SSBCI Reporting.** The Borrower shall cooperate with the Lender, the MSF, the MEDC, and any of their representatives, and provide the information required by SSBCI to the Lender and any other information required from time to time by the MSF related to the Capital Access Agreement.

**7. Treasury Inspector General.** The Borrower shall make available to the federal Department of Treasury, the Treasurer Inspector General, and their respective employees, agents or contractors (“Federal Treasury”), all books and records related to the Loan and the use of the Loan, subject to the Right to Financial Privacy Act, 12 U.S.C § 3401, et. seq.), including detailed Loan records. In accordance with SSBCI guidelines, this Section shall survive until [the later of (i) July 31, 2031 or (ii) as otherwise required by 2 CFR §220.334. Borrower shall cooperate with the Federal Treasury in any enforcement or compliance review activities of the Federal Treasury in any way related to the Loan or Loan documents, this Agreement or the laws and regulations in connection therewith. Such enforcement or compliance review may include investigation, arbitration, mediation, litigation, and monitoring, and further, as may be required by Federal Treasury, the Borrower shall comply with information requests, on-site compliance reviews and all required reporting.

**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 partner; if a corporation, limited liability company, association or a development company, or any other entity, 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”.

**9. Passive Real Estate: BORROWER MUST CHECK THE APPLICABLE BOX BELOW:**

(a)  the Borrower is NOT a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company,

**OR**

The Borrower IS a real estate holding company using the proceeds of the Loan to acquire and hold real or personal property and subsequently leasing the real or personal property to a related operating company. The operating company is **[LENDER: INSERT THE OPERATING COMPANY’S LEGAL NAME:]** \_\_\_\_\_ (“Operating Company”). The Borrower further represents and warrants the following:

(b) The Operating Company is a co-borrower or a guarantor of the Loan, as applicable;

- i. Both the Borrower and Operating Company have executed all required certifications, including those included within all required Exhibits and schedules made a part of the Loan Enrollment Form;
- ii. Each natural person holding an ownership interest constituting at least twenty percent (20%) of the Borrower and the Operating Company have provided a personal guaranty in favor of the Lender for the Loan; and

- iii. Borrower and Operating Company have a written lease with a term at least equal to the term of the Loan, including options to renew exercisable solely by the Operating Company.

**10. SEDI Requirements.** Attached is Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule C-2); and

**11. Demographic-Related Data.** Attached, if chosen to be provided, is the Borrower and its principal owners completed Borrower and Its Principal Owners' Demographic-Related Data, (see Schedule C-2).

The undersigned is an authorized representative of the Borrower.

**BORROWER:** \_\_\_\_\_

\_\_\_\_\_  
By:  
Its:  
Date: \_\_\_\_\_

(BORROWER SIGNATURE PAGE TO BORROWER ASSURANCES AND  
BORROWER ACKNOWLEDGMENT FORM)

**SCHEDULE C-1****Borrower Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses)**

This transaction is supported with funding provided through the State Small Business Credit Initiative (SSBCI), a federal program that supports small business lending and investment programs in states, the District of Columbia, territories, and Tribal governments (collectively known as participating jurisdictions). SSBCI programs are designed to expand access to capital, promote economic resiliency, and create new jobs and economic opportunity. SSBCI provides funding for participating jurisdictions to support businesses owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses)<sup>1</sup>. This certification provides documentation that an SSBCI loan or investment supported a SEDI-owned business. The information collected from this certification can only be used for purposes of the SSBCI program and must not be used for any other purposes (e.g., marketing, sale to third parties). The information collected must also not be used in a manner that violates any applicable antidiscrimination laws, including, but not limited to, the laws specified in Section IX.b of the Capital Program Policy Guidelines (Compliance with Civil Rights Requirements).

**The Borrower is required to provide this certification. The Borrower shall identify all categories in group (1) (A) OR (1) (B) below that applies, including all subcategories in group (1) that apply. The Borrower shall also complete Section 2 and 3 below that apply.**

The Borrower hereby certifies to the MSF and the Lender that:

- (1) (A)  Borrower **IS** a Business enterprise that is owned and controlled<sup>2</sup> by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances, due to their:
- membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society;
  - gender;
  - veteran status;
  - limited English proficiency;
  - disability;
  - membership of a federally or state-recognized Indian Tribe;
  - long-term residence in a rural community;
  - residence in a U.S. territory; or
  - membership of another underserved community.<sup>3</sup>

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<sup>1</sup> SSBCI funds count toward fulfilling the “expended for” requirement for the \$1.5 billion SEDI allocation and toward qualifying for initial eligible amounts under the \$1.0 billion SEDI incentive allocation if the SSBCI funds have been expended for loans, investments, or other credit or equity support to any of the four groups of businesses set forth in Section IV.a of the SSBCI Capital Program Policy Guidelines. While a participating jurisdiction may reasonably identify group (4) businesses (i.e., those located in Community Development Financial Institution (CDFI) Investment Areas) based on businesses’ addresses from the relevant loan, investment, and credit or equity support applications, certification is required with regard to groups (1) through (3).

<sup>2</sup> The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such individuals; and in the case of a mutual institution, a majority of the board of directors, account holders, and the community of which the institution services is predominantly comprised of such individuals.

<sup>3</sup> “Underserved communities” are populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic,

**OR**

(B)  Borrower is **NOT** a Business enterprise that is owned and controlled<sup>4</sup> by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances.

(2)  Address of primary residence of all individuals with 20% or greater ownership of the Borrower:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3)  Project property address (new construction projects only):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned is an authorized representative of the Borrower.

**BORROWER:** \_\_\_\_\_

By: \_\_\_\_\_

Its:

Date: \_\_\_\_\_

(BORROWER SIGNATURE PAGE TO SEDI REQUIREMENTS-SCHEDULE C-1)

social, and civic life, as exemplified by the list in the definition of equity. Equity is consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

<sup>4</sup> The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such individuals; and in the case of a mutual institution, a majority of the board of directors, account holders, and the community of which the institution services is predominantly comprised of such individuals.

**SCHEDULE C-2****BORROWER AND ITS PRINCIPAL OWNERS' DEMOGRAPHIC-RELATED DATA**

This transaction is supported with funding provided through the State Small Business Credit Initiative (SSBCI), a federal program that supports small business lending and investment programs in states, the District of Columbia, territories, and Tribal governments (collectively, “participating jurisdictions”). SSBCI programs are designed to expand access to capital, promote economic resiliency, and create new jobs and economic opportunity. Filling out this form and providing demographic information is optional; applicants are not required to provide the requested information but are encouraged to do so. The entity collecting this information cannot discriminate on the basis of whether an applicant provides this information or based on any information provided on this form. If you decline to provide this information, it will not adversely affect your application. The demographics-related information collected can only be used for purposes of the SSBCI program and must not be used for any other purposes (e.g., marketing, sale to third parties). The information collected must also not be used in a manner that violates any applicable anti-discrimination laws, including, but not limited to, the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d-1 et seq., and Treasury’s implementing regulations, 31 C.F.R. part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and Treasury’s implementing regulations, 31 C.F.R. part 28; the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and Treasury’s implementing regulations at 31 C.F.R. part 23. If you believe you were discriminated against in connection with the provision of the information provided on this form, contact: Director, Office of Civil Rights and Diversity, U.S. Department of the Treasury, 1500 Pennsylvania Ave, N.W., Washington, DC 20220, or by email at [crcomplaints@treasury.gov](mailto:crcomplaints@treasury.gov). PAPERWORK REDUCTION ACT NOTICE - OMB Control Number 1505-0227 An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**Section A below is for collection of Borrower data, and Section B below is for collection of data for each principal owner of the Borrower.**

**A. Borrower Data.** The Borrower is encouraged to answer all of the questions below. This information is being collected to help ensure that communities’ small business credit needs are being fulfilled and allow SSBCI to analyze the populations that SSBCI funding is benefiting.

**1. Minority-owned or controlled business status**

For purposes of this form, minority individual means a natural person who identifies as American Indian or Alaska Native; Asian American; Black or African American; Native Hawaiian or Other Pacific Islander; Hispanic or Latino/a; or one or more than one of these groups. For purposes of this form, a business is a minority-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by minority individuals;
  - (2) if publicly owned, 51 percent or more of the stock is owned by minority individuals;
  - (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of minority individuals;
- or
- (4) one or more minority individuals have the power to exercise a controlling influence over the business.

**Is the Borrower a minority-owned or**

Yes

No

Prefer not to respond



**controlled  
business?**

**2. Women-owned or controlled business status**

For purposes of this form, a business is a women-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by females;
- (2) if publicly owned, 51 percent or more of the stock is owned by females;
- (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of females; or
- (4) one or more individuals who are females have the power to exercise a controlling influence over the business.

**Is the Borrower a  
women-owned or  
controlled  
business?**

Yes

No

Prefer not to  
respond

**3. Veteran-owned or controlled business status**

For purposes of this form, a business is a veteran-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by veterans;
- (2) if publicly owned, 51 percent or more of the stock is owned by veterans;
- (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of veterans; or
- (4) one or more individuals who are veterans have the power to exercise a controlling influence over the business.

**Is the Borrower a  
veteran-owned or  
controlled  
business?**

Yes

No

Prefer not to  
respond

**BORROWER:** \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

(BORROWER SIGNATURE PAGE TO DEMOGRAPHIC-RELATED DATA-SCHEDULE C-2)

**B. Principal Owner Data. Each principal owner of the Borrower is encouraged to answer the questions below.**

This information is being collected to help ensure that communities' small business credit needs are being fulfilled and allow SSBCI to analyze the populations that SSBCI funding is benefiting. For purposes of this form, a principal owner of the business is a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity of the business. If a trust owns, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, 25 percent or more of the equity interests of the business, the trustee is a principal owner.

For each principal owner of the Borrower, indicate which of the following categories the principal owner identifies with. **Submit a separate copy of this table for each principal owner of the Borrower (up to four).**

**1. Ethnicity**

- Hispanic or Latino/a    Not Hispanic or Latino/a    Prefer not to respond

**2. Race (select all that apply)**

- |   |  |
|---|--|
| <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Black or African American                 |
| <input type="checkbox"/> Asian                            | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| <input type="checkbox"/> Indian                           | <input type="checkbox"/> Guamanian or Chamorro                     |
| <input type="checkbox"/> Chinese                          | <input type="checkbox"/> Native Hawaiian                           |
| <input type="checkbox"/> Filipino                         | <input type="checkbox"/> Samoan                                    |
| <input type="checkbox"/> Japanese                         | <input type="checkbox"/> Pacific Islander (Other)                  |
| <input type="checkbox"/> Korean                           | <input type="checkbox"/> White                                     |
| <input type="checkbox"/> Vietnamese                       | <input type="checkbox"/> Prefer not to respond                     |
| <input type="checkbox"/> Asian (Other)                    |  |

**3. Middle Eastern or North African Ancestry**

- Middle Eastern or North African    Not Middle Eastern or North African  
 Prefer not to respond

**4. Gender**

- Female    Male    Nonbinary  
 Prefer to self-describe: \_\_\_\_\_  
 Prefer not to respond

**6. Veteran Status**

- Veteran    Non-veteran    Prefer not to respond

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Principal Owner

Date: \_\_\_\_\_

(OWNER SIGNATURE PAGE TO DEMOGRAPHIC-RELATED DATA-SCHEDULE C-2)

## EXHIBIT D

## OPERATING COMPANY CERTIFICATION

**[LENDER: YOU MUST ADD THIS COMPLETED EXHIBIT D  
FOR HOLDING COMPANY SITUATIONS]**

This Operating Company Certification is provided in connection with that certain Loan from **LENDER** (the “Lender”) to **[LENDER: INSERT BORROWER’S LEGAL NAME:]** \_\_\_\_\_ (the “Borrower”), dated \_\_\_\_\_ (the “Loan”), and in furtherance of the State Small Business Credit Initiative (the “SSBCI”), Capital Access Program (the “SSBCI-CAP”) operated by the Michigan Strategic Fund (the “MSF”) and as further required by the Capital Access Agreement between Lender and the MSF, originally **dated MONTH XX, 20XX, CASE-XXXX**, as amended, restated, modified, substituted, and extended from time to time (“Capital Access Agreement”). Unless otherwise defined herein, capitalized terms shall have the meanings given in the Capital Access Agreement.

For the benefit of the MSF and the Lender, and in accordance with the SSBCI-CAP, **[LENDER: INSERT OPERATING COMPANY’S LEGAL NAME:]** \_\_\_\_\_ (“Operating Company”) represents and warrants to the Lender and the MSF:

1. **Business Purpose**. The Loan proceeds must be used for a “business purpose.” A business purpose includes, but is not limited to, startup costs, working capital, franchise fees, and acquisition of equipment, inventory, or services used in the production, manufacturing, or delivery of a business’s goods or service, 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, and any tangible or intangible assets except goodwill. The definition of business purpose excludes acquiring or holding passive investments in real estate, 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
2. **Prohibited Use of Loan**. The Loan proceeds will not be used:
  - (a) for any impermissible purpose under the SSBCI or the SSBCI-CAP;
  - (b) to repay delinquent Federal or State income taxes unless the Borrower has a payment plan in place with the relevant taxing authority;
  - (c) to repay taxes held in trust or escrow, e.g. payroll or sales taxes;
  - (d) to reimburse funds owed to any owner, including any equity injection or injection of capital for the business’ continuance;
  - (e) to purchase any portion of the ownership interest of any owner of the business; or
  - (f) for the development of a stadium or arena for use by a professional sports team or development of a casino or property associated or affiliated with the operation of a casino as prohibited by the Act (see MCL 125.2088c(3)(a) and (b)), or to induce the Borrower, a qualified business, or small business to leave the State of Michigan, or to contribute to the violation of internationally recognized workers’ rights, of workers in a country other than the US, or to fund an entity incorporated in a tax haven country, as prohibited by the Act (see MCL 125.2088c(4)(c), (d), and (e)).
3. **Affiliations**.

(a) The Operating Company is not:

- i. an executive officer, director, or principal shareholder of the Lender;
- ii. a member of the immediate family of an executive officer, director, or principal shareholder of the Lender; or
- iii. a related interest of any such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of the above 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.

(b) The Operating Company is an affiliate of the Borrower, and together with Borrower’s employees, does not have an aggregate of more than 750 employees.

4. **Business.** The Operating Company 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.

5. **No Conviction of Sex Offense.** No principal of the Operating Company 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 partner; if a corporation, limited liability company, association or a development company, or any other entity, 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”.

6. **Sedi Requirements.** Attached is the Operating Company’s Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses) (see Schedule D-1).

7. **Demographic-Related Data.** Attached, if chosen to be provided, is the Operating

LEGAL DRAFT – FINAL

Company and its principal owners completed Operating Company and Its Principal Owners' Demographic-Related Data, (see Schedule D-2).

The undersigned is an authorized representative of the Operating Company.

**OPERATING COMPANY:** \_\_\_\_\_

\_\_\_\_\_  
By:

Its:

Date \_\_\_\_\_

(OPERATING COMPANY SIGNATURE PAGE TO OPERATING COMPANY CERTIFICATION-EXHIBIT D)

DRAFT

**SCHEDULE D-1****Operating Company Certification Related to Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI-Owned Businesses)**

This transaction is supported with funding provided through the State Small Business Credit Initiative (SSBCI), a federal program that supports small business lending and investment programs in states, the District of Columbia, territories, and Tribal governments (collectively known as participating jurisdictions). SSBCI programs are designed to expand access to capital, promote economic resiliency, and create new jobs and economic opportunity. SSBCI provides funding for participating jurisdictions to support businesses owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses)<sup>5</sup>. This certification provides documentation that an SSBCI loan or investment supported a SEDI-owned business. The information collected from this certification can only be used for purposes of the SSBCI program and must not be used for any other purposes (e.g., marketing, sale to third parties). The information collected must also not be used in a manner that violates any applicable antidiscrimination laws, including, but not limited to, the laws specified in Section IX.b of the Capital Program Policy Guidelines (Compliance with Civil Rights Requirements).

**The Operating Company is required to provide this certification. The Operating Company shall identify all categories in group (1) (A) OR (1) (B) below that applies, including all subcategories in group (1) that apply. The Operating Company shall also complete Section 2 and 3 below that apply.**

The **[LENDER: INSERT OPERATING COMPANY'S LEGAL NAME:]**  
 \_\_\_\_\_ (“Operating Company”) hereby certifies to the MSF and the Lender that:

(1) (A)  the Operating Company **IS** a Business enterprise that is owned and controlled<sup>6</sup> by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances, due to their:

- membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society;
- gender;
- veteran status;
- limited English proficiency;
- disability;
- membership of a federally or state-recognized Indian Tribe;
- long-term residence in a rural community;

<sup>5</sup> SSBCI funds count toward fulfilling the “expended for” requirement for the \$1.5 billion SEDI allocation and toward qualifying for initial eligible amounts under the \$1.0 billion SEDI incentive allocation if the SSBCI funds have been expended for loans, investments, or other credit or equity support to any of the four groups of businesses set forth in Section IV.a of the SSBCI Capital Program Policy Guidelines. While a participating jurisdiction may reasonably identify group (4) businesses (i.e., those located in Community Development Financial Institution (CDFI) Investment Areas) based on businesses’ addresses from the relevant loan, investment, and credit or equity support applications, certification is required with regard to groups (1) through (3).

<sup>6</sup> The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such individuals; and in the case of a mutual institution, a majority of the board of directors, account holders, and the community of which the institution services is predominantly comprised of such individuals.

LEGAL DRAFT – FINAL

- residence in a U.S. territory; or
- membership of another underserved community.<sup>7</sup>

**OR**

(B)  The Operating Company is **NOT** a Business enterprise that is owned and controlled<sup>8</sup> by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances.

(2)  Address of primary residence of all individuals with 20% or greater ownership of the Operating Company:

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(3)  Project property address (new construction projects only):

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The undersigned is an authorized representative of the Operating Company.

**OPERATING COMPANY:** \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

(OPERATING COMPANY SIGNATURE PAGE TO SEDI REQUIREMENTS-SCHEDULE D-1)

<sup>7</sup> “Underserved communities” are populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the definition of equity. Equity is consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

<sup>8</sup> The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such individuals; and in the case of a mutual institution, a majority of the board of directors, account holders, and the community of which the institution services is predominantly comprised of such individuals.

**SCHEDULE D-2****OPERATING COMPANY AND ITS PRINCIPAL OWNERS' DEMOGRAPHIC-RELATED DATA**

This transaction is supported with funding provided through the State Small Business Credit Initiative (SSBCI), a federal program that supports small business lending and investment programs in states, the District of Columbia, territories, and Tribal governments (collectively, “participating jurisdictions”). SSBCI programs are designed to expand access to capital, promote economic resiliency, and create new jobs and economic opportunity. Filling out this form and providing demographic information is optional; applicants are not required to provide the requested information but are encouraged to do so. The entity collecting this information cannot discriminate on the basis of whether an applicant provides this information or based on any information provided on this form. If you decline to provide this information, it will not adversely affect your application. The demographics-related information collected can only be used for purposes of the SSBCI program and must not be used for any other purposes (e.g., marketing, sale to third parties). The information collected must also not be used in a manner that violates any applicable anti-discrimination laws, including, but not limited to, the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d-1 et seq., and Treasury’s implementing regulations, 31 C.F.R. part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and Treasury’s implementing regulations, 31 C.F.R. part 28; the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and Treasury’s implementing regulations at 31 C.F.R. part 23. If you believe you were discriminated against in connection with the provision of the information provided on this form, contact: Director, Office of Civil Rights and Diversity, U.S. Department of the Treasury, 1500 Pennsylvania Ave, N.W., Washington, DC 20220, or by email at crcomplaints@treasury.gov. PAPERWORK REDUCTION ACT NOTICE - OMB Control Number 1505-0227 An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**Section A below is for collection of [LENDER: INSERT THE OPERATING COMPANY’S LEGAL NAME:] \_\_\_\_\_ (“Operating Company”) data, and Section B below is for collection of data for each principal owner of the Operating Company.**

**A. Operating Company Data.** The Operating Company is encouraged to answer all of the questions below. This information is being collected to help ensure that communities’ small business credit needs are being fulfilled and allow SSBCI to analyze the populations that SSBCI funding is benefiting.

**1. Minority-owned or controlled business status**

For purposes of this form, minority individual means a natural person who identifies as American Indian or Alaska Native; Asian American; Black or African American; Native Hawaiian or Other Pacific Islander; Hispanic or Latino/a; or one or more than one of these groups. For purposes of this form, a business is a minority-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by minority individuals;
- (2) if publicly owned, 51 percent or more of the stock is owned by minority individuals;
- (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of minority individuals; or
- (4) one or more minority individuals have the power to exercise a controlling influence over the business.

No

Prefer not to respond



**Is the Operating Company a minority-owned or controlled business?**  Yes

**2. Women-owned or controlled business status**

For purposes of this form, a business is a women-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by females;
- (2) if publicly owned, 51 percent or more of the stock is owned by females;
- (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of females; or
- (4) one or more individuals who are females have the power to exercise a controlling influence over the business.

**Is the Operating Company a women-owned or controlled business?**  Yes  No  Prefer not to respond

**3. Veteran-owned or controlled business status**

For purposes of this form, a business is a veteran-owned or controlled business if the business meets one or more of the following:

- (1) if privately owned, 51 percent or more is owned by veterans;
- (2) if publicly owned, 51 percent or more of the stock is owned by veterans;
- (3) in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of veterans; or
- (4) one or more individuals who are veterans have the power to exercise a controlling influence over the business.

**Is the Operating Company a veteran-owned or controlled business?**  Yes  No  Prefer not to respond

**OPERATING COMPANY:** \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

(OPERATING COMPANY SIGNATURE PAGE TO  
DEMOGRAPHIC-RELATED DATA-SCHEDULE D-2)

**B. Principal Owner Data. Each principal owner of the Operating Company is encouraged to answer the questions below.**

This information is being collected to help ensure that communities' small business credit needs are being fulfilled and allow SSBCI to analyze the populations that SSBCI funding is benefiting. For purposes of this form, a principal owner of the Business is a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity of the business. If a trust owns, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, 25 percent or more of the equity interests of the business, the trustee is a principal owner.

For each principal owner of the Operating Company, indicate which of the following categories the principal owner identifies with. **Submit a separate copy of this table for each principal owner of the Operating Company (up to four).**

**1. Ethnicity**

- Hispanic or Latino/a    Not Hispanic or Latino/a    Prefer not to respond

**2. Race (select all that apply)**

- |   |  |
|---|--|
| <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Black or African American                 |
| <input type="checkbox"/> Asian                            | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| <input type="checkbox"/> Indian                           | <input type="checkbox"/> Guamanian or Chamorro                     |
| <input type="checkbox"/> Chinese                          | <input type="checkbox"/> Native Hawaiian                           |
| <input type="checkbox"/> Filipino                         | <input type="checkbox"/> Samoan                                    |
| <input type="checkbox"/> Japanese                         | <input type="checkbox"/> Pacific Islander (Other)                  |
| <input type="checkbox"/> Korean                           | <input type="checkbox"/> White                                     |
| <input type="checkbox"/> Vietnamese                       | <input type="checkbox"/> Prefer not to respond                     |
| <input type="checkbox"/> Asian (Other)                    |  |

**3. Middle Eastern or North African Ancestry**

- Middle Eastern or North African    Not Middle Eastern or North African    Prefer not to respond

**4. Gender**

- Female    Male    Nonbinary  
 Prefer to self-describe: \_\_\_\_\_  
 Prefer not to respond

**5. Veteran Status**

- Veteran    Non-veteran    Prefer not to respond

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Principal Owner  
Date: \_\_\_\_\_

(OWNER SIGNATURE PAGE TO DEMOGRAPHIC-RELATED DATA-SCHEDULE D-2)

**EXHIBIT E**

**LOAN CLAIM FORM**

This Loan Claim form is provided in connection with that certain Loan from **LENDER** (“Lender”), to **[LENDER: INSERT BORROWER’S LEGAL NAME:]** \_\_\_\_\_ (“Borrower”), dated \_\_\_\_\_ and in connection with pursuing enrollment of such Loan in the SSBCI 2.0 Capital Access Program (“SSBCI-CAP”) operated by the Michigan Strategic Fund (the “MSF”) and as further required by the Capital Access Agreement between Lender and the MSF, originally dated **MONTH XX, 20XX, CASE-XXXX**, as amended, restated, modified, substituted, and extended from time to time (“Capital Access Agreement”).

All capitalized terms that are not otherwise defined herein shall have the meanings set forth in the Capital Access Agreement.

Each time the Lender desires to file a Claim under the Capital Access Agreement, the Lender shall return to the Loan Manager a fully finalized and executed form of this Exhibit:

Name of Lender: \_\_\_\_\_

Lender ID #: \_\_\_\_\_

Name of Borrower/Loan: \_\_\_\_\_

Original Amount of Enrolled Loan: \_\_\_\_\_

Outstanding Balance of Loan  
(Immediately prior to charge-off): \_\_\_\_\_

**Claim Details**

Principal: \_\_\_\_\_

Accrued Interest (up to 90 days): \_\_\_\_\_

**Total Amount of Claim:** \_\_\_\_\_

The completed Claim Form, along with documentary evidence that the above Loan has been charged off, must be submitted by the Lender to the Loan Manager as provided under the Capital Access Agreement.

**FOR LOAN MANAGER USE ONLY:**

Pursuant to the Capital Access Agreement:  
\_\_\_\_\_ The above Loan Claim is permitted in the amount of: \_\_\_\_\_.

**[OR]**  
\_\_\_\_\_ The above Loan Claim is not a permitted Loan Claim because  
\_\_\_\_\_.

Printed Name: \_\_\_\_\_  
Loan Manager  
Dated: \_\_\_\_\_