

**THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF
CHANDLER, ARIZONA**

Collateral Assistance Program Agreement

Agreement No. _____

COLLATERAL ASSISTANCE PROGRAM AGREEMENT

Agreement No. _____

This Agreement ("Agreement") is entered into by and among THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF CHANDLER, ARIZONA, an Arizona nonprofit corporation and the Collateral Assistance Provider herein ("CIDA"), _____ ("Lender"), and _____, a _____ organized and existing under the laws of _____ ("Borrower").

1. Collateral Assistance Program - Borrower hereby agrees to abide by the terms and conditions of the CIDA's Collateral Assistance Program ("CAP") Guidelines, which are attached hereto as Attachment No. 1 and incorporated herein by this reference.

2. Loans - Borrower also agrees to abide by the terms and conditions of all documents that evidence or secure the Loans, as herein defined (the "Loan Documents"), which are incorporated herein by this reference. Any default in the Loan Documents will constitute a default of this Agreement. In the event of any conflict between the terms of the Loan Documents and the terms of this Agreement, the terms of this Agreement will be controlling. However, this Agreement does not contain all of the obligations of Borrower to Lender and does not limit the provisions contained in the Loan Documents or documents related thereto.

The Borrower's purpose for participating in the CAP is to induce Lender to provide a \$ _____ loan (the "Term Loan") and/or a \$ _____ revolving line of credit (the "LOC Loan") (collectively the "Loans"), in accordance with Lender's letter of commitment and as provided in the Loan Documents.

Borrower will use the proceeds of the Loan(s) ("Loan Proceeds") to provide working capital to support the ongoing operations or as otherwise set forth in the attached Exhibit entitled "Use of Proceeds." Borrower may not use the Loan Proceeds for any other purpose without CIDA's prior written approval. Lender must notify CIDA in writing if Lender becomes aware of any use of Loan Proceeds for any purpose not stated herein or approved in writing by CIDA, and such unauthorized use of Loan Proceeds will be an Event of Default under the Loans unless CIDA agrees in writing to such change in use.

Lender may not grant any extension of or modification to the Loan Documents, or make any additional loans or advances to Borrower, or permit any assumption of the Loans, without CIDA's prior written approval. Lender must notify CIDA of any prepayment of the Loans in whole or in part.

Copies of all financial data required under the Loan Documents which are to be provided to Lender subsequent to the funding of the Loans must be forwarded by Lender to CIDA within fifteen (15) days of receipt.

3. Fees - Borrower agrees to pay CIDA a non-refundable fee of Two Hundred Fifty Dollars (\$250.00) with Borrower's application (the "Application Fee"). If the Application is approved by CIDA, Borrower shall pay CIDA a fee equal to one percent (1%) of the Reserved Collateral (defined below) at closing (the "Closing Fee"). One year after closing, and each year thereafter, Borrower shall pay CIDA a fee equal to one percent (1%) of the Reserved Collateral (the "Annual Participation Fee"). The Closing Fee and the Annual Participation Fee shall be collected from Borrower by Lender and remitted to CIDA as directed. In addition to the foregoing fees, Borrower is responsible for all third-party costs incurred by the CIDA including, but not limited to, reasonable legal fees and accounting fees incurred by CIDA in reviewing Borrower's Application. Such third-party fees shall be accounted for by CIDA and collected by Lender from Borrower at closing of the Loan(s).

4. Reserved Collateral - On or before the date Lender funds the Loan(s), CIDA must ensure that funds are on deposit at Lender in the amount of \$ _____ or twenty percent (20%) of the principal balance of the Loans or, in the case of a line of credit, in the total amount of credit available to be drawn, whichever is less, which reserve may be reduced as provided herein ("Reserved Collateral") and certify to the Lender that the Reserved Collateral funds are on deposit and reserved for the Loans. CIDA hereby grants Lender a security interest in the principal amount of the Reserved Collateral on the terms and conditions stated herein.

Lender must provide to CIDA a current statement of the status and principal balance of the Loans at least quarterly or upon request by CIDA. Lender must also notify CIDA of principal draws on the LOC Loan as they occur. If the actual use of proceeds, as indicated on Borrower's application to CIDA, is less than the amount stated in the Borrower's application, or if the principal amounts of the Loans are reduced as the Loans are paid by the Borrower or for any other reason, the amount of the Reserved Collateral is to be reduced and any surplus amount released to CIDA, such that the Reserved Collateral will never exceed twenty percent (20%) of the actual principal balance of the Loans.

Lender will have no right, title or interest in or claim to the interest earned on the Reserved Collateral, or any portion of the principal amount of the Reserved Collateral that exceeds twenty percent (20%) of the actual principal balance of the Loans. Interest on the Reserved Collateral will belong exclusively to CIDA. The Reserved Collateral will be held by and in the name of CIDA, but CIDA agrees that it will maintain the Reserved Collateral for the benefit of Lender, and may not withdraw the principal balance of the Reserved Collateral until: (i) forty-eight (48) months after the date of the deposit, provided no default exists under the Loans; (ii) the Loans have been paid in full; or (iii) withdrawal of all or a portion of the Reserved Collateral is otherwise authorized by Lender or by this Agreement, whichever first occurs.

5. Other Security for the Loans- The Loans are further secured by: (i) a first priority, perfected security interest in the machinery, equipment, furniture, fixtures, accounts receivable and other assets owned by Borrower, only to the extent described in the Loan Documents (collectively, the "Loan Collateral"). Lender agrees

that it will not release its liens upon the Loan Collateral during the term of this Agreement unless the Loans have been paid in full and CIDA's obligations under this Agreement extinguished, or CIDA has approved the release in writing.

6. Guaranty of Payment of the Loan - Payment of the Loans is guaranteed by: (i) the personal guaranty (the "Loan Guaranty") executed by _____ ("Loan Guarantor"). If the Loan is a U.S. Small Business Administration ("SBA") loan, it will also be guaranteed by a financing guaranty executed by the SBA (an "SBA Financing Guaranty") in the amount of _____ percent (___%) of the principal balance of the Loan, pursuant to which Lender is obligated to either apply all monies recovered on the Loan to reduce the unpaid balance of the Loan or to remit such monies to the SBA. The Loan Guaranty and the SBA Financing Guaranty are collectively referred to herein as the "Guaranties." Lender agrees that it will not release or modify the Guaranties during the term of this Agreement unless the Loans have been paid in full and CIDA's obligations under this Agreement extinguished, or CIDA has approved the release or modification in writing.

7. Default by Borrower - The Loans will be in default whenever Lender has declared a default for any reason stated in the Loan Documents (a "Declared Default"), or when Lender has not received any payment that has been due and payable for ninety (90) consecutive days after the date fixed for the payment (a "Monetary Default").

8. Lender's Duties in Event of Default by Borrower - Upon the occurrence of a Declared Default or a Monetary Default, Lender must promptly make demand upon Borrower and Loan Guarantor for payment, and must provide to CIDA a written report describing the circumstances of the default and Lender's plan to collect the Loans, and providing Lender's best estimate of: (i) the time it will take to complete liquidation of the Collateral for the Loans, and to enforce the Guaranties, and (ii) the net proceeds Lender expects to recover from Borrower, the liquidation of the Collateral, the enforcement of the Loan Guaranty, or any other source except payments that Lender may receive or become entitled to receive pursuant to the SBA Financing Guaranty, after collection costs ("Estimated Net Proceeds"). Lender must also promptly and diligently take all appropriate and commercially reasonable measures to enforce the Guaranties and to liquidate all collateral securing the Loans including, but not limited to, the Loan Collateral, and must apply the monies received from the enforcement of its rights under the Loan Documents, (except the right to receive payments pursuant to the SBA Financing Guaranty), after deducting collection costs (the "Net Proceeds"), to reduce the balance of the Loans. If payment in full of all sums owed is not forthcoming, Lender must, as soon as reasonable, institute legal proceedings against Borrower and the nonperforming Loan Guarantor.

9. Lender's Recourse to Reserved Collateral - Lender may not have any recourse against or payment from the Reserved Collateral until all of the following have occurred: (i) a Declared Default or a Monetary Default exists and has not been remedied within thirty (30) days; (ii) Lender has accelerated the balance due under the Loans; (iii) Lender has taken all appropriate and commercially reasonable measures to

liquidate all collateral securing the Loans in default including, but not limited to, the Loan Collateral; (iv) Lender has demanded that Borrower and Loan Guarantor pay the Loans; (v) Lender has applied all Net Proceeds exclusively to the outstanding principal balance of the Loans on the date of default, and then to a maximum of ninety (90) days' interest accrued on the actual balance of the Loans after default (such application of payments is solely for the purposes of this Agreement, and not to determine any amounts owed by Borrower to Lender under the Loan Documents); (vi) after liquidation of all collateral securing the Loans, and application of all payments received from Borrower and/or Loan Guarantor, there is a deficiency balance due and unpaid; (vii) at least thirty (30) days has elapsed after Lender's institution of legal proceedings against Borrower and the Loan Guarantor to collect payment of the Loans, and Lender has reasonably determined that the deficiency balance is uncollectible from Borrower or Loan Guarantor; and (viii) Lender has made written demand upon CIDA for payment, and has certified that all of the foregoing conditions exist.

Upon receipt and verification of Lender's demand, CIDA must cause to be paid to or credited in favor of Lender from the principal balance of the Reserved Collateral, the lesser of: (i) an amount equal to twenty percent (20%) of the principal balance of the Loans outstanding on the date of default plus ninety (90) days interest; (ii) the Deficiency Balance due after application of all Net Proceeds; or (iii) the principal balance of the Reserved Collateral. Any funds remaining in the Reserved Collateral, after payment of the foregoing sum to Lender, must be released to CIDA.

If, after receiving any payment from the Reserved Collateral, Lender subsequently receives additional Net Proceeds, or the Loan balances have been reduced as a result of any payment from any source other than the SBA Financing Guaranty, Lender must promptly pay to CIDA an amount equal to that portion of the Reserved Collateral which Lender would not have been entitled to demand if such additional funds had been received prior to release of the Reserved Collateral. No other liability or obligation of any description, either expressed or implied, is assumed by CIDA. No attorneys' fees or costs may be collected from Lender or CIDA in the event of any dispute between them arising under this Agreement.

10. Repayment by Borrower-Borrower will be liable to CIDA for repayment of all funds expended by CIDA hereunder or for which Borrower is otherwise liable pursuant to this Agreement. Upon execution of this Agreement Borrower must execute a promissory note in an amount equal to the initial balance of the Loan Reserved Collateral in the form attached hereto as Attachment No.2 ("Promissory Note"), and cause payment of the Promissory Note to be guaranteed by the Loan Guaranty in the form attached hereto as Attachment No.3, and Borrower and Guarantor will be liable to CIDA for any sums disbursed from the Reserved Collateral, together with all collection costs incurred by CIDA, including reasonable attorneys' fees. After CIDA has paid Lender funds from the Reserved Collateral following a default by Borrower, CIDA may utilize all available legal remedies to collect from Borrower and the Loan Guarantor the amount of all expended funds and associated collection costs, together with attorneys' fees and interest accruing at the rate of one

percent (1%) per month from the date funds are paid to Lender on Borrower's behalf. Borrower, Loan Guarantor, and each of them are jointly and severally liable to CIDA for repayment of all funds expended on Borrower's behalf and in connection with collection thereof.

11. Release of Loan Reserved Collateral - Lender's interest in the Loan Reserved Collateral will automatically terminate, and CIDA will become entitled to unilaterally withdraw the Loan Reserved Collateral without further notice to Lender or action by CIDA forty-eight (48) months after the date the Reserved Collateral is established or upon the occurrence of any one of the following events, whichever first occurs:

- (a) The Loan Documents or the SBA Financing Guaranty are modified without CIDA's prior written approval;
- (b) The Loans are paid in full;
- (c) Lender permits an assumption of the Loans without CIDA's prior written approval;
- (d) Lender fails to create or perfect a security interest in the Loan Collateral as contemplated by paragraph 4(e), makes another loan to Borrower, advances any additional funds to Borrower pursuant to the Loans, or grants Borrower or any Loan Guarantor any material extension of time in which to repay the Loans without CIDA's prior written approval;
- (e) Borrower defaults and Lender fails or refuses to take commercially reasonable action to enforce the Loan Documents against Borrower or Loan Guarantor; or
- (f) Lender does not apply all monies received from Borrower, from Loan Guarantor, or from the liquidation of the Loan Collateral, or from any other source except the SBA Financing Guaranty, to pay the principal balance of the Loans and not more than ninety (90) days' interest on the Loans.

12. Job Creation - Within two (2) years after execution of this Agreement, Borrower will create a minimum of one permanent job within the City of Chandler, Arizona. Borrower agrees to provide an annual report to the CIDA regarding the jobs created.

13. Nondiscrimination - Borrower and Lender must each ensure that any supplier to its business in performing under this Agreement may not discriminate

(5) business days after delivery of the request for approval, the request will be deemed approved.

18. Interest Calculation- All interest due to CIDA under this Agreement will be based on an actual days/360 year.

19. Legal Worker Requirements- Borrower must comply with Arizona Revised Statutes Section 23-214.B, which reads:

"In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this subsection, the government entity shall notify the employer by certified mail of the government entity's determination of noncompliance and the employer's right to appeal the determination. On a final determination of noncompliance, the employer shall repay all monies received as an economic development incentive to the government entity within thirty days of the final determination."

20. Public Information – Borrower agrees that the CIDA may release or publish information regarding this Agreement including, but not limited to, the Borrower's name, the amount of the Loans, the business reason(s) for the Loans, a summary of the Borrower's operations and any other information required by law to be released.

21. Counterparts- This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. Entire Agreement, Waivers and Amendments- This Agreement and the below listed attachments which are made a part hereof constitutes the entire understanding and agreement of the parties.

Attachment No. 1 - Collateral Assistance Program Guidelines
Attachment No. 2 - Promissory Note
Attachment No. 3 - Personal Guaranty

23. Scrutinized Business Operations - Pursuant to the provisions of Sections 35-391.06 and 35-393.06 of the Arizona Revised Statutes, Lender and Borrower hereby certify that it does not have any scrutinized business operations, as defined in Sections 35-391 and 35-393 of the Arizona Revised Statutes, in either Sudan or Iran.

24. Indemnification - Borrower shall indemnify CIDA, its Board of Directors, the City of Chandler, Arizona, and their respective counsel, agents, consultants and advisors, and hold such parties harmless against any loss, liability or expense incurred by such parties arising out of the or in connection with the performance of this Agreement.

[AGREEMENT CONTINUES ON NEXT PAGE]

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements among the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement and all amendments hereto must be in writing and signed by the appropriate authorities of the parties hereto.

Executed this _____ day of _____

[LENDER NAME]

By _____

Its _____

THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF THE CITY OF
CHANDLER, ARIZONA

By _____

Its President

[BORROWER NAME]

By _____

Name

Title

Certified Resolution for Limited Liability Company

I, _____, a Manager [or Member] of _____, LLC, a limited liability company organized and existing under the laws of the State of Arizona, hereby certify that: (1) _____, LLC is run by Managers; (2) _____ is a Manager of _____, LLC; and (3) that as such, _____ is not prohibited or limited by the articles of organization from binding _____, LLC to this Agreement.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature this _____ day of _____, _____.

Name
Manager

Agreement No. _____

Use of Proceeds

[List approved uses here]

Agreement No. _____