



# Small Business Finance Center

CALIFORNIA INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT BANK

## LOAN GUARANTEE COMMITMENT LETTER

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

### LENDER:

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

Contact Name: \_\_\_\_\_

Contact Title: \_\_\_\_\_

Address: \_\_\_\_\_

### FINANCIAL DEVELOPMENT CORPORATION (FDC):

FDC Name: \_\_\_\_\_

FDC Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Title: \_\_\_\_\_

Borrower Name: \_\_\_\_\_

Dear \_\_\_\_\_,

### Pertinent Facts

- I. Under the authority granted by Chapter 1 of the California Small Business Financial Development Corporation Law (commencing with Section 14000) of Title 1, Division 3, Part 5, (the "Small Business Act"), the Board of Directors of \_\_\_\_\_, ("Corporation") in its capacity as a nonprofit California Small Business Financial Development Corporation created pursuant to the Small Business Act, conditionally authorized a loan guarantee to



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with the following conditions:

A. Loan Principal Amount: \$ \_\_\_\_\_

B. Loan Type: \_\_\_\_\_

C. Use of Proceeds:

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D. Guarantee Percentage: \_\_\_\_\_

E. Guarantee Amount: \$ \_\_\_\_\_

F. Loan Term/Maturity Date: \_\_\_\_\_

G. Guarantee Term (maximum 7 years): \_\_\_\_\_

H. Interest Rate: \_\_\_\_\_

I. First Payment Date: \_\_\_\_\_

J. Payment Amount: \$ \_\_\_\_\_

The Corporation's commitment to the Loan Guarantee will expire in 90 calendar days if the Loan has not been executed by that time.

Payments continue each month until loan maturity, or if other than each month, on the payment plan of



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Be advised that a balloon payment does not constitute a default and, therefore, will not activate the loan guarantee. The interest rate remains the same until the Lender increases or decreases the interest rate based upon individual loan pricing and as changed from time to time by the Lender.

II. The fees due to the Corporation are as follows:

A. Guarantee Fee (2.5% of the Guarantee Amount up to \$2.5 million and 2.25% of the Guarantee Amount over \$2.5 million):

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B. Documentation Fee: \$250

C. Climate Tech BAAQMD Evaluation Fee (50 basis points (50% of 1%) of the Guarantee Amount):

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D. Total Fees:

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Lender agrees to pay these fees at the time the Loan documents are signed and forward the fees to Corporation immediately.

III. A Loan Guarantee will be paid to the Lender only after the Lender has liquidated or made all reasonable efforts in good faith to liquidate all Collateral as required in the Directives and Requirements under Section 5004 Guarantee Collection Requirements for Loan Guarantees. The total payment made to a Lender under a Loan Guarantee will be the specified percentage of the difference between the sum of outstanding Loan principal and ninety (90) calendar days accrued and unpaid interest, less all cash proceeds generated by the Lender in connection with its Liquidation activities.



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### General

- IV. The Loan Guarantee is conditionally offered and is not legally binding upon the Corporation until and unless:
- A. Lender executes a written, standard form, promissory note and credit agreement with the Borrower for the entire Principal Amount, with terms and conditions that incorporate those included in this Commitment Letter and the Loan Guarantee executed by Corporation.
  - B. Lender executes and perfects security agreements as may be required in this Commitment Letter.
  - C. When utilizing Small Business Loan Guarantee Program funds, the Lender shall annually execute the “Lender Certification to Participate in the Small Business Loan Guarantee Program”
  - D. When utilizing federal funds, Lender and Borrower shall each execute the following certifications per transaction:
    - 1. Lender Use of Proceeds and Conflict of Interest Certification
    - 2. Lender Sex Offender Certification
    - 3. Borrower Use of Proceeds and Conflict of Interest Certification
    - 4. Borrower Sex Offender Certification
    - 5. Borrower SEDI Certification (if applicable)
  - E. Other:
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These conditions shall be referred to as "conditions for issuance of the Guarantee".

- V. Lender agrees to abide by all applicable state and federal laws and regulations.
- VI. Corporation's Guarantee covers "new debt" with Lender. Any and all balances open on any term loan or other indebtedness of the Borrower to the Lender or others at the time of the Guarantee's execution are not covered and will not be covered by the Guarantee. Lender shall provide Corporation with written confirmation of Borrower's existing debt at the time of the Guarantee's execution.
- VII. Lender has analyzed the financial capacity of the Borrower; Lender hereby confirms to Corporation the existence of all assets given as collateral to secure the Loan (Collateral) by personal inspection when possible or if not possible, then from independent third parties. Lender's representations to Corporation regarding the Borrower and the Borrower's financial capacity and Collateral are material to the Corporation's decision to offer the Guarantee of Lender's Loan to the Borrower notwithstanding any separate evaluation of the Borrower by Corporation.
- VIII. Lender warrants its evaluation of the Collateral securing the Loan to the Borrower and agrees that it shall maintain an accurate record of all accounts of the Borrower to facilitate accessing all the remedies available to the Lender under the California Uniform Commercial Code.
- IX. Lender and Corporation agree mutually to deal with one another in good faith in all aspects of their contractual relationship.
- X. If the Borrower is delinquent on the Loan payments, Lender shall evaluate all options for collection of the balance due on the Loan. Lender shall send the Borrower two delinquency notification letters at least 30 days apart prior to a Demand, except in the case of the Borrower filing for bankruptcy protection. Should the Loan become sixty



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(60) days delinquent for payment or otherwise seriously in default, Lender shall develop a liquidation strategy and plan that includes at a minimum an enumeration of the collateral in sufficient detail to identify and value the collateral assets and access the remedies available under the Uniform Commercial Code. A liquidation plan of action shall be submitted to Corporation for its review at the time the Lender accelerates the Loan and demands payment in full from the Borrower.

### Collateral

- XI. Corporation relies, as a pre-condition for issuance of the Guarantee, on the secured and perfected security interests in the Collateral. Failure by Lender to protect the perfected security interests in the Collateral reduces the value of the Collateral. In the event of any demand by Lender upon the Guarantee (a "Demand"), Corporation shall have the right to reduce its liability under the Guarantee by the amount the Collateral is reduced in value. Corporation is not entitled to reduce its Guarantee liability unless and until Corporation can demonstrate that the value of the Collateral was diminished because of Lender's failure to take all actions necessary to protect the Collateral. Lender further agrees to immediately inform Corporation of any activities which may diminish the value of the Collateral.
- XII. Lender certifies that all the Collateral for the Guarantee is listed below in sub-parts of this paragraph. The actions required by Lender to perfect the security interest are also listed below in the sub-parts of this paragraph. In all cases, Lender must retain signed, and where customary notarized, originals of the documents listed below.
- A. The following insurance policies must be kept in effect with loss payable endorsements to Lender (if applicable).



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1. \_\_\_\_\_

All risk insurance including fire, theft and liability for the business assets identified as follows:

Business Property Address:

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

2. \_\_\_\_\_

Fire and extended coverage insurance as follows:

Personal Property Address:

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

The assets shall be insured for full value, but not to exceed replacement cost.

B. \_\_\_\_\_

A Broad Form UCC financing statement filed with the Secretary of State, and/or any other agency as required by the California Commercial Code evidencing a security interest upon all business accounts receivable, inventory, equipment, furniture and fixtures currently owned or hereafter acquired.

Corporation shall have the right to rely on Lender's perfection of the security interests as described herein under California Law.



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It is acknowledged that Lender's boilerplate language is acceptable and may be substituted in place of this verbiage.

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C. \_\_\_\_\_

A valid Broad Form security interest shall be filed on all business accounts receivable, inventory, equipment, furniture and fixtures currently owned or hereafter acquired.

Corporation shall have the right to rely on Lender's perfection of the security interests in the Collateral as described herein under California Law.

D. \_\_\_\_\_

Deed of Trust on real property (if applicable):

1. Lender will execute and record a deed of trust on the property owned by

\_\_\_\_\_,

located at

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Lender to obtain an appraisal on the pledged real estate, with a minimum value of \$ \_\_\_\_\_.

\_\_\_\_\_





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2. Lender shall verify any senior liens and outstanding indebtedness recorded and otherwise known to Lender on the property listed in D-1.
3. Lender will execute and record a deed of trust on the property listed in D-1, which will be in

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4. Lender will provide a

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title report verifying the

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lien position on this loan.

- E. Additional Collateral (if applicable):

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- XIII. Lender shall not substitute assets for Collateral listed in Paragraph XII, or release, abandon or transfer its security interest or reduce its priority position without the prior written approval of IBank.

### Limitations

- XIV. Loan disbursements shall be based upon the following formula:
- A. According to Lender's Specifications.



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B. Other:

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- XV. Prior joint written approval of Corporation and Lender shall be required before Borrower can do any of the following:
- A. Make or receive outside investments;
  - B. Borrow, pledge or encumber for additional monies;
  - C. Enter into a merger of acquisition;
  - D. Issue treasury stock;
  - E. Pay Dividends; and
  - F. Make interest or principal payments on the debts owed to any owners or officers. Lender shall require all such debts to be subordinated to the Loan.

### Lender Reporting

- XVI. Lender agrees to provide Corporation the following information, in writing, on a quarterly basis:
- A. Principal balance of the Loan or Line of Credit.
  - B. Date and amount of last principal payment and interest payment.
  - C. Date Borrower's next principal payment and interest payment are due.
  - D. Status of the Loan (i.e., current, paid off).
- XVII. Lender agrees to provide Corporation with a copy of annual tax returns of the Borrower, within \_\_\_\_\_ days of filing date each year.
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- XVIII. Lender agrees to provide Corporation with a copy of quarterly business financial statements, and accounts receivable and accounts payable aging of the Borrower,



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within \_\_\_\_\_ days of each quarters end.

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- XIX. Lender agrees to provide Corporation with a copy of personal financial statements of the Borrower on the anniversary date of the Loan and personal tax returns of any Guarantor, within \_\_\_\_\_ days of filing each year.
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- XX. Additional Reporting Requirements:
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### Subsequent Events

- XXI. Lender agrees to work closely with Corporation and the Borrower, and to notify Corporation orally, and in writing, immediately upon learning of any material change to the Loan or to the Borrower. Lender agrees to take reasonable steps to ensure that it is apprised of any material changes to the financial condition and operations of the Borrower.
- XXII. Lender agrees to service the entire Loan and agrees that the entire Loan will be secured by the same Collateral with equal lien priority for the guaranteed and unguaranteed portions of the Loan. The unguaranteed portion of the Loan will not be paid first or given any preference or priority over the guaranteed portion.



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- XXIII. Lender agrees to return to Corporation copies of all signed Loan and Guarantee documents within ten (10) working days of signing the documents. Lender further agrees to send to Corporation, conformed or filed, stamped or recorded copies of all perfected security agreements for the Collateral as soon as available.
- XXIV. Corporation relies upon Lender to legally perfect all Collateral, to execute and deliver all Loan and Collateral documents, and to ensure satisfaction of all terms and conditions required by the Loan and Guarantee agreements. Lender warrants to Corporation that it has taken all actions necessary to properly prepare and file said documents. This is a condition precedent to the validity of the Guarantee.
- XXV. All disbursements on the Loan shall be evidenced by Lender's standard form of promissory note and credit agreement and the terms and conditions of this Guarantee are to be incorporated into said note and credit agreement.
- XXVI. In the event of the filing of a voluntary or involuntary bankruptcy by or against the Borrower, Corporation and Lender agree to cooperate to reach decisions within the time frames required by the Bankruptcy Code and the Bankruptcy Court. This would include decisions involving cash collateral orders, debtor-in-possession financing or attempts to modify the automatic stay to enable Corporation and Lender to realize on the Collateral. Corporation, upon payment under the Guarantee, shall be the owner of the claim against the estate for the purpose of making such decisions.
- XXVII. In the event of a Demand, as defined in the Directives and Requirements, Lender shall allow a representative of the California Department of Business Oversight, or other auditor selected by the Corporation, to examine the Lender's loan files.



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XXVIII. Any Additional Information

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Please review the terms and conditions contained herein, and sign as indicated below. Each person signing on behalf of Lender and Corporation warrant that they are authorized to sign on behalf of the organization they represent and bind that organization to the specific performance of the above terms and conditions. Execution of this Commitment Letter by the parties shall constitute a valid and enforceable agreement between the parties, their successors and assigns hereto.

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Authorized FDC Signatory

Date

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FDC Signatory Name/Title Printed

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Authorized Lender Signatory

Date

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Lender Signatory Name/Title Printed