

U.S. Small Business Administration

National
CAPLines
Authorization
Boilerplate

Version 2012

June 15, 2012

Read this first!

About this document

This document contains version 2012 of the National CAPLines Authorization Boilerplate ("Boilerplate"). The Boilerplate contains the mandatory national standard language for all SBA CAPLines programs, including Contract, Seasonal, Builder's, and Working Capital.

About the "CAPLines Wizard"

The CAPLines Wizard, sometimes referred to as "Wizard", was automated using Microsoft Word and has been programmed in Word 2003 (11). The Wizard is compatible to a limited degree with previous versions of Word. The 2007 and 2010 CAPLines Wizards are compatible with 64-bit machines. SBA cannot effectively support compatibility issues relating to versions of Word other than Word 2003 (11), Word 2007 (12) and Word 2010 (14). Please note, however, that the SBA is phasing out Word 2003 and will no longer allow loans to be submitted using the Word 2003 CAPLines Wizard 90 days from release of Version 2012.

SBA upgraded to Word 2012 (14) during 2010. Version "2012" of the CAPLines Wizard has been programmed in Visual Basic for Applications (VBA). Changes to the Wizard and Boilerplate are outlined in the What's new in this version? section below.

Together, the Boilerplate and the Wizard constitute the "Authorization." The Wizard is a technical tool intended to make it easier for SBA Loan Officers and lenders to create authorizations based on the Boilerplate. It is not an expert system with lots of checks and balances. Use of the Wizard or any other automation tool does not release lenders from their responsibility to ensure that the authorizations they create comply with the Boilerplate.

Below is the list of CAPLines Wizard sections with their location in the Boilerplate:

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Getting the latest version of the Authorization

The latest version of the Authorization can be obtained from the SBA website at <http://www.sba.gov/banking> or from any local SBA office.

Format Conventions

All comments, references and instructions in the sections titled "Boilerplate" and "Appendix A" are located in shaded areas (gray or blue shade). All non-shaded areas in these two sections and Appendix A constitute the standardized text itself.

Text appearing in brackets [] must be completed, for instance:

[Name] - must be replaced by a name in the final authorization;

[Amount] - must be replaced by a \$ amount;

[OPTION - This sentence is optional] - Optional text - can be inserted or not;

[SELECT - this text - OR - that text] - User must select one of the available options;

[SELECT - First, Second, Third, Fourth, Fifth] - User must select one of the listed items;

[Write Your Own] - User can insert own text

Paragraphs will be renumbered depending on which options are selected. All other comments should be self-explanatory.

Operational Reminders

- Names and addresses may be saved by right-clicking in any textbox after initial entry. Names and addresses may be retrieved by right-clicking in an empty textbox.
- Assure that the Windows in Taskbar option is turned off (Tools | Options | Windows in Taskbar -- uncheck) as well as Smart cut and paste (Tools | Options | Edit).
- Please review the Wizard Settings Fact Sheet (WizardFacts.doc), available on the CAPLines Wizard website and located in your templates directory after installation, for recommended optimal Word settings.

What's new in this version?

This section highlights the major differences between the Boilerplate and Wizard version 2006 and version 2012 of the Boilerplate and Wizard. This listing can also be found during operation of the Wizard in the "What's New" section of the CAPLines Wizard Help topics, which is available from the CAPLines Wizard menu.

Program Changes

Loan Information, Repayment Terms, Use of Proceeds, Collateral Conditions, Additional Conditions I, and Additional Conditions II

The CAPLines 2006 Wizard interface has been completely rewritten in Visual Basic for Applications (VBA) to enable the CAPLines 2012 Wizard to more efficiently run in current and future versions of Word.

Programming code underlying the CAPLines Wizard has been modified to require that initially each section is completed in the proper order. That is, Loan Information must be completed before Repayment Terms, and Repayment Terms must be completed before Project Collateral. This change was made to assure Wizard events occur in the proper sequence. Remember that modifications to one section can affect the values in subsequent sections. Therefore, you should follow this order whenever you make substantive changes to an authorization section and verify that the CAPLines Wizard has made the appropriate corresponding changes to the other authorization sections.

A redlined version of the CAPLines Boilerplate 2012 is posted on the website at <http://www.sba.gov/content/caplines-authorization-file-library> as ACAPv2012Red.PDF. A summary of the changes follows.

CAPLines Authorization Summary of Changes

(Also found at <http://www.sba.gov/content/caplines-authorization-file-library> as ACAPChangeSummary.PDF)

In addition to making changes required by SOP 50 10 updates and changes to the common provisions in the 7a Authorization, the following CAPLines-specific changes were made to the boilerplate:

GENERAL LOAN INFORMATION:

Reduced 5 subprograms to 4:

- Working Capital CAPLines (formerly Standard Asset Based CAPLines)
- Contract CAPLines
- Seasonal CAPLines
- Builder's CAPLines

(Eliminated Small Asset Based CAPLines)

D. REQUIRED FORMS:

- On all CAPLines lender has the option of using its own note and guaranty agreements rather than SBA Forms 147, 148 and 148L, as long as SOP 50 10 requirements are met, including mandatory SBA language.
- SBA Form 1050 (Settlement Sheet) only required for initial disbursement.

E. CONTINGENCIES:

- Final Disbursement for Working Capital program must give borrower time to make final payment by loan maturity.

F. NOTE TERMS:

- Increased maximum loan amount to \$5,000,000.
- Maximum maturity increased to 10 years for all programs except Builder's CAPLine, which is limited by regulation to 5 years.
- Non-revolving loan option eliminated.
- For working capital loans, requires that extensions be completed prior to maturity.
- Requirements for post-approval interest rate changes detailed.

PAYMENT TERMS:

- Contract program: 3 payment options detailed when Assignment of Proceeds taken, and 2 payment options detailed when no Assignment of Proceeds taken.

- Seasonal: Clarification regarding application of payments and requirement that all principal and interest must be paid by end of season.
- Working Capital: Low and High Funds Control provision removed. Application of payments clarified.
- Extraordinary Servicing Fee: Provision clarified and lack of SBA guarantee on such fees noted.

G. USE OF PROCEEDS AND CONDITIONS FOR DISBURSEMENT:

- Contract CAPLines: proceeds can be used to finance all contract, subcontract and purchase order costs (excluding profit); various options include whether some or all costs are financed and whether the loan will finance a single contract or multiple contracts; if not all costs financed, lender must establish percentage of payment to apply to loan and that percentage may be increased for retainage; requires justification if assignment not taken;
- Seasonal: Option added for requirement of Borrowing Base Certificate;
- Builder's: Added language reflecting SOP requirement for supervisory employee on job site; and multiple buildings additional pre-disbursement requirements added such as licensed architect plans and specs and line by line costs and monthly project projections;
- Working Capital CAPLines: Refinance provision added; provisions added regarding advances when annual review coincides with maturity whether Borrowing Base Certificate (BBC) required or not; pre-disbursement certification added that all proceeds for cash sales and receivable collections will be remitted to lender;
 - Lender has option of closing and disbursing based on a BBC or not.
 - If a BBC is not used, lender must follow stated underwriting, collateral and cash flow analysis standards and minimum monitoring requirements, including site visits. There must be a 1:1 collateral ratio.
 - If a BBC is used, lender must comply with revised requirements including the timing of the BBC (monthly not with each disbursement), pre-disbursement and annual field exams (rather than semi-annually), and eligible/ineligible receivables (including concentrations, which may exceed 20% with written justification in the file if certain types of accounts, otherwise requires SBA consent).
 - The level of funds control, regardless of whether a BBC is used or not, will depend on the banking relationship the lender has with the borrower.
- For all Programs: Describes documentation of second and subsequent disbursements; adds provision regarding action if withholding taxes are delinquent.

H. COLLATERAL CONDITIONS

- Contract CAPLines: allows for exception to assignment of contract(s) and proceeds of contract(s) financed by the loan under certain conditions (in accordance with SOP 50 10). Adds an option for Additional Worthwhile Collateral when no assignment is taken
- Working Capital CAPLines: if the lender will disburse based on a borrowing base certificate (BBC), the lender must obtain a first lien position on the trading assets (A/R, INV, etc.), and if not disbursing based on a BBC, the lender must have a first lien position on the trading assets and ensure 1:1 collateral coverage (which may include the assignment of other business assets as well as personal assets)
- No change to Seasonal or Builder's CAPLines.

SIGNATURE BLOCK

Added option of delegated processing for PLP lenders

More Information

See **Appendix C** at the end of this document for a list of Frequently Asked Questions.

Boilerplate

For CAPLines Wizard users:

Loan Information section starts here...



U.S. Small Business Administration

AUTHORIZATION (SBA GUARANTEED LOAN FOR CAPLINES)

SBA LOAN INFORMATION

The SBA LOAN NAME is the **first available** of this list:

1. dba of the Borrower
2. name of the Borrower

In the case of multiple Borrowers, the same rule is applied using the **first** Borrower listed by the Loan Officer.

For CAPLines Wizard users: The CAPLines Wizard automatically selects the SBA Loan Name based on the Borrower Information provided.

SBA Loan #	[SBA Loan Number]
SBA Loan Name	[SBA Loan Name]
Approval Date	[Approval Date]

LENDER / SBA INFORMATION

CFR 120.10 - Definition of Authorization states that the Authorization is not a contract to make a loan. The Authorization is not a Loan Agreement. It is intended to provide Lender with the specific conditions which must be met for SBA to provide a guarantee of the loan Lender is making to Borrower. It is not a contract to loan money, and Borrower is not a third party beneficiary of the Authorization. SBA does not lend money to Borrower and cannot force Lender to make a loan to Borrower based on the Authorization.

Lender:

[Lender's Name]
[Address]
[City, State Zip]

U. S. Small Business Administration (SBA):

[SBA Office's Name]
[Address]
[City, State Zip]

GENERAL LOAN INFORMATION

CFR 120.214 - Date application is received is necessary to calculate interest rate on variable rate loans.
120.210 - explains SBA guarantee percentage.

SOP 50 10 5(D), pp. 147-149, Subpart "B", Chapter 3, Paragraph II - Guarantee percentage policy.
There is an effect on the guarantee percentage and guarantee fee when two 7(a) loans are approved to the same borrower within 90 days. This 90-day rule does not apply when one of the loans is a 504 loan.

There are 4 CAPLines Loan Programs. Only one type of CAPLines can be done for each Loan. SOP 50 10 5(D), pp. 129-130, Subpart "B", Chapter 2, Paragraph III.M, Additional Eligibility Requirements for CAPLines (M.1 – Seasonal, M.2 – Contract, M.3 – Builder's, and M.4 – Working Capital).

SBA approves, under Section 7(a) of the Small Business Act as amended, Lender's application received [DATE ACCEPTED], for SBA to guarantee [PERCENT GUARANTEED]% of a [CONTRACT, SEASONAL, BUILDER'S, or WORKING CAPITAL] CAPLines loan ("Loan") in the amount of \$[LOAN AMOUNT]

THE FOLLOWING CHOICE IS ONLY FOR CONTRACT, SEASONAL, OR BUILDER'S CAPLINES

for a [SINGLE or MULTIPLE]

WIZARD to select CONTRACT(S), SEASON(S), or BUILDING(S), if appropriate

to assist:

BORROWER INFORMATION

Borrower:

1. [Name 1] [OPTION - dba
[DBA Name]]
[Address]
[City, State Zip]
2. [Name 2] [OPTION - dba
[DBA Name]]
[Address]
[City, State Zip]

All requirements in the Authorization which refer to Borrower also apply to any Co-Borrower.

Guarantee Fee

CFR 120.220/SOP 50 10 5(D), pp. 160-165, Subpart "B", Chapter 3, Paragraph V.

For CAPLines Wizard users: The CAPLines Wizard automatically inserts the appropriate paragraph below based on the maturity period specified in F.1. **Note:** If two 7(a) loans are approved to the same borrower within 90 days, you must calculate the guarantee fee on the second loan manually.

A. **THE GUARANTEE FEE IS \$[Amount].**

Insert the following two paragraphs if maturity is more than 12 months

Lender must pay the guarantee fee within 90 days of the approval date of this Authorization. Failure to timely pay the guarantee fee will result in cancellation of the SBA guarantee. The 90-day deadline may not be extended. Lenders are required to make their payments electronically. Payment

can be made at www.pay.gov or by ACH if they have previously enrolled with the SBA. No part of the guarantee fee is refundable if Lender has made any disbursement. Lender may collect this fee from Borrower after initial disbursement of Loan, except when an escrow closing is used. Lender may not collect the fee until all Loan funds have been disbursed to the Borrower from the escrow account. Borrower may use Loan proceeds to reimburse Lender for the guarantee fee.

For loans of \$150,000 or less, Lender may retain 25% of the guarantee fee but must remit the remainder to SBA.

Insert the following paragraph if maturity is 12 months or less

Lender must have paid the guarantee fee prior to SBA signing this Authorization. Any Lender with authority to sign this Authorization on behalf of SBA certifies that it has paid the guarantee fee to the Small Business Administration prior to signing this Authorization. No guarantee exists if Lender has not timely paid the guarantee fee in full. SBA will not refund the guarantee fee after the date of this Authorization except as provided in SBA Standard Operating Procedures. Payment of the guarantee fee is not contingent upon disbursement. Lender may collect this fee from Borrower upon receipt by Lender of the Authorization. Borrower may use Loan proceeds to reimburse Lender for the guarantee fee.

CAIP Approval (MANDATORY for CAIP Applications)

Guarantee Fee payment by U.S. Community Adjustment and Investment Program (CAIP). SOP 50 10 5(D), pp. 88-89, Subpart "B", Chapter 1, Paragraph V.A. CAIP Finance Committee approval required.
NOTE: CAIP cannot be used for PLP loans.

Payment of the guarantee fee by North American Development Bank (NADBank) is subject to the approval of the CAIP Finance Committee. If the Committee does not authorize payment by NADBank, then responsibility for the fee will remain as otherwise stated in this Authorization. SBA requires Lender to pay the guarantee fee up front as normally required for standard SBA loans. If a CAIP application is officially approved by the CAIP Finance Committee, SBA will reimburse Lender for the guarantee fee, and Lender then must reimburse any portion of the fee previously passed on to Borrower.

ON-GOING GUARANTEE FEE

CFR 120.220/SOP 50 10 5(D), pp. 166-168, Subpart "B", Chapter 3, Paragraph VI.A.

B. ON-GOING GUARANTEE FEE

1. Lender agrees to pay SBA an on-going guarantee fee equal to [0.550] of one percent per year of the guaranteed portion of the outstanding balance.
2. Lender may not charge or otherwise pass through this fee to Borrower.

LENDER'S RESPONSIBILITY

CFR 120.400 et seq./SOP 50 10 5(D), pp. 225-247, Subpart "B", Chapter 7, Paragraph IV. See also SBA Form 750 Loan Guarantee Agreement and/or SBA Form 750B Loan Guarantee Agreement (Deferred Participation) for Short-Term Loans.

C. IT IS LENDER'S SOLE RESPONSIBILITY TO:

1. Close the Loan in accordance with the terms and conditions of this Authorization.
2. Obtain valid and enforceable Loan documents, including obtaining the signature or written consent of any obligor's spouse if such consent or signature is necessary to bind the marital community or create a valid lien on marital property.
3. Retain all Loan closing documents. Lender must submit these documents, along with other required documents, to SBA for review if Lender requests SBA to honor its guarantee on the Loan, or at any time SBA requests the documents for review.

REQUIRED FORMS

D. REQUIRED FORMS

SOP 50 10 5(D), pp. 227-229, Subpart "B", Chapter 7, Paragraph IV.C.1-7.

For CAPLines Wizard users: The CAPLines Wizard automatically inserts the references to the forms as applicable.

1. Lender may use its own forms except as otherwise instructed in this Authorization. Lender must use the following SBA forms for the Loan:

NOTE: USE OF SBA FORM 147 NOTE, SBA FORM 148 GUARANTEE AND SBA FORM 148L LIMITED GUARANTEE, IS OPTIONAL FOR ALL CAPLINES. IF LENDER USES ITS OWN NOTE AND/OR GUARANTEE FORMS, LENDER MUST ENSURE THE DOCUMENTS COMPLY WITH THE REQUIREMENTS SET FORTH IN SOP 50 10.

[**Option**] SBA Form 147, Note
SBA Form 1050, Settlement Sheet, for initial disbursement
SBA Form 159 (7a), Compensation Agreement, for each required agent
SBA Form 722, Equal Opportunity Poster
[**Option**] SBA Form 148, Guarantee
[**Option**] SBA Form 148L, Limited Guarantee
SBA Form 601, Agreement of Compliance [**MUST APPEAR when applicable**]

CFR 120.194/SOP 50 10 5(D) p. 227, Subpart "B", Chapter 7, Paragraph IV.C.1 and p. 172, Subpart "B", Chapter 3, Paragraph VIII.B.6.

2. Lender may use computer-generated versions of mandatory SBA Forms, as long as the text is identical.
3. Lender must submit a copy of each completed SBA Form 159 (7a) by fax or email to the SBA servicing agent after initial disbursement and in conjunction with Lender's 1502 report for the month. Lender must maintain each original SBA Form 159 in its file.

CONTINGENCIES

CFR 120.400, 120.441(b) and 120.451(d)/SOP 50 10 5(D), p. 224, Subpart "B", Chapter 7.

- E. **CONTINGENCIES**—SBA issues this Authorization in reliance on representations in the Loan application, including supporting documents. The guarantee is contingent upon Lender:
1. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750 and SBA Form 750B for short-term loans, if applicable) and any required supplemental guarantee agreements, between Lender and SBA;
 2. Having paid the full guarantee fee in the time and manner required by this Authorization and the SBA Standard Operating Procedures (SOP);
 3. Complying with the current SOP 50 10 and all applicable appendices;

SOP 50 10 5(D), pp. 237-247, Subpart "B", Chapter 7, Paragraph IV.H.

Option 1—for ALL CAPLines except Working Capital

4. Making initial disbursement of the Loan no later than [**number of months - default is 6**] months from the approval date of this Authorization, and making final disbursement in time for all repayments to be concluded by Loan maturity, unless either date is extended by proper SBA procedures;

Option 2—for ALL Working Capital CAPLines

5. Making initial disbursement of the Loan no later than [**number of months - default is 6**] months from the approval date of this Authorization, and making final disbursement no later than [**insert date**]. Final disbursement must occur far enough in advance of maturity so that sufficient time is available for the financed assets to be converted to cash in order to make final payment at maturity. If maturity coincides with the scheduled annual review of the Loan, including an annual review conducted by Lender coincidental with the maturity of the Loan, Lender may advance on the line up to maturity in conjunction with the Lender's annual review in accordance with Lender's policies and procedures on its similarly-sized non-SBA guaranteed commercial lines of credit. Any extension of the Loan or term out of the Loan must comply with SBA requirements;
6. Having no evidence since the date of the Loan application, or since any preceding disbursement, of any unremedied adverse change in the financial condition, organization, management, operation, or assets of Borrower which would warrant withholding or not making any further disbursement; and
7. Satisfying all of the conditions in this Authorization.

F. NOTE TERMS :

SOP 50 10 5(D), p. 227, Subpart "B", Chapter 7, Paragraph IV.C.3, and pp. 237-247, Subpart "B", Chapter 7, Paragraph IV.H.

1. Repayment Terms:**FORM OF NOTE**

If Lender uses its own Note, Lender must comply with the repayment terms set forth below and must assure the Note is legally enforceable and assignable, has a stated maturity and is not payable on demand. The Note must include the following language:

"When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law."

If Lender uses SBA Form 147, Lender must insert into Note, to be executed by the Borrower, the following terms, without modification. Lender must complete all blank terms on the Note at time of closing:

MATURITY

CFR 120.212/SOP 50 10 5(D), pp. 149-153, Subpart "B", Chapter 3, Paragraph III.E and p. 227, Subpart "B", Chapter 7, Paragraph IV.B.2.d).

Select one and only one of the 2 following options**Option 1 - for Working Capital CAPLines**

2. **Maturity:** This is a revolving Loan. The SBA Form 147 Note or Lender's Own Note is the Master Note ("Note"). This Note will mature [**number of years and/or number of months**] from [**SELECT** - date of Note - **OR** - date of initial disbursement]. Sub-notes, if used, will mature based on the Borrower's cash cycle. No sub-note may have a maturity date later than the Note. Based on the original maturity, if the Lender determines extension of the maturity of the Note is necessary, Lender must take appropriate action in accordance with SOP 50 10 (including the payment of any additional guarantee fee, if applicable) to extend the maturity far enough in advance of the maturity date identified above to complete the extension prior to maturity.

Option 2 - for all CAPLINES except Working Capital

3. **Maturity:** This is a revolving Loan. The SBA Form 147 Note or Lender's Own Note is the Master Note ("Note"). This Note will mature [**number of years and/or number of months**] from [**SELECT** - date of Note - **OR** - date of initial disbursement]. Sub-notes, if used, will mature based on the Borrower's [**AUTOMATIC SELECTION Seasonal CAPLines** -- seasonal cycle] [**OR Contract CAPLines** -- contract final payment date] [**OR Builder's CAPLines** -- project completion date]. No sub-note may have a maturity date later than the Note.

INTEREST RATE OPTIONS

CFR 120.213 through 120.215/SOP 50 10 5(D), pp. 153-160, Subpart "B", Chapter 3, Paragraph IV, Interest Rates.

Select one and only one of the 2 following options

Option 1 - Fixed Rate

The interest rate is [**interest rate**]% per year. The interest rate may only be changed in accordance with SOP 50 10.

Option 2 - Variable Rate

The interest rate on this Note will fluctuate. The initial interest rate is [**initial interest rate**]% per year. This initial rate is the [**Prime Rate/SBA Optional Peg Rate/LIBOR Base Rate**] in effect on the first business day of the month in which SBA received the Loan application, plus [**% over [Prime Rate/SBA Optional Peg Rate/LIBOR Base Rate]**]. The initial interest rate must remain in effect until the first change period begins unless changed in accordance with SOP 50 10.

The following paragraph must appear for All Loans

Interest rate computations are based on the [**Option average**] daily outstanding balance.

PAYMENT TERM OPTIONS

Option 1 – CONTRACT CAPLines

Borrower must pay interest on the outstanding principal balance every month beginning [**SELECT** - one month, two months, three months, four months, five months, six months] from the month [**SELECT (same as in F.2.)**] - this Note is dated - **OR** - of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT** - _____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note] in the months they are due. Borrower must make additional payments as follows:

Choose 1 and only 1 of the 5 following options

Option 1.1 - No Assignment of Proceeds Interest Only during Performance and Full Principal at Contract Final Payment Date

The full amount of the Principal disbursed for any Contract, Subcontract, or Purchase Order must be fully repaid by contract final payment date of that Contract, Subcontract, or Purchase Order.

Option 1.2 - No Assignment of Proceeds Principal tied to Borrower's Receipt of Payments Proceeds Finance All Costs of each Contract/Subcontract/Purchase Order

Borrower to remit all payments received from the party authorizing payment for the Contract, Subcontract, or Purchase Order to Lender. Lender will apply each payment first to interest as scheduled and the balance to principal.

The full amount of Principal disbursed for any Contract, Subcontract, or Purchase Order must be fully repaid by the contract final payment date of that Contract, Subcontract, or Purchase Order.

**Option 1.3 - No Assignment of Proceeds
Principal tied to Borrower's Receipt of Payments
Proceeds Finance Selected Costs of each
Contract/Subcontract/Purchase Order**

From EVERY payment received, Borrower must remit to Lender the required percentage, as established in the Use of Proceeds and Conditions for Disbursement Section below, for any Contract, Subcontract, or Purchase Order financed with this Loan. Lender will apply each payment first to interest as scheduled and the balance to principal.

The full amount of Principal disbursed for any Contract, Subcontract, or Purchase Order must be fully repaid by contract final payment date of that Contract, Subcontract, or Purchase Order.

**Option 1.4 - Assignment of Proceeds
Principal tied to Receipt of Payments and
Proceeds Finance All Costs of Single/Multiple
Contract/Subcontract/Purchase Order**

For EVERY Contract, Subcontract, or Purchase Order financed with this Loan, Borrower must assign all proceeds to Lender. Lender will apply each payment first to interest as scheduled and the balance to principal.

**Option 1.5 - Assignment of Proceeds
Principal tied to Receipt of Payments and
Proceeds Finance Selected Costs of Single/Multiple
Contract/Subcontract/Purchase Order**

For EVERY Contract, Subcontract, or Purchase Order financed with this Loan, Borrower must assign all proceeds to Lender. Lender will retain the required percentage of each payment received, as established in the Use of Proceeds and Conditions for Disbursement Section. Lender will apply that portion of each payment first to interest as scheduled and the balance to principal. Lender must remit to Borrower the remainder of each payment received under the assignment, as long as Borrower is not in default under this Note.

Option 2 - For SEASONAL CAPLines

Option 2.1 - Monthly Interest Payment

Borrower must pay interest on the outstanding principal balance every month beginning [**SELECT** - one month, two months, three months, four months, five months, six months] from the month [**SELECT (same as in F.2.)** - this Note is dated - **OR** - of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT** - _____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note]. Borrower must make additional payments as follows:

Principal payments are to be made upon receipt of proceeds from sale of seasonal inventory and collection of accounts. Lender will apply each payment first to interest accrued to the date of receipt of payment, and the balance to principal. At the conclusion of each season for which funds are advanced, any remaining principal and interest attributable to that season will become immediately due and payable.

Option 2.2 - No Monthly Interest Payment

Principal payments are to be made upon receipt of proceeds from sale of seasonal inventory and collection of accounts. Lender will apply each payment first to interest accrued to the date of

receipt of payment, and the balance to principal. At the conclusion of each season for which funds are advanced, any remaining principal and interest attributable to that season will become immediately due and payable.

Option 3 - For BUILDER'S CAPLines

Borrower must pay interest on the outstanding principal balance every [**SELECT** - month, two months, three months, four months, five months, six months] beginning six months from the month [**SELECT (same as in F.1.)** - this Note is dated - **OR** - of initial disbursement on this Note]; interest payments must be made on the [**SELECT** - _____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note] in the months they are due. Borrower must make additional payments as follows:

Option 3.1 - For Single BUILDER'S CAPLines — Mandatory

The project financed by this loan must have an amount of sale proceeds applied to the outstanding loan balance sufficient to fully repay all funds drawn on this loan. Lender will apply each payment first to interest accrued to the date of receipt of payment, and the balance to principal.

Option 3.2 - For Multiple BUILDER'S CAPLines — Mandatory

Each project financed by this loan must have an amount of sale proceeds applied to the outstanding loan balance sufficient to fully repay all funds drawn on this loan for that specific project. Lender will apply each payment first to interest accrued to the date of receipt of payment, and the balance to principal.

Option 4 - For All Working Capital CAPLines — Mandatory

Borrower must pay interest on the outstanding principal balance every month beginning one month from the month [**SELECT (same as in F.2.)** this Note is dated - **OR** - of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT** - _____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note]. Borrower must make additional payments as follows:

Principal payments to be made from cash sales and receivable collections. Lender will either apply each payment first to interest accrued to the date of receipt of payment and the balance to principal or first to interest as scheduled and the balance to principal.

ADDITIONAL REPAYMENT TERM PROVISIONS

The following paragraphs must appear in all variable rate loans

SOP 50 10 5(D), pp. 156-158, Subpart "B", Chapter 3, Paragraph IV.C.

The "SBA Optional Peg Rate" is the rate published by SBA in the Federal Register for every calendar quarter.

The interest rate will be adjusted [**SELECT** - monthly, quarterly, semi-annually, annually, every calendar quarter, every calendar year, every [**number of months**] months, every [**number of years**] years] (the "change period").

[**select--**The "Prime Rate" is the Prime Rate in effect on the first business day of the month (as published in the [**name of publisher**] [**SELECT**—newspaper or website]) in which

SBA received the application, or the first day of the month in which any interest rate change occurs. **or** The "SBA Optional Peg Rate" is the 'peg' rate published by SBA in the Federal Register for every calendar quarter. **or** The "LIBOR Base Rate" is the combination of the One Month London Interbank Offered Rate in effect on the first business day of the month (as published in a national financial newspaper or website) in which SBA received the application, or the first day of the month in which any interest rate change occurs, plus an additional 3.0 percentage points.] Base rates will be rounded to two decimal places with .004 being rounded down and .005 being rounded up.

The adjusted interest rate will be [% **above the [Prime Rate/SBA Optional Peg Rate/LIBOR Base Rate]**] % above the [**Prime Rate/SBA Optional Peg Rate/LIBOR Base Rate**]. Lender will adjust the interest rate on the first calendar day of each change period. The change in interest rate is effective on that day whether or not Lender gives Borrower notice of the change.

The base rate or the spread as identified in the Note may not be changed during the life of the Loan without the written agreement of Borrower in accordance with SOP 50 10.

The interest rate adjustment period may only be changed in accordance with SOP 50 10.

If SBA purchases the guaranteed portion of the unpaid principal balance, the interest rate becomes fixed at the rate in effect at the time of the earliest uncured payment default. If there is no uncured payment default, the rate becomes fixed at the rate in effect at the time of purchase.

The 2 following paragraphs must always appear

SOP 50 10 5(D), pp. 237-247, Subpart "B", Chapter 7, Paragraph IV.H.

All remaining principal and accrued interest is due and payable [**Maturity period - same as in F.2.**] from [**SELECT - Same as in F.2 - date of Note - OR - date of initial disbursement**].

Lender will have no obligation to advance funds under this Note if Lender determines: (a) there is any default as defined in this Note; (b) there has been an unremedied adverse change in the financial condition, organization, management, operation, or assets of Borrower which would warrant withholding or not making any further disbursement; (c) Borrower has used Loan funds for unauthorized purposes; or (d) Borrower has not complied with Lender's conditions for disbursement or other agreements.

The following extraordinary servicing fee provision is optional

Lenders do not have to charge an extraordinary servicing fee. If a fee will be charged, Option 1 is for Contract, Seasonal and Builder's Loans. For these Loans the servicing fee may not exceed 2%. Option 2 is for Working Capital Loans. The servicing fee for these loans must be reasonable, based on the amount of actual extra servicing required by the Loan, and consistent with the fees charged non-SBA Borrowers for similar services. SOP 50 10 5(D), pp. 168-169, Subpart "B", Chapter 3, Paragraph VI.C.

Option 1 – for all CAPLines except Working Capital

Lender may charge an extraordinary servicing fee of [**Percent**] % per year of the outstanding loan balance. This fee may be charged monthly and will be computed by multiplying [**(Above Percent divided by 100)/12 - computed by computer**] by either the average daily or monthly outstanding balance for each month. SBA's guarantee does not

extend to extraordinary servicing fees and, at time of guarantee purchase, SBA will not pay any portion of such fees.

Option 2 - for Working Capital Loans Only

Lender may charge the Borrower a servicing fee to cover expenses for extraordinary servicing requirements connected with the Loan. The fee must be reasonable and prudent based on the level of extraordinary effort required. In addition, if the Lender charges an extraordinary servicing fee on its similarly-sized, non-SBA guaranteed commercial loans, it cannot charge a higher fee on its SBA-guaranteed loans. SBA's guarantee does not extend to extraordinary servicing fees and, at time of guarantee purchase, SBA will not pay any portion of such fees.

The following state interest rate reduction provision is optional

In the event that Borrower qualifies for the [Name of program, such as LIFT Focused Small Business Program], Lender may accept a lower interest rate and resulting lower payments. If Borrower no longer qualifies for the [Name of program - same as above] or is in default under the terms of this Note, then the interest rate and payment will revert to the interest rate and payment specified above.

**Repayment terms - Open Options
(Can be used to insert additional repayment terms as needed)**

STATE SPECIFIC LANGUAGE

For CAPLines Wizard users: The CAPLines Wizard automatically inserts the following options as appropriate.

The following must appear when lien is on residential property located in California

4. Lender must include in the Note the following language for residential property located in California:

"Borrower acknowledges this Note is secured by a Deed of Trust in favor of Lender on real property located in _____ County, State of California. That Deed of Trust contains the following due-on-sale provision:..." (Lender must add to the Note the due on sale clause exactly as it appears in the Deed of Trust.)

The following must appear if any borrower is resident of Alaska

5. The following language must appear in the Note above the borrower's signature :

"The Mortgagor or Trustor (Borrower) is personally obligated and fully liable for the amount due under the Note. The Mortgagee or Beneficiary (Lender) has the right to sue on the Note and obtain a personal judgment against the Mortgagor or Trustor for the satisfaction of the amount due under the Note either before or after a judicial foreclosure of the Mortgage or Deed of Trust as under AS 09.45.170-09.45.220."

The following must appear if any borrower is resident of Wisconsin

6. Lender must include in the Note the following language:
“Each Borrower who is married represents that this obligation is incurred in the interest of his or her marriage or family.”

The following must appear if any borrower is resident of Maryland

7. Lender must include valid confession of judgment clauses in the Note for borrower(s) resident in Maryland.

The following must appear if any borrower is resident of Virginia

8. Lender must include valid confession of judgment clauses in the Note for borrower(s) resident in Virginia.

The following must appear if any borrower is resident of Pennsylvania

9. Lender must include confession of judgment clauses in the Note for borrower(s) resident in Pennsylvania.

The following must appear if any borrower is resident of Delaware

10. Lender, at its option, may include confession of judgment clauses in the Note for borrower(s) resident in Delaware.

The following must appear if any borrower is resident of Ohio

11. Lender, at its option, may include confession of judgment clauses (cognitive judgment provisions) in the Note for borrower(s) resident in Ohio.

The following must appear if any borrower or guarantor is resident of Missouri

12. Lender shall comply with Section 432.047 RSMO by adding the following language in boldface ten point type to the Note, Guarantees and other Credit Agreements as defined by the Statute:

"Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement. To protect you (Borrowers(s)) and us (Creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it."

G. USE OF PROCEEDS AND CONDITIONS FOR DISBURSEMENT

CFR 120.120 and 120.130/SOP 50 10 5(D), pp. 130-143, Subpart "B", Chapter 2, Paragraph IV.M., Eligible Uses of Loan Proceeds, pp. 142-143 apply to CAPLines specifically. General SBA rules on use of proceeds. Lender may not split one loan into two loans if the use of proceeds is the same for both loans.

Option 1 – Contract CAPLines**Choose from the Following
4 Options****Option 1.1 – All Costs for Single Contract,
Subcontract or Purchase Order**

The Contract/Subcontract/Purchase Order must be fully described when the Loan finances some or all of the cost of one Contract/Purchase Order/Subcontract. When the Loan finances multiple Contracts/Subcontracts/Purchase Orders, the description must be in sufficient detail to match contract requirements to contract disbursements. The description can include such information as the name of the paying party, contract identification number, description of work, and approval date.

1. Loan proceeds must only be used to pay those costs (including General & Administrative [G&A] and Overhead) associated with Borrower performing the Contract, Subcontract, or Purchase Order with **[name of party authorizing payment]** in the approximate amount of **[\$[Contract, Subcontract, or Purchase Order amount][SELECT - , and described as Federal Contract Number [contract number] - OR - [SELECT - described as [Description of contract] - AND/OR - dated [Date of Contract]]]**. Proceeds may not finance any profit or any G&A or Overhead not allocable to the Contract, Subcontract, or Purchase Order.

**Option 1.2 – All Costs for Multiple Contracts,
Subcontracts or Purchase Orders**

2. Loan proceeds must only be used to pay those costs (including General & Administrative [G&A] and Overhead) associated with Borrower performing the Contracts, Subcontracts, or Purchase Orders financed with this Loan. Proceeds may not finance any profit or any G&A or Overhead not allocable to the Contracts, Subcontracts, or Purchase Orders financed with this Loan.

**Option 1.3 – Selected Costs of Single Contract,
Subcontract or Purchase Order**

3. Loan proceeds must only be used to pay those costs specifically identified below, which are directly associated with Borrower performing the Contract, Subcontract, or Purchase Order with **[name of party authorizing payment]** in the approximate amount of **[\$[Contract, Subcontract, Purchase Order amount]**, and described as **[SELECT - Federal Contract Number [contract number] - OR - [SELECT - described as [Description of contract]] - dated [Date of Contract, Subcontract, or Purchase Order]]]**. Proceeds may not finance any profit or any G&A or Overhead not allocable to the Contract, Subcontract, or Purchase Order.

The following costs of performing the above referenced Contract, Subcontract, or Purchase Order may be financed with this Loan:

[List specific costs to be financed and approximate amount]

a. [Item] \$[Amount]

**Option 1.4 – Selected Costs for Multiple Contracts,
Subcontracts or Purchase Orders**

4. Loan proceeds must only be used to pay those costs specifically identified below in the conditions that must be met prior to disbursement. The costs must be directly associated with Borrower performing the Contracts, Subcontracts, or Purchase Orders financed with this Loan. Proceeds may not finance any profit or any G&A or Overhead not allocable to the Contracts, Subcontracts, or Purchase Orders financed with this Loan.

**Option 1.5 – Single Contract, Subcontract or Purchase Order
(Automatic Selection with Options 1.1 or 1.3)**

5. Prior to initial disbursement, Lender must:
- a. Obtain copy of the executed Contract, Subcontract, or Purchase Order to be financed with the Loan proceeds.
 - b. Perfect all liens and verify that the required lien positions have been obtained.
 - c. If Required: Obtain copy of the executed assignment of the contract proceeds.
 - d. If Required: Obtain written acknowledgement of this assignment from **[name of party authorizing payment]** as follows:
 - (1) All contract proceeds have been assigned to Lender.
 - (2) All contract proceeds will be sent directly to Lender.
 - e. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.
 - f. If proceeds do not cover all costs associated with each Contract, Subcontract, or Purchase Order, Lender must establish the costs that will be financed and establish the percentage of each payment to be applied to the Loan balance. Lender may increase the percentage to allow for retainage by the contract obligor.
 - g. If contract assignment is not required, document the conditions specified in SOP 50 10 that justify no assignment.

**Option 1.6 – Multiple Contracts, Subcontracts or Purchase Orders
(Automatic Selection with Options 1.2 or 1.4)**

6. Prior to initial disbursement on each Contract, Subcontract, or Purchase Order, Lender must:
- a. Obtain copy of the executed Contract, Subcontract, or Purchase Order.
 - b. Perfect all liens and verify that the required lien positions have been obtained.
 - c. If Required: Obtain copy of the executed assignment of the contract proceeds.
 - d. If Required: Obtain written acknowledgement of this assignment from **[name of party authorizing payment]** as follows:
 - (1) All contract proceeds have been assigned to Lender.
 - (2) All contract proceeds will be sent directly to Lender.

- e. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.
- f. Obtain month-to-month cash-flow projections covering the term of each Contract, Subcontract, or Purchase Order to determine appropriate disbursement and repayment timeframe.
- g. If proceeds do not cover all costs associated with each Contract, Subcontract, or Purchase Order, Lender must establish the costs that will be financed and establish the percentage of each payment to be applied to the Loan balance. The percentage which Lender can retain and apply to the Loan equals the percent of the total cost of the Contract, Subcontract, or Purchase Order which the Loan financed plus enough to cover the accrued interest due. Lender may increase the percentage to allow for retainage by the contract obligor.
- h. If contract assignment is not required, document the conditions specified in SOP 50 10 that justify no assignment.

Option 2 – SEASONAL CAPLines

Option 2.1 – SINGLE Season

- 7. Loan proceeds must be used to finance the seasonal increases of accounts receivable and inventory (or in some cases associated increased labor costs).
- 8. Prior to initial disbursement, Lender must:
 - a. Perfect all liens and verify that the required lien positions have been obtained.
 - b. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.

Mandatory if Borrowing Base Certificate Required

- 9. Prior to any disbursement, Lender must obtain and reconcile current monthly borrowing base certificate.

Option 2.2 -- MULTIPLE Seasons

- 10. Loan proceeds must be used to finance the seasonal increases of accounts receivable and inventory (or in some cases associated increased labor costs).
- 11. Prior to initial disbursement, Lender must:
 - a. Perfect all liens and verify that the required lien positions have been obtained.
 - b. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.
- 12. Additionally, prior to each season’s initial disbursement, Lender must:
 - a. Verify that the required lien positions are in place.
 - b. Obtain evidence that Borrower is current on all Federal and State payroll taxes.
 - c. Obtain month-to-month cash-flow projections for the season to determine appropriate disbursement and repayment timeframe.

Mandatory if Borrowing Base Certificate Required

- 13. Prior to any disbursement, Lender must obtain and reconcile current monthly borrowing base certificate.

Option 3 – BUILDER's CAPLines

Option 3.1 -- SINGLE Building

14. Loan proceeds must be used solely for payment of direct expenses related to **[Select 1 or more as applicable - acquiring, constructing, renovating]** the individual **[Select - residential - or - commercial]** building **[SELECT - , described as [Description] - OR/AND - , located at [Location]]**, for resale.
 - a. Borrower may use no more than 5% of the Loan proceeds disbursed for any project for site improvements to any common area (curb, sidewalk, common landscaping) of the renovated or constructed project.
 - b. Borrower may use no more than 20% of the Loan proceeds disbursed for any project for land acquisition, including refinancing.
15. Prior to initial disbursement, Lender must:
 - a. Perfect all liens and verify that the required lien positions have been obtained.
 - b. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.
 - c. Obtain evidence that Borrower will either perform the construction and/or renovation work or manage the project with at least one supervisory employee on the job site during the entire construction phase.
16. During the course of construction and prior to final disbursement, Lender must make interim and final inspections to determine that construction conforms to the plans and specs and to obtain lien waivers and releases at appropriate times from all materialmen, contractors, and subcontractors receiving Loan funds or involved in the construction.

Option3.2 – MULTIPLE Buildings

17. Loan proceeds must be used solely for payment of direct expenses related to acquiring, constructing or renovating an individual residential building or commercial buildings for sale.
 - a. Borrower may use no more than 5% of the Loan proceeds disbursed for any project for site improvements to any common area (curb, sidewalk, common landscaping) of the renovated or constructed project.
 - b. Borrower may use no more than 20% of the Loan proceeds disbursed for any project for land acquisition, including refinancing.
18. Loan proceeds must initially be used solely for payment of direct expenses related to **[Select 1 or more as applicable - acquiring, constructing, renovating]** the individual **[Select - residential - or - commercial]** building **[SELECT - , described as [Description] - OR/AND - , located at [Location]]**, for resale.
19. Prior to initial disbursement (for the initial building AND any subsequently financed buildings), Lender must:
 - a. Perfect all liens and verify that the required lien positions have been obtained.
 - b. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.

- c. Have evidence that permanent mortgage money is available to qualified purchasers of such properties, a market exists for the proposed building, and the proposed building will be compatible with its neighborhood.
 - d. Obtain completed SBA Form 601, Agreement of Compliance, as required, properly executed by borrower/contractor and all subcontractors.
 - e. Obtain a firm written proposal of construction costs by line item for each individual project, based upon the licensed architect approved plans and specifications.
 - f. Obtain a monthly projection of project(s) and CAPLine activity to illustrate peak cash needs, CAPLine balance, authorized advances, and repayment.
 - g. Obtain evidence that Borrower will either perform the construction and/or renovation work or manage the project with at least one supervisory employee on the job site during the entire construction phase.
20. During the course of construction and prior to final disbursement for each individual building, Lender must make interim and final inspections to determine that construction conforms to the plans and specs and to obtain lien waivers and releases at appropriate times from all materialmen, contractors, and subcontractors receiving Loan funds or involved in the construction.

Option 4 – WORKING CAPITAL CAPLines

SOP 50 10 5(D), p. 136, Subpart "B", Chapter 2, Paragraph IV.E.10 Refinance; SOP 50 10 5(D), p. 143, Subpart "B", Chapter 2, Paragraph IV.M.4. Working Capital Uses of Proceeds; SOP 50 10 5(D), pp. 240-247, Subpart "B", Chapter 7, Paragraph IV.H.4. re disbursement, examination, monitoring, and funds control requirements.

21. Loan proceeds are to be used for payment of short term working capital/operating needs associated with the Borrower's operation.

Option 4.1 – The following paragraph must appear when refinancing an existing debt

22. The initial disbursement must be used to refinance an existing [**Debt Instrument**] payable to [**Name of Lender**] in the amount of [**\$Amount**].- **OR** - The initial disbursement must be used to refinance existing: (a) [**Debt Instrument**] payable to [**Name of Lender**] in the amount of [**\$Amount**], and (b) [**Debt Instrument**] payable to [**Name of Lender**] in the amount of [**\$Amount**].

Option 4.2 – Mandatory if Borrowing Base Certificate Required

23. Loan proceeds may be disbursed up to the lesser of \$[**Loan Amount**] or [**SELECT one of the following** -
- **EITHER** -
 - [**Percent**] % of eligible [**OPTION** - Domestic] Accounts Receivable,
 - **OR** -
 - [**Percent**] % of eligible Inventory,
 - **OR** -
 - the sum of [**Percent**] % of eligible [**OPTION** - Domestic] Accounts Receivable plus [**Percent**] % of eligible Inventory],
- with the exception that no disbursements can be made (without SBA prior approval) after the

commencement of one cash cycle prior to maturity. If maturity coincides with the scheduled annual review of the Loan, including an annual review conducted by Lender coincidental with the maturity of the Loan, Lender may advance on the line up to maturity in conjunction with the Lender's annual review in accordance with Lender's policies and procedures on its similarly-sized non-SBA guaranteed commercial lines of credit. Any extension of the Loan or term out of the Loan must comply with SBA requirements.

The following 3 paragraphs are used for all Working Capital CAPLines

24. Prior to initial disbursement, Lender must:

- a. Perfect all liens and verify that the required lien positions have been obtained.
- b. Obtain evidence that Borrower is current on all Federal and State taxes, including but not limited to income taxes, payroll taxes, and sales taxes.
- c. Obtain written certification from Borrower that all proceeds received from cash sales and receivable collections will be promptly remitted to Lender consistent with the Borrower's operating cash cycle. Lender must monitor payments received consistent with its policies and procedures on similarly-sized, non-SBA guaranteed commercial lines of credit.

Option 4.3 — Mandatory if Borrowing Base Certificate Not Required

- d. Secure the line with sufficient collateral to ensure there is a 1:1 collateral ratio in accordance with SOP 50 10.

Option 4.4 — Mandatory if Lender has Borrower's Deposit Accounts

- e. Follow its established procedures for its similarly-sized, non-SBA guaranteed commercial lines of credit to monitor payments received.

Option 4.5 — Mandatory if Lender Does Not Have Borrowers Deposit Accounts

- f. Utilize some form of controlled account as follows:
 - (1) The customers of the Borrower can be instructed to send their remittances via joint payee checks payable to Lender and Borrower to the Lender; or
 - (2) Lock box (bank account under Lender control where Borrower's customers remit payments for accounts receivable).

25. Prior to any disbursement, Lender must:

- a. Comply with the disbursement requirements in SOP 50 10.
- b. Ensure no disbursement is made (without SBA prior approval) after the commencement of one cash cycle prior to maturity. For purposes of this Loan, the Borrower's cash cycle is [Insert#] days. If maturity coincides with the scheduled annual review of the Loan, including an annual review conducted by Lender coincidental with the maturity of the Loan, Lender may advance on the line up to maturity in conjunction with the Lender's annual review in accordance with Lender's policies and procedures on its similarly-sized non-SBA guaranteed commercial lines of credit. Any extension of the Loan or term out of the Loan must comply with SBA requirements.

26. In the event that Lender learns that proceeds are used to acquire fixed assets, Lender must refinance the portion of the Loan used to acquire the fixed assets into an appropriate term facility no later than 90 days after the Lender discovered that the Loan was used to finance a fixed asset.

**Option 4.6 — Borrowing Base Certificate
(Mandatory when Option 4.2 is selected)**

27. Lender must comply with the monitoring requirements in accordance with SOP 50 10. The minimum monitoring requirements are as follows:
- a. Monthly – Borrowing base certificate; aging of accounts receivable/payable; and inventory listing (if advanced against). Lender may require a borrowing base certificate more frequently consistent with its policy and procedures on similarly-sized non-SBA guaranteed commercial lines of credit;
 - b. Quarterly – Borrower prepared financial statements; and
 - c. Annually – If the Working Capital CAPLines is \$1,000,000 or less, credit review including cash flow analysis, concentration analysis, collateral analysis, owner/guarantor credit review and annual site visit. If the Working Capital CAPLine is over \$1,000,000, credit review including cash flow analysis, concentration analysis, collateral analysis, owner/guarantor credit review and annual field examination. Accounts from any one customer that constitute more than 20% of the total outstanding receivables should not be included in the eligible borrowing base unless the account is a high rated public company, a Federal government account, the customer has a long-standing positive credit history with the Borrower or the customer is a prime contractor performing on a Federal government contract. If the account meets one of those four conditions, the Lender does not need to obtain SBA's prior written concurrence to include the account above the 20% in the eligible borrowing base, but must include a written justification in the loan file. If, however, the account does not meet one of the four conditions, then the Lender must obtain SBA's prior written consent in order to include the account in the eligible borrowing base. Such requests must be sent to the LGPC.

**Option 4.7 — Borrowing Base Certificate Not Required
(Mandatory When Option 4.3 is Selected)**

28. Lender must monitor the lines consistent with the Lender's policies and procedures for its similarly sized, non-SBA guaranteed commercial lines of credit and, at a minimum, conduct a credit review including cash flow analysis, collateral analysis to ensure there is a 1:1 collateral ratio, owner/guarantor credit review and site visit on an annual basis.

The following paragraphs must appear in all CAPLines

29. Lender and Borrower must complete and sign SBA Form 1050 at the time of first disbursement, and Lender must attach documentation of subsequent disbursements to the original SBA Form 1050 in accordance with SOP 50 10. As stated in SOP 50 10, if the Authorization identifies working capital as a use of proceeds and if those proceeds will be used to pay normal operating expenses (e.g., payroll, utilities, etc.), then the working capital disbursement does not need supporting documentation.
30. The outstanding principal balance of this loan must never exceed \$[**Loan Amount**] [**linked to first instance**].
31. Lender must document that Borrower used the loan proceeds only for the specific purposes as stated in this Authorization, and retain the documentation within its file.
32. Lender may not split one loan into two loans if the use of proceeds is the same for both loans.

33. If Lender is notified by the Internal Revenue Service (IRS) that Borrower is not current on its withholding taxes, Lender must stop advancing on the line and comply with any instructions from the IRS until such time as the IRS notifies the Lender the Borrower is current on its withholding taxes.
34. No loan proceeds can be used to pay delinquent withholding taxes or other similar trust funds (state sales tax, etc.), or for floor planning.
35. Providing Lender and Borrower remain in compliance with the SBA Loan Program Requirements, as defined in 13 CFR 120.10, Lender is authorized to make advances without additional SBA approval.
36. Loan proceeds may be used to reimburse Lender for payment of the guarantee fee only in the Seasonal and Working Capital subprograms. Lender may not disburse loan proceeds solely for this purpose.

Mandatory for Seasonal, Builder's and Contract Only

37. Lender must conduct an annual review of the Borrower's financial condition and credit status, on either the anniversary date of initial disbursement or upon receipt of annual financial statements.

For CAPLines Wizard users:

Project Collateral section starts here...

H. COLLATERAL CONDITIONS

Lender must obtain a lien on 100% of the interests in the following collateral and properly perfect all lien positions:

Option 1 – CONTRACT CAPLines
SELECT one of the following 6 Options
When Assignment of Contract/Purchase Order Required

Contract specified below in Options 1 or 2 must be identical to contract described in G.1 of the authorization above.

Option 1.1 – SINGLE US Government Contract

1. **U.S. Government Contract Assignment and Notice of Assignment:** Assignment of monies due or to become due under Federal Contract Number [**Contract number**] with the [**Name of Party Authorizing Payment**] in the approximate amount of \$[**Contract amount**] and any subsequent modifications or additions. Lender must perfect the assignment pursuant to Federal Acquisition Regulations (FAR).

Option 1.2 – SINGLE non-US Government Contract or Purchase Order

2. **Contract Assignment:** A valid assignment and first security interest covering all proceeds under Contract or Purchase Order dated [**date of Contract or Purchase Order**] between Borrower and [**Name of Party Authorizing Payment**] in the approximate amount of \$[**Contract or Purchase Order amount**], described as [**Description of Contract or Purchase Order**].

Option 1.3 – MULTIPLE US Government Contracts

3. **Contract Assignment:** A valid assignment and first security interest covering all proceeds from all of Borrower's Federal Government contracts financed with the proceeds of this Loan. Lender must perfect the assignment of each Federal Government contract as required by the Federal Acquisition Regulations (FAR) and must maintain identifying contract information in their files.

Option 1.4 – MULTIPLE Non-US Government Contracts or Purchase Orders

4. **Contract Assignment:** A valid assignment and first security interest covering all proceeds from all of Borrower's Contracts or Purchase Orders financed with the proceeds of this Loan. Lender must perfect the assignment of each Contract or Purchase Order as required by State Law and must maintain identifying Contract or Purchase Order information in their files.

Option 1.5 - SINGLE Subcontract

5. **Subcontract Assignment:** A valid assignment and first security interest covering all proceeds under Subcontract between Borrower and [name of Prime Contractor] in the approximate amount of \$[Subcontract amount], for work described as [Description of Subcontract] and dated [Date of Subcontract].

Option 1.6 – MULTIPLE Subcontracts

6. **Subcontract Assignments:** A valid assignment and first security interest covering all proceeds from all of Borrower's Subcontracts financed with the proceeds of this Loan. Lender must perfect the assignment of each Subcontract between Borrower and Prime Contractor as required by applicable State Law and must maintain identifying Subcontract information in their files.

Use the Following Two CONTRACT Options as Applicable

Option 1.7 – Additional Worthwhile Collateral

Use the following CONTRACT Option ONLY when Assignment is NOT Required and Additional Worthwhile Collateral Will Be Taken

7. **Additional Collateral Required:** In accordance with SOP 50 10, Assignment of Proceeds is not required and Additional Worthwhile Collateral, listed below, will secure this Loan.

[list items]

a. [Item]

NOTE: The requirements for securing and perfecting the listed collateral must be included in the Collateral Section below.

Option 1.8 – Single or Multiple Contracts or Subcontracts

Use the Following CONTRACT Option for any Contract(s) or Subcontract(s) Using a Performance Bond

8. **Performance Bond Required:** If any contract(s) or subcontract(s) assigned to Lender are also covered by a payment or performance bond, then the surety issuing the bond will have the right to receive all proceeds due under the contract, up to the amount of their costs, if the surety has stepped in to complete the contract by performance or payment. Lender's perfected security interest will be subordinate to the cost reimbursement claim of the surety. Lender will have the right to receive all proceeds or payments which are not due to the surety company.

Option 2 – For ALL BUILDER’S CAPLines

Property specified below must be identical to property specified in G.13 (for single building) or G.17 (for multiple buildings).

9. [SELECT - First - OR - Second] [SELECT - Deed of Trust, Mortgage or other state specific instrument] (including due on sale clause [OPTION - and water rights] [OPTION - and assignment of rents]) on land and improvements located at [address of property]. This property is [SELECT - residential - OR - commercial - OR - agricultural].

The following must appear if first lien position.

- a. Subject to no other liens.

The following must appear if second lien position.

- b. Subject only to a prior lien by [name of lienholder] [SELECT - in the amount of \$[Amount] - OR - in the present amount of \$[Amount], with a revolving provision limited to a total principal outstanding of \$[Amount]].
- c. Any prior lienholder must provide a "release clause" for transfer of clear title to the purchaser of this property upon payment of a predetermined fixed amount which, together with the amount advanced under this loan, does not exceed 80% of the anticipated selling price.

Selections from the following list always appear

These paragraphs must appear only for all Builder's CAPLines. They are not required for the other programs. Note: The wizard will automatically select from options d.-m. depending on the state where project collateral is located. – Refer to Appendices A and B for a list of required options per state.

- d. Any prior lien that is open ended as to future advances must be closed, in writing, according to applicable state law. The revolving line of credit set out above, if any, must be limited in writing to the amount stated.
- e. Lender must obtain a written agreement from prior lienholders to provide Lender with [number of days] days' written notice before commencing foreclosure of prior lien.
- f. Lender to file a Request for Notice pursuant to state law.
- g. Written waiver of homestead required. (Residential property only.)
- h. Statement of non-homestead required. (Residential property only.)
- i. Written waiver of Business Homestead required if real property collateral is owned by an individual or an individual and spouse.
- j. Lender must obtain from prior lienholders written verification (1) of amount owing on prior obligation, (2) that Borrower is current on payments, and (3) that prior obligation is not otherwise in default.
- k. Written waiver of redemption rights is required. (Non-residential property only.)
- l. Survey, certified to Lender, is required or prior survey and affidavit of no change acceptable to Lender.
- m. Statutory Condition and the Statutory Power of Sale language required.

The following Evidence of Title section must always appear

n. Evidence of title and priority of lien must be based upon:

Insert only 1 of the following 3 options

- (1) ALTA Loan Policy for the maximum insurable value, insuring lender and assigns, policy to be extended ALTA,
[OPTION - Policy to be without standard survey exception.]
[OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]
[MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]
- (2) Mortgagee's Title Policy for the maximum insurable value, insuring lender and assigns. Such policy must contain no exceptions for parties in possession, mechanic's or materialman's liens, or matters which would be disclosed by an accurate survey.
[OPTION - Policy to be without standard survey exception,]
[OPTION - Policy to be without exception to Homestead, Survey or Taxes,]
[OPTION - Policy must reflect that all taxes and municipal liens have been brought current or paid.]
[OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]
[MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]
- (3) Attorney's certificate of title or title opinion in favor of lender and assigns certifying that lender has obtained the required lien position.
[OPTION - Certificate or opinion will not contain a survey exception or an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]
[MUST APPEAR if R/E located in VT - Certificate or opinion must address that the real property and its use are in compliance with state and federal environmental laws and regulations, as well as zoning, subdivision and land use laws, as determinable from all relevant publicly issued, filed or recorded governmental documents.]

Option 2.1 – Mandatory for MULTIPLE Buildings

Building specified below must be identical to building specified in G.17
Note: Some of the requirements in this collateral condition will vary according to the state in which the real property is located. Refer to Appendices A and B for more information.

10. For each subsequent piece of real property to be purchased or improved with the proceeds of this loan, Lender must obtain a Deed of Trust, Mortgage, or other state-specific instrument, as

appropriate under state law (including due on sale clause and assignment of rents, and, if appropriate, water rights) on land and improvements.

- a. Lien must be a first lien or second lien subject only to Deed of Trust, Mortgage, or other state-specific instrument, as appropriate under state law, for financing the purchase of the property.
- b. Any prior lienholder must provide a "release clause" for transfer of clear title to the purchaser of this property upon payment of a predetermined fixed amount which, together with the amount advanced under this loan, does not exceed 80% of the anticipated selling price.
- c. Evidence of title and priority of lien must be based upon the first of the following items available in the state in which the real property is located:
 - (1) ALTA Loan Policy for the maximum insurable value, insuring lender and assigns, policy to be extended ALTA.
 - (2) Mortgagee's Title Policy for the maximum insurable value, insuring lender and assigns. Such policy must contain no exceptions for parties in possession, mechanic's or materialman's liens, or matters which would be disclosed by an accurate survey.
 - (3) Attorney's certificate of title or title opinion in favor of lender and assigns certifying that lender has obtained the required lien position. Certificate or opinion will not contain a survey exception.
- d. Lender is responsible for applying the collateral requirements that are appropriate to the state in which the property is located. The requirements listed below are contained in Appendix B of the Authorization Boilerplate as "Boilerplate Options." Appendix B of the Authorization Boilerplate lists which of the above options are required in each state. Possible Boilerplate Options are (Note: there is no Option 1):

Option 2: Any prior lien that is open-ended as to future advances must be closed, in writing, according to applicable state law. The revolving line of credit set out above, if any, must be limited in writing to the amount stated.

Option 3: Lender must obtain a written agreement from prior lienholder to provide Lender with **[number of days]** days' written notice before commencing foreclosure of prior lien.

Option 4: Lender to file a Request for Notice pursuant to state law.

Option 5: Written waiver of homestead required. (Residential property only.)

Option 6: Statement of non-homestead required. (Residential property only.)

Option 7: Written waiver of Business Homestead required if real property collateral is owned by an individual or an individual and spouse.

Option 8: Lender must obtain from prior lienholders written verification (1) of amount owing on prior obligation, (2) that Borrower is current on payments, and (3) that prior obligation is not otherwise in default.

Option 9: Written waiver of redemption rights is required. (Non-residential property only.)

Option 10: Survey, certified to Lender, is required, or prior survey and affidavit of no change acceptable to Lender.

Option 11: Statutory Condition and the Statutory Power of Sale language required.

SOP 50 10 5(D), pp. 237-247, Subpart "B", Chapter 7, Paragraph IV.H.4. For all Working Capital CAPLines, Lender must obtain a first lien position on the working/trading assets (accounts receivable and inventory) regardless of whether Lender will use a Borrowing Base Certificate.

If Lender will not use a Borrowing Base Certificate to disburse the line, Lender must secure the line with sufficient collateral to ensure there is a 1:1 collateral ratio. If the working/trading assets are insufficient to provide a 1:1 collateral ratio, the Lender must take additional collateral to ensure there is a 1:1 ratio.

Option 3 – Mandatory for All SEASONAL and WORKING CAPITAL CAPLines

11. First perfected security interest in accounts and inventory.
 - a. Lender must obtain an appropriate Uniform Commercial Code lien search evidencing all required lien positions. If UCC search is not available, another type of lien search may be substituted.
 - b. If any collateral is located on leased premises, Lender should obtain a written agreement from all lessors (including sublessors) agreeing to: (1) subordinate to Lender Lessor's interest, if any, in this property; (2) provide Lender with written notice of default and a reasonable opportunity to cure the default; and (3) allow the Lender the right to take possession and dispose of, or remove, the collateral.

For CAPLines Wizard users:

Additional Collateral Conditions section starts here...

Create as many additional collateral conditions as needed.

IMPORTANT - READ THIS FIRST!

This document offers an extensive choice of standard additional Collateral Conditions.

Refer to Appendix A for the full boilerplate text of these Collateral Conditions.

You can also write your own collateral conditions if the standard list does not offer the appropriate option.

The following language must appear in Lender's Guarantee when Lender uses its own Guarantee.

"When SBA is the holder, the Note and this Guarantee will be construed and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Guarantee, Guarantor may not claim or assert any local or state law against SBA to deny any obligation, defeat any claims of SBA, or preempt federal law."

Lender must obtain a lien on 100% of the interests in the following collateral and properly perfect all lien positions:

12. [Insert first additional Collateral Condition here]
13. [Insert second additional Collateral Condition here]
14. [Etc. - Insert as many additional Collateral Conditions as needed]

The following paragraphs must always appear

13 CFR 101.106, Federal Law application to SBA programs and activities.

The following language must appear in all lien instruments including Mortgages, Deeds of Trust, and Security Agreements:

“The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

- a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.*
- b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.*

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.”

For CAPLines Wizard users: the following paragraphs are automatically inserted by the CAPLines Wizard as appropriate.

The following paragraphs must appear if any Borrower or any real estate is located in California

California Mandatory Provision—The following language must appear in a guarantee if the guarantor, any Borrower or any real estate is located in California:

“Guarantor waives its rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to the guarantor by reason of California Civil Code Sections 2787 to 2855, inclusive.

The guarantor waives all rights and defenses that the guarantor may have because the debtor's debt is secured by real property. This means, among other things:

- (1) The creditor may collect from the guarantor without first foreclosing on any real or personal property collateral pledged by the debtor.*
- (2) If the creditor forecloses on any real property collateral pledged by the debtor:*
 - (A) The amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.*
 - (B) The creditor may collect from the guarantor even if the creditor, by foreclosing on the real property collateral, has destroyed any right the guarantor may have to collect from the debtor.*

This is an unconditional and irrevocable waiver of any rights and defenses the guarantor may have because the debtor's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

The guarantor waives all rights and defenses arising out of an election of remedies by the creditor, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the guarantor's rights of subrogation and

reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise."

If Guarantee is secured by Deed of Trust on residential property in California, Lender must also include in the guarantee the following language:

"Guarantor acknowledges that this Guarantee is secured by a Deed of Trust in favor of Lender on real property located in _____ County, California. That Deed of Trust contains the following due-on-sale provision:..." (Lender must add to the Guarantee the due on sale clause exactly as it appears in the Deed of Trust.)

The following paragraphs must appear if a guarantee is to be signed by a resident of Arizona

Arizona Mandatory Provision - The following language must appear in all guarantees (including limited guarantees) signed by Arizona residents:

"The undersigned waives any rights it may have pursuant to ARS Section 12-1641 et seq., and agrees pursuant to ARS Section 33-814 that the obligations of the undersigned may be enforced regardless of whether or not any Trustee's sale of security for this debt is held."

The following paragraphs must appear if a guarantee is to be signed by a resident of Wisconsin

Wisconsin Mandatory Provision - The following language must appear in all guarantees (including limited guarantees) signed by Wisconsin residents:

'Each Guarantor who is married represents that this obligation is incurred in the interest of his or her marriage or family.'

The following paragraph will appear if a guarantee is to be signed by a resident of Maryland

Maryland Mandatory Provision - Lender must include valid confession of judgment clauses in guarantees signed by Maryland residents.

The following paragraph must appear if a guarantee is to be signed by a resident of Pennsylvania

Pennsylvania Mandatory Provision—Lender must include valid confession of judgment clauses in guarantees signed by Pennsylvania residents.

The following paragraph will appear if a guarantee is to be signed by a resident of Virginia

Virginia Mandatory Provision - Lender must include valid confession of judgment clauses in guarantees signed by Virginia residents.

The following paragraph will appear if any borrower or guarantor is a resident of Missouri

Missouri Mandatory Provision—Lender shall comply with Section 432.047 RSMO by adding the following language in boldface ten point type to the Note, Guarantees and other Credit Agreements as defined by the Statute:

"Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement. To protect you (Borrowers(s)) and us (Creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it."

The following paragraph will appear if a guarantee is to be signed by a resident of Georgia

Georgia Mandatory Provision—The following language must appear in all guarantees (including limited guarantees) signed by Georgia residents:

"The undersigned Guarantor hereby waives the right to require the Holder of the obligations hereby guaranteed to take action against the debtor as provided for in O.C.G.A. 10-7-24."

The following paragraph must appear if a guarantee is to be signed by a resident of Kentucky

Kentucky Mandatory Provision—The following language must appear in all guarantees (including limited guarantees) signed by Kentucky residents:

"These provisions are for the purpose of KRS 371.065 only and do not waive or avoid guarantor's obligations on this guarantee in part or in whole. The amount of the maximum principal aggregate liability of guarantor is the loan amount plus interest at the note rate, unless the maximum liability box is checked on SBA Form 148L, which would limit liability to the stated maximum liability plus interest at the note rate. The date on which this guarantee terminates is the maturity date of the note plus 6 years, provided such termination shall not affect extensions or renewals of interest accruing on, or fees, costs or expenses incurred with respect to, such obligations on or after such date. The above termination date is extended by any event that delays or avoids the statutes of limitations."

The following paragraph must appear if a guarantee is to be signed by a resident of Delaware

Delaware Mandatory Provision—Lender, at its option, may include confession of judgment clauses in guarantees signed by Delaware residents.

For CAPLines Wizard users:

Additional Conditions (Part I) starts here...

I. ADDITIONAL CONDITIONS

INSURANCE REQUIREMENTS (MANDATORY)

1. Insurance Requirements

If Insurance Required (OPTIONAL)

Prior to disbursement, Lender must require Borrower to obtain the following insurance coverage and maintain this coverage for the life of Loan:

If No Insurance Required (OPTIONAL)

No insurance is required.

Flood Insurance (MANDATORY for collateral)

CFR 120.170/SOP50 10 5(D), p. 204, Subpart "B", Chapter 5, Paragraph II.C - SBA Flood Insurance Requirements. Note: SBA will require flood insurance on personal property collateral even when real estate where the personal property is located is not collateral for the loan but is in a flood area.

- a. **Flood Insurance.** Based on the Standard Flood Hazard Determination (FEMA Form 81-93):
- (1) If any portion of a building that is collateral for the Loan is located in a special flood hazard area, Lender must require Borrower to obtain flood insurance for the building under the NFIP.
 - (2) If any equipment, fixtures, or inventory that is collateral for the loan ("Personal Property Collateral") is in a building any portion of which is located in a special flood hazard area and that building is collateral for the Loan, Lender must require Borrower to also obtain flood insurance for the Personal Property Collateral under the NFIP.
 - (3) If any Personal Property Collateral is in a building any portion of which is located in a special flood hazard area and that building is not collateral for the Loan, Lender must require Borrower to obtain available flood insurance for the Personal Property Collateral. Lender may waive this requirement when the building is not collateral for the Loan, if it uses prudent lending standards and includes in the Loan file a written justification that fully explains why flood insurance is not economically feasible or, if flood insurance is not available, the steps taken to determine that it is not available.

Insurance coverage must be in amounts equal to the lesser of the insurable value of the property or the maximum limit of coverage available. Insurance coverage must contain a MORTGAGEE CLAUSE/LENDER'S LOSS PAYABLE CLAUSE (or substantial equivalent) in favor of Lender. This clause must provide that any action or failure to act by

the debtor or owner of the insured property will not invalidate the interest of Lender and SBA. (Borrower will be ineligible for any future SBA disaster assistance or business loan assistance if Borrower does not maintain any required flood insurance for the entire term of the Loan.)

Real Estate Hazard Insurance (MANDATORY for real estate collateral)

CFR 120.160(c)/SOP 50 10 5(D), p. 203, Subpart "B", Chapter 5, Paragraph II.A.

- b. **Real Estate Hazard Insurance** coverage on all [OPTION - business] real estate that is collateral for the Loan in the amount of the full replacement cost. If full replacement cost insurance is not available, coverage should be for maximum insurable value. Insurance coverage must contain a MORTGAGEE CLAUSE (or substantial equivalent) in favor of Lender. This clause must provide that any action or failure to act by the mortgagor or owner of the insured property will not invalidate the interest of Lender. The policy or endorsements must provide for at least 10 days' prior written notice to Lender of policy cancellation.

Personal Property Hazard Insurance (MANDATORY for personal property collateral)

CFR 120.160(c)/SOP 50 10 5(D), p. 203, Subpart "B", Chapter 5, Paragraph II.A.

- c. **Personal Property Hazard Insurance** coverage on all equipment, fixtures or inventory that is collateral for the Loan, in the amount of full replacement costs. If full replacement cost insurance is not available, coverage should be for maximum insurable value. Insurance coverage must contain a LENDER'S LOSS PAYABLE CLAUSE in favor of Lender. This clause must provide that any action or failure to act by the debtor or owner of the insured property will not invalidate the interest of Lender. The policy or endorsements must provide for at least 10 days' prior written notice to Lender of policy cancellation.

Full Marine Insurance (OPTIONAL)

- d. **Full Marine Insurance** coverage in the amount of the full insurable value on the following vessel(s): [**List of insured vessels**]; with Lender designated as "Mortgagee". The policy must contain a Mortgagee clause providing that the interest of Lender will not be invalidated by any: (1) act, omission, or negligence of the mortgagor, owner, master, agent or crew of the insured vessel; (2) failure to comply with any warranty or condition out of mortgagee's control; or (3) change in title, ownership or management of the vessel. The policy must include Protection and Indemnity, Breach of Warranty, and Pollution coverage. The policy or endorsements must provide for at least 10 days' prior written notice to Lender of policy cancellation.

Life Insurance (OPTIONAL)

SOP 50 10 5(D), p. 204, Subpart "B", Chapter 5, Paragraph II.D.

- e. **Life Insurance**, satisfactory to Lender:
- (1) on the life of [**Name of Individual**] in the amount of \$[**Amount**].
 - (2) on the life of [**Name of Individual**] in the amount of \$[**Amount**].
 - (3) [**add more if needed**]

Lender must obtain a collateral assignment of each policy with Lender as assignee, and Lender must also obtain acknowledgment of the assignment by the Home Office of the Insurer. Lender must assure that Borrower pays the premium on the policy.

Liability Insurance (OPTIONAL)

- f. **Liability Insurance** in an amount and with an insurance company satisfactory to Lender.

Product Liability Insurance (OPTIONAL)

- g. **Product Liability Insurance** in an amount and with an insurance company satisfactory to Lender.

Dram Shop/Host Liquor Liability Insurance (OPTIONAL)

- h. **Dram Shop/Host Liquor Liability Insurance** in an amount and with an insurance company satisfactory to Lender.

Malpractice Insurance (OPTIONAL)

- i. **Malpractice Insurance** in an amount and with an insurance company satisfactory to Lender.

Disability Insurance (OPTIONAL)

SOP 50 10 5(D), p. 205, Subpart "B", Chapter 5, Paragraph II.E.

- j. **Disability Insurance** covering [**Names of Individuals**] in an amount and with an insurance company satisfactory to Lender.

Workers' Compensation Insurance (OPTIONAL)

- k. **Workers' Compensation Insurance** in an amount meeting state law requirements and with an insurance company satisfactory to Lender.

State Specific Insurance (OPTIONAL)

- l. [**SELECT or Write your own - State Specific insurance requirement, such as Florida Petroleum Liability Insurance (FLIRP)**]

**Insurance Requirements - Open Options
(Can be used to add other Insurance Requirements as needed)**

ENVIRONMENTAL REQUIREMENTS (MANDATORY if commercial real property is primary collateral)

SOP 50 10 5(D), pp. 195-201, Subpart "B", Chapter 5, Paragraph III and applicable appendices.

2. Environmental Requirements

- a. Lender may not disburse the Loan until it has:
- (1) Completed the review for potential environmental contamination required in SOP 50 10 ("Environmental Investigation") on each commercial real property site taken as collateral, and:

- (2) Sufficiently minimized the risk from any adverse environmental findings discovered in the Environmental Investigation, or otherwise, as required by SOP 50 10 and applicable appendices.

Insert the following paragraph (b) for regular non-PLP loans when Lender did not submit the results of the Environmental Investigation.

- b. Lender must submit the results of the Environmental Investigation to the SBA office listed above for SBA approval prior to disbursement. If Lender or SBA determines from the Environmental Investigation that there is potential environmental contamination, Lender may not disburse the Loan until SBA is satisfied that the risk has been sufficiently minimized. Adverse environmental findings may lead to cancellation of the SBA guarantee.
- c. Lender should consult with the local SBA office where the real property is located to ascertain any state or local environmental requirements.

**Environmental Requirements - Open Options
(Can be used to create Environmental Requirements as needed)**

NOTE : If the Environmental Investigation submitted with the application reveals risks of environmental contamination, and there is a reasonable expectation that any environmental issue can be resolved under the guidelines of SOP 50 10, the Loan Officer, in consultation with counsel, should use this section to add Authorization conditions based on the SOP guidelines.

BORROWER AND GUARANTOR DOCUMENTS (MANDATORY)

3. Borrower and Guarantor Documents

The following paragraphs must always appear

- a. Prior to closing, Lender must obtain from Borrower and Guarantor a current copy of each of the following as appropriate:
 - (1) **Corporate Documents** — Articles or Certificate of Incorporation (with amendments), any By-laws, Certificate of Good Standing (or equivalent), Corporate Borrowing Resolution, and, if a foreign corporation, current authority to do business within this state.
 - (2) **Limited Liability Company (LLC) Documents** — Articles of Organization (with amendments), Fact Statement or Certificate of Existence, Operating Agreement, Borrowing Resolution, and evidence of registration with the appropriate authority.
 - (3) **General Partnership Documents** — Partnership Agreement, Certificate as to Partners, and Certificate of Partnership or Good Standing (or equivalent), as applicable.
 - (4) **Limited Partnership Documents** — Partnership Agreement, Certificate as to Partners, and Certificate of Partnership or Good Standing (or equivalent), as applicable, Certificate of Limited Partnership, and evidence of registration with the appropriate authority.

- (5) **Limited Liability Partnership (LLP) Documents** — Partnership Agreement, Certificate as to Partners, Certificate of Partnership or Good Standing (or equivalent) as applicable, and evidence of registration with the appropriate authority.
 - (6) **Trustee Certification** — A Certificate from the trustee warranting that:
 - (a) The trust will not be revoked or substantially amended for the term of the Loan without the consent of SBA;
 - (b) The trustee has authority to act;
 - (c) The trust has the authority to borrow funds, guarantee loans, and pledge trust assets;
 - (d) There is nothing in the trust agreement that would prevent Lender from realizing on any security interest in trust assets;
 - (e) The trust agreement has specific language confirming the above; and
 - (f) The trustee has provided and will continue to provide SBA with a true and complete list of all trustors and donors.
 - (7) **Trade Name** — Documentation that Borrower has complied with state requirements for registration of Borrower's or Operating Company's trade name (or fictitious name), if one is used.
- b. Prior to closing, Lender must obtain from Borrower:
- (1) **Ownership** — Evidence that ownership and management have not changed without Lender's approval since the application was submitted.

The following paragraphs (2) to (7) are optional

Note: Paragraph (3), (4), (5), (6) and (7) may be repeated if necessary

- (2) **Purchase-Sale Agreement** — Executed Purchase-Sale Agreement [**OPTION** - (to include satisfactory non-compete agreement)].
- (3) **Non-Compete** — Evidence that [**Principal's Name**] does not have a Non-Compete Contract with [**Competitor's Name**].
- (4) **Subordinate Funding** — Evidence that Borrower has received the proceeds of a loan from [**Name**] in the amount of \$[**Amount**], for a term of not less than [**Term**] years. This loan must be subordinate to the Loan.
- (5) **Other Funding (loan)** — Evidence that Borrower has received the proceeds of a loan from [**Name**] in the amount of \$[**Amount**], for a term of not less than [**Term**] years.
- (6) **Other Funding (grant or gift)** — Evidence that Borrower has received the proceeds of a grant from [**Name**] in the amount of \$[**Amount**].
- (7) **Other Funding (line of credit)** — Evidence that Borrower has received access to a line of credit from [**Name**] in the amount of \$[**Amount**].

**Borrower documents - Open Options
(Can be used to add other Borrower documents as needed)**

OPERATING INFORMATION (MANDATORY)

4. Operating Information

Prior to any disbursement of Loan proceeds, Lender must obtain:

Verification of Financial Information (MANDATORY)

SOP 50 10 5(D), pp. 205-207, Subpart "B", Chapter 5, Paragraph III.

- a. **Verification of Financial Information** – Lender must submit IRS Form 4506-T (SBA version) to the Internal Revenue Service to obtain federal income tax information on Borrower, for the last 3 years (unless Borrower is a start-up business). If the business has been operating for less than 3 years, Lender must obtain the information for all years in operation. This requirement does not include tax information for the most recent fiscal year if the fiscal year-end is within 6 months of the date SBA received the application. If the applicant has filed an extension for the most recent fiscal year, Lender must obtain a copy of the extension along with evidence of payment of estimated taxes. Lender must compare the tax data received from the IRS with the financial data or tax returns submitted with the Loan application, and relied upon in approving the Loan. Borrower must resolve any significant differences to the satisfaction of Lender and SBA. Failure to resolve differences may result in cancellation of the Loan.

If the Loan involves a change of ownership, Lender must verify financial information provided by the seller of the business in the same manner as above.

If the IRS responds and the transcript reflects "Record not Found" for any tax year, Lender must follow the procedures detailed in SOP 50 10 to determine what steps must be taken to satisfy the SBA tax verification requirement.

If Lender does not receive a response from the IRS or copy of the tax transcript within 10 business days of submitting the IRS Form 4506-T, then Lender may close and disburse prior to completing this verification provided that Lender sends a second request following precisely the procedures detailed in SOP 50 10 and Lender performs the verification and resolves any significant differences discovered, even if the Loan is fully disbursed.

Authority to Conduct Business (MANDATORY)

- b. **Authority to Conduct Business** - Evidence that Borrower has an Employer Identification Number and all insurance, licenses, permits and other approvals necessary to lawfully operate the business.

Flood Hazard Determination (MANDATORY)

SOP 50 10 5(D), p. 204, Subpart "B", Chapter 5, Paragraph II.C.

- c. **Flood Hazard Determination** - A completed Standard Flood Hazard Determination (FEMA Form 81-93).

Lease (OPTIONAL)

Use this provision if any collateral is on leased premises.

Paragraph d. is the general rule; use **paragraph e.** only if Lender has approval to allow a lease of less than the term of the loan; use **paragraph f.** to protect leasehold improvements; use **paragraph g.** if you are trying to keep the Borrower in the present location regardless of where the collateral is located.

SOP 50 10 5(D), p. 208, Subpart "B", Chapter 4, Paragraph V., Assignment of Lease and Landlord's Waiver.

- d. **Lease** - Current lease(s) on all business premises where collateral is located with term, including options, at least as long as the term of the Loan.

- e. **Lease** - Current lease(s) on all business premises where collateral is located, with an adequate term, including options, appropriate to the maturity of the Loan, considering location, type of business, and type of leasehold interest.
- f. **Lease** - Current lease(s) on all business premises where collateral is located with term, including options, at least as long as the term of the Loan plus **[number of years]** years.
- g. **Lease** - Current lease(s) on all business premises with a term, including options to renew exercisable by the Borrower, at least as long as the term of the Loan.

Agreement of Franchisor (OPTIONAL)

SOP 50 10 5(D), p. 210, Subpart "B", Chapter 5, Paragraph VII, Special Provisions for Franchises.

Note: Each option within the Agreement of Franchisor (options (1) to (4)) is optional. The Agreement of Franchisor is NOT mandatory for all franchises, nor is any of the 4 individual conditions. Each should be included only as the circumstances of a particular franchise loan approval may require.

h. Agreement of Franchisor:

- (1) That Lender and SBA can have access to Franchisor's books and records relating to Borrower's billing, collections and receivables.
- (2) That upon Loan payment default or deferment, to defer payment of franchise fees, royalties, advertising, and other fees until Borrower brings Loan payments current **[OPTION - or for [months] months, whichever is less]**.
- (3) To give Lender 30 days' notice of intent to terminate the Franchise Agreement.
- (4) To give Lender an opportunity to cure any defaults under the franchise or lease agreement that is given to Franchisee under the same agreements.

For CAPLines Wizard users:

Additional Conditions (Part II) starts here...

INJECTION (OPTIONAL)

CFR 120.150(f)/SOP 50 10 5(D), pp. 183-184, Subpart "B", Chapter 4, Paragraph I.B, Equity Requirements.

5. Injection

Lender must obtain evidence that prior to disbursement:

Select one or more of the following paragraphs (a to d)

- a. **Cash Injection** - At least \$**[Amount]** cash has been injected into the business as equity capital. This cash is for **[Description]**.
- b. **Standby Debt Injection** - At least \$**[Amount]** cash has been injected into the business. This cash is for **[Description]**. Borrower may obtain this cash from a loan that is Standby Debt until Borrower pays Lender in full. Any such debt must be covered by a standby agreement substantially equivalent to SBA Form 155, with no payment permitted.

- c. **Equity Injection / Standby Debt Injection** - At least \$[Amount] cash has been injected into the business. The cash is for [Description]. Borrower may obtain cash from personal resources or from a loan that is Standby Debt until Borrower pays Lender in full. Any such debt must be covered by a standby agreement substantially equivalent to SBA Form 155, with no payment permitted.
- d. **Asset Injection**—Assets described as [Description] with a fair market value of not less than \$[Amount] have been injected into the business as equity capital.

STANDBY AGREEMENT (MANDATORY if Standby Debt Injection is selected above)

SOP 50 10 5(D), pp. 183-184, Subpart "B", Chapter 4, Paragraph I.B.2.a)(4) and pp. 207-208, Subpart B, Chapter 7, Paragraph IV, Standby Agreements.

6. Standby Agreement

The following section must be repeated for each standby creditor

- a. Lender to obtain Standby Creditor’s Agreement from [Name], for \$[Amount], plus all accrued and future interest (Standby Debt).

[SELECT one of the following repayment options -

No payment of principal or interest is to be made on Standby Debt during the term of the Loan.

OR Monthly payments of interest on Standby Debt, at [Rate]% per year, may be made if Borrower is not in default under the Note.

OR Monthly payments of \$[Amount], consisting of principal and interest on Standby Debt, at [Rate]% per year, may be made if Borrower is not in default under the Note.

OR Monthly payments of \$[Amount], consisting of principal and interest on Standby Debt, at [Rate]% per year, beginning [Begin Date] may be made if Borrower is not in default under the Note.

OR (Write Your Own)]

Standby Creditor must subordinate any lien rights in collateral securing the Loan to Lender’s rights in the collateral, and take no action against Borrower or any collateral securing the Standby Debt without Lender’s consent. Lender must attach a copy of the Standby Note evidencing the Standby Debt to the Standby Creditor’s Agreement. Lender may use its own form or SBA Form 155.

APPRAISAL (OPTIONAL)

Sec. 7(a)(29) of the Small Business Act. CFR 120.160(b)/SOP 50 10 5(D), pp. 187-192, Subpart B, Chapter 4, Paragraph II.C.

7. Appraisal

Prior to disbursement, and in accordance with SOP 50-10, Lender must obtain:

The 4 following options can be used several times if necessary

- a. **Real Estate Appraisal** on the real property located at [Address], showing a fair market value of at least \$[Amount].

- b. **Equipment Appraisal** on the equipment (and fixtures if not included in a real estate appraisal) described as **[Description]**, showing a fair market value of at least **[\$Amount]**.
- c. **Marine Survey and Appraisal** on the vessel named **[Name]**, showing a fair market value of at least **[\$Amount]**.
- d. **Aircraft Appraisal** on the following aircraft - Make: **[Make]**, Model: **[Model]**, Year: **[Year]** - showing a fair market value of at least **[\$Amount]**.

CONSTRUCTION PROVISIONS (MANDATORY - BUILDER'S CAPLines ONLY)

This section should appear in all Builder's CAPLines authorizations.

CFR 120.174, CFR 120.221(b)/SOP 50 10 5(D), pp. 208-210, Subpart "B", Chapter 5, Paragraph VI., Construction Loan Provisions.

8. Construction Provisions

- a. **Building Standards:** In the construction of a new building or an addition to an existing building, the construction must conform with the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings" (NEHRP), or a building code that SBA has identified as having substantially equivalent provisions. Lender must obtain from Borrower evidence of compliance with these requirements. Examples of evidence include a certificate issued by a licensed building architect, construction engineer or similar professional, or a letter from a state or local government agency stating that an occupancy permit is required and that the local building codes upon which the permit is based include the Seismic standards.
 - (1) Lender may charge Borrower a one-time fee not to exceed 2% of the portion of the Loan designated for construction. The actual fee must not exceed the cost of the extra service.

Construction Financing has SBA Guarantee; more than \$350,000

- b. Prior to the commencement of any construction, Lender must obtain from Borrower:
 - (1) **Insurance** - Evidence that contractor carries appropriate Builder's Risk and Worker's Compensation Insurance.
 - (2) **Injection** - Evidence that Borrower has injected the required funds into the project prior to disbursement of the Loan, if Borrower is injecting funds into the construction project.
 - (3) **Plans and Specifications** - Final plans and specifications for Lender review.
 - (4) **Firm Proposal** - Firm proposal for construction costs of each individual project, based upon approved plans and specifications.
 - (5) **Codes and Permits** - Evidence that the building, when completed, will comply with all state and local building and zoning codes, and applicable licensing and permit requirements.
 - (6) **Compliance Form** – Completed SBA Form 601, Applicant's Agreement of Compliance.
 - (7) **Construction Safeguards** – Certification that Borrower will take all normal other construction loan safeguards appropriate for the Loan.
 - (8) **Management Information** – Certification that at least one supervisory employee will be on the job site during the entire construction phase.

- c. After Construction is completed, Lender must have Borrower certify that:
 - (1) **Property Rental** - Borrower will not rent the finished project pending sale without the express written consent of Lender.
 - (2) **Sale of Final Project** - Sale of the final project will be to an unaffiliated third party. Transfer must include both legal and beneficial title.

Construction Financing has SBA Guarantee; \$350,000 or less

- d. **Compliance Form** — Lender must obtain SBA Form 601, Applicant's Agreement of Compliance, for projects where the construction costs exceed \$10,000.
- e. **Construction Safeguards** —Lender must take all normal construction Loan safeguards appropriate for the Loan. These safeguards may include reviewing plans and specifications, cost breakdowns, bonds, contracts, and builder's controls, and imposing necessary changes or requirements.

NON-CITIZENS (MANDATORY IF APPLICABLE)

Lender must verify the status of all aliens who are required to complete SBA Form 912. See SOP 50 10 5(D), pp. 120-123, Subpart B, Chapter 2, Paragraph III.E.

Note: Paragraph 9 may be repeated if necessary

- 9. Prior to first disbursement, Lender must verify with US Citizenship and Immigration Services, using Form G-845, that [Name] has Lawful Permanent Resident status or legal alien status.

CERTIFICATIONS AND AGREEMENTS (MANDATORY)

10. Certifications and Agreements

SOP 50 10 5(D), pp. 229-230, Subpart "B", Chapter 7, Paragraph IV.D., Borrower's Certifications

The following paragraph always appears

- a. Prior to disbursement, Lender must require Borrower to certify that:

Receipt of Authorization (MANDATORY)

- (1) **Receipt of Authorization** — Borrower has received a copy of this Authorization from Lender and acknowledges that:
 - (a) The Authorization is not a commitment by Lender to make a loan to Borrower;
 - (b) The Authorization is between Lender and SBA and creates no third party rights or benefits to Borrower;
 - (c) The Note will require Borrower to give Lender prior notice of intent to prepay.
 - (d) If Borrower defaults on Loan, SBA may be required to pay Lender under the SBA guarantee. SBA may then seek recovery of these funds from Borrower. Under SBA regulations, 13 CFR Part 101, Borrower may not claim or assert against SBA any immunities or defenses available under local law to defeat, modify or otherwise limit Borrower's obligation to repay to SBA any funds advanced by Lender to Borrower.
 - (e) Payments by SBA to Lender under SBA's guarantee will not apply to the Loan account of Borrower, or diminish the indebtedness of Borrower under the Note or the obligations of any personal guarantor of the Note.

Adverse Change (MANDATORY)

- (2) **Adverse Change** — That there has been no adverse change in the financial condition, organization, management, operation, or assets of Borrower since the date the Loan application was signed.

Child Support (MANDATORY)

- (3) **Child Support** — No principal who owns at least 50% of the ownership or voting interest of the company is delinquent more than 60 days under the terms of any (a) administrative order, (b) court order, or (c) repayment agreement requiring payment of child support.

Current Taxes (MANDATORY)

- (4) **Current Taxes** — Borrower is current (or will be current with any loan proceeds specified for eligible tax payments) on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.

Environmental (MANDATORY)

- (5) **Environmental** — For any real estate pledged as collateral for the Loan or where the Borrower is conducting business operations (collectively “the Property”):
- (a) At the time Borrower submitted the Loan application, Borrower was in compliance with all local, state, and federal environmental laws and regulations pertaining to reporting or clean-up of any hazardous substance, hazardous waste, petroleum product, or any other pollutant regulated by state or federal law as hazardous to the environment (Contaminant), and regarding any permits needed for the creation, storage, transportation or disposal of any Contaminant;
 - (b) Borrower will continue to comply with these laws and regulations;
 - (c) Borrower and all of its principals have no knowledge of the actual or potential existence of any Contaminant that exists on, at, or under the Property, including groundwater under such Property other than what was disclosed in connection with the Environmental Investigation of the Property;
 - (d) Until full repayment of Loan, Borrower will promptly notify Lender and SBA if it knows or suspects that there has been, or may have been, a release of a Contaminant, in, at or under the Property, including groundwater, or if Borrower or such property are subject to any investigation or enforcement action by any federal, state or local environmental agency (Agency) pertaining to any Contaminant on, at, or under such Property, including groundwater.
 - (e) As to any Property owned by Borrower, Borrower indemnifies, and agrees to defend and hold harmless, Lender and SBA, and any assigns or successors in interest which take title to the Property, from and against all liabilities, damages, fees, penalties or losses arising out of any demand, claim or suit by any Agency or any other party relating to any Contaminant found on, at or under the Property, including groundwater, regardless of whether such Contaminant resulted from Borrower’s operations. (Lender or SBA may require Borrower to execute a separate indemnification agreement).

The following paragraph always appears

- b. Prior to disbursement, Lender must require Borrower to certify that it will:

Reimbursable Expenses (MANDATORY)

CFR 120.221-222/SOP 50 10 5(D), pp. 166-171, Subpart "B", Chapter 3, Paragraph VI., Other Fees and VII., Prohibited Fees.

- (1) **Reimbursable Expenses** — Reimburse Lender for expenses incurred in the making and administration of the Loan.

Books, Records and Reports (MANDATORY)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.D.1.g).

- (2) **Books, Records, and Reports** —
- (a) Keep proper books of account in a manner satisfactory to Lender;
 - (b) Furnish [**OPTION** - compiled - **OR** - reviewed - **OR** - audited] year-end statements to Lender within [**number of days, default is 120**] days of fiscal year end;
 - (c) Furnish additional financial statements or reports whenever Lender requests them;
 - (d) Allow Lender or SBA, at Borrower's expense, to:
 - [1] Inspect and audit books, records and papers relating to Borrower's financial or business condition; and
 - [2] Inspect and appraise any of Borrower's assets; and
 - [3] Allow all government authorities to furnish reports of examinations, or any records pertaining to Borrower, upon request by Lender or SBA.
 - (e) Provide Lender with a month-to-month cash-flow projection of all known operational activity on at least an annual basis for the term of the Loan.

Insert the following for CONTRACT CAPLines only

- (f) Provide Lender with a cash flow projection for each specific contract.
- (3) **Contract Performance Notices** — Notify Lender of any of the following:
- (a) Modification of any contract provision that affects the amount due under the contract(s) or otherwise substantially affects the contract(s);
 - (b) Termination of all or part of any contract(s);
 - (c) Failure of either party to perform its contract obligations;
 - (d) Contracting Entity:
 - (i) Provides Borrower notice of default;
 - (ii) Rejects any contract deliverable; or
 - (iii) Provides Borrower notice of non-performance.

Equal Opportunity (MANDATORY)

CFR 120.176/SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.D.1.h).

- (4) **Equal Opportunity** — Post SBA Form 722, Equal Opportunity Poster, where it is clearly visible to employees, applicants for employment and the general public.

American-made Products (MANDATORY)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.D.q.i).

This provision is required by Congress and is included in SBA's appropriations laws

- (5) **American-made Products** — To the extent practicable, purchase only American-made equipment and products with the proceeds of the Loan.

Taxes (MANDATORY)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.D.1.j).

- (6) **Taxes** — Pay all federal, state, and local taxes, including income, payroll, real estate and sales taxes of the business when they come due.

**Certifications and Agreements - Open Options I
(Use to add other Certifications and Agreements as needed)**

The following paragraph always appears

- c. Lender must require Borrower to certify that it will not, without Lender's prior written consent:

Distribution (MANDATORY)

- (1) **Distributions** — Make any distribution of company assets that will adversely affect the financial condition of Borrower.

Ownership Changes (MANDATORY)

- (2) **Ownership Changes** — Change the ownership structure or interests in the business during the term of the Loan.

Transfer of Assets (MANDATORY)

- (3) **Transfer of Assets** — Sell, lease, pledge, encumber (except by purchase money liens on property acquired after the date of the Note), or otherwise dispose of any of Borrower's property or assets, except in the ordinary course of business.

Fixed Asset Limitation (OPTIONAL)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.D.3.a).

- (4) **Fixed Asset Limitation** — Acquire by purchase or lease agreement any fixed assets (totaling more than \$[Amount] in any year).

Location Limitation (OPTIONAL)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.C.3.b).

- (5) **Location Limitation** — Acquire by purchase or by lease, any additional locations.

Limitation on Compensation (OPTIONAL)

SOP 50 10 5(D), p. 230, Subpart "B", Chapter 7, Paragraph IV.C.3.b).

- (6) **Limitation on Compensation** — Allow total annual salaries, withdrawals or other forms of remuneration to officers or owners of Borrower, and their immediate family members, to exceed \$[Amount].

**Certifications and Agreements - Open Options II
(Use to add other Certifications and Agreements as needed)**

For CAPLines Wizard users:

Signature Block section starts here...

ADMINISTRATOR
SMALL BUSINESS ADMINISTRATION

[Approval Date]

By: [Name, Title]

Date

[MUST APPEAR if PLP loan—a Preferred Lender, as Lender and as an agent of and on behalf of the SBA for the purpose of executing this Authorization.]

The following appears for all non-PLP loans only

In consideration of SBA's guarantee of the Loan to be made by Lender to Borrower, Lender accepts the above conditions.

[Lender's Name]

By: (Name, Title)

Date

Appendix A

Standard Collateral Conditions

PLEASE READ THIS FIRST !

This appendix is used for both 7(a) and 504 Authorizations
All references to “Lender” in this appendix apply only to the 7(a) Authorization.
For 504 authorizations, “CDC” will replace “Lender”.

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A. Guarantees

SBA generally takes a full unconditional guarantee.

13 CFR 120.160(a)/SOP 50 10 5(D), p. 186, Subpart B, Chapter 4, Paragraph II.B. - SBA requirements for Guarantees. Holders of 20% or more ownership interest must guarantee the loan. If this is an EPC/OC loan, then under SOP 50 10 5(D), p. 125, Subpart B, Chapter 2, Paragraph III.F.2.e) and f) and p. 297, Subpart C, Chapter 2, Paragraph III.F.2.e) and f), the Operating Company must guarantee the loan if it is not a Co-Borrower and each holder of a 20% or more ownership interest in either the EPC or OC must guarantee the loan. If the EPC is a trust, then under SOP 50 10 5(D), p. 125, Subpart B, Chapter 2, Paragraph III.F.3.b) and d) and p. 297, Subpart C, Chapter 2, Paragraph III.F.3.b) and d), all trustors and donors must guarantee the loan.

See also SBA Inst 148/148L (Instructions for Use of SBA Form 148 and 148L)

1. Full Unsecured Guarantee

Guarantee on SBA Form 148, by **[Name of guarantor]**, resident in **[State/Country Name]**.

2. Full Secured Guarantee

Guarantee on SBA Form 148, by **[Name of guarantor]**, resident in **[State/Country Name]**.

Note: When securing a guarantee, references to "Borrower" are replaced with "Guarantor", and references to "due on sale clause" are deleted.

Secured by: **[Reverts to full list of collateral conditions to select]**

3. Limited Unsecured Guarantee

Limited Guarantee on SBA Form 148 (use 148L if available), by **[Name of guarantor]**, resident in **[State/Country Name]**.

Select One And Only One Of The Following Paragraphs

BALANCE REDUCTION LIMITATION: The Guarantee is of all amounts owing under the Note, and will continue until the total of all amounts owing under the Note is reduced below **[\$Amount]**, at which time Guarantor will be released from liability if the Note is not in default.

PRINCIPAL REDUCTION LIMITATION: The Guarantee is of all amounts owing under the Note, and will continue until the outstanding principal balance of the Note is reduced below **[\$Amount]**, at which time Guarantor will be released from liability if the Note is not in default.

MAXIMUM LIABILITY LIMITATION: The Guarantee is limited to Guarantor's payment of **[\$Amount]**.

PERCENTAGE LIMITATION: The Guarantee is limited to Guarantor's payment of **[Percent]%** of all amounts owing under the Note at the time demand is first made on Guarantor, plus the same percentage of any accrued interest and other costs charged to the Note after demand, until Guarantor fully performs this Guarantee.

TIME LIMITATION: The Guarantee is of all amounts owing under the Note. The Guarantee will continue until **[number of years]** year(s) after the date of the Note (the “Guarantee Period”). If Borrower is in default at the end of the Guarantee Period, the Guarantee will continue until all defaults are cured.

COMMUNITY PROPERTY OR SPOUSAL INTEREST LIMITATION: The Guarantee is limited to Guarantor’s community property or spousal interest in collateral pledged to secure the Note or any guarantee.

4. Limited Secured Guarantee

Limited Guarantee on SBA Form 148 (use 148L if available), by [Name of guarantor], resident in [State/Country Name].

Select One And Only One Of The Following Paragraphs

BALANCE REDUCTION LIMITATION: The Guarantee is of all amounts owing under the Note, and will continue until the total of all amounts owing under the Note is reduced below **[\$Amount]**, at which time Guarantor will be released from liability if the Note is not in default.

PRINCIPAL REDUCTION LIMITATION: The Guarantee is of all amounts owing under the Note, and will continue until the outstanding principal balance of the Note is reduced below **[\$Amount]**, at which time Guarantor will be released from liability if the Note is not in default.

MAXIMUM LIABILITY LIMITATION: The Guarantee is limited to Guarantor’s payment of **[\$Amount]**.

PERCENTAGE LIMITATION: The Guarantee is limited to Guarantor’s payment of **[Percent]%** of all amounts owing under the Note at the time demand is first made on Guarantor, plus the same percentage of any accrued interest and other costs charged to the Note after demand, until Guarantor fully performs this Guarantee.

TIME LIMITATION: The Guarantee is of all amounts owing under the Note. The Guarantee will continue until **[number of years]** year(s) after the date of the Note (the “Guarantee Period”). If Borrower is in default at the end of the Guarantee Period, the Guarantee will continue until all defaults are cured.

COLLATERAL/RECOURSE LIMITATION: The Guarantee is limited to the amount Lender obtains from the following collateral pledged by Guarantor: **[Collateral]**

COMMUNITY PROPERTY OR SPOUSAL INTEREST LIMITATION: The Guarantee is limited to Guarantor’s community property or spousal interest in collateral pledged to secure the Note or any guarantee.

The following always appears

Note: When securing a guarantee, references to “Borrower” are replaced with “Guarantor”, and references to “due on sale clause” are deleted.

Secured by: **[Reverts to full list of collateral conditions to select]**

B. Realty And Leaseholds

1. Lien On Land And Improvements

Note: Some of the options in this collateral condition will vary according to the state in which the real property is located. Refer to Appendix B for more information.

The following [Option – Shared] must appear in 7a, 504 and EWCP Authorizations only if shared lien position.

[Option – Shared] [SELECT - First, Second, Third, Fourth, Fifth] [SELECT - Deed of Trust, Mortgage or other state specific instrument] (including due on sale clause **[OPTION - and water rights, if any,] [OPTION - and assignment of rents]**) on land and improvements located at **[address of property]**. This property is **[SELECT - residential - OR - commercial - OR - agricultural]**. **[OPTION - The lien is limited to \$[amount].]**

The following must appear if first lien position.

- a. subject to no other liens.

The following must appear if junior lien position.

- b. subject only to prior lien(s) as follows:

- (1) First: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
- (2) Second: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
- (3) **[etc., up to four]**.

The following must appear in 504 Authorizations only if shared lien position.

- c. The lien securing the 504 Loan is a shared lien pari passu with that of **[name of lender]** in the amount of **[\$[amount]]**. An intercreditor agreement, satisfactory to CDC and SBA, must be executed. The agreement (or a memorandum thereof) must be recorded.

The following must appear in 7a Authorizations only if shared lien position.

- d. The lien securing the Loan is a shared lien pari passu with **[SELECT – Lender's non-SBA loan - OR - [name of lender]]** in the amount of **[\$[amount]]**. Lender must follow the requirements in the pari-passu provision below.

The following paragraphs are optional.

Note : availability of options may vary depending on the state in which the real property is located - see Appendix B for more information.

- e. Any prior lien(s) that is (are) open ended as to future advances must be closed, in writing, according to applicable state law. The revolving line(s) of credit set out above, if any, must be limited in writing to the amount stated.

- f. Lender must obtain a written agreement from prior lienholders to provide Lender with **[number of days]** days written notice before commencing foreclosure of prior lien.
- g. Lender to file a Request for Notice pursuant to state law. For 504 Loans, notice required to CDC and SBA CLSC.
- h. Written waiver of homestead required. (Residential property only.)
- i. Statement of non-homestead required. (Residential property only.)
- j. Written waiver of Business Homestead required if real property collateral is owned by an individual or an individual and spouse.
- k. Lender must obtain from prior lienholders written verification (1) of amount owing on prior obligation, (2) that prior obligation is current on payments, and (3) that prior obligation is not otherwise in default.
- l. Written waiver of redemption rights is required. (Non-residential property only.)
- m. Survey, certified to lender, is required, or prior survey and affidavit of no change acceptable to lender.
- n. Statutory Condition and the Statutory Power of Sale language required.

Select one and only one of the following choices, from (1) to (8)

- o. Evidence of title and priority of lien must be based upon:
 - (1) ALTA Loan Policy, insuring lender and assigns,
 - [OPTION - in the amount of \$[Amount].]**
 - [OPTION - with [specify required endorsements] endorsements,]**
 - [OPTION - policy to be without standard exceptions (“extended ALTA”),]**
 - [OPTION - policy to be without standard survey exception.]**
 - [OPTION - policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]**
 - [MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]**
 - [OPTION - Write Your Own]**
 - (2) Mortgagee’s Title Policy insuring lender and assigns
 - [OPTION - in the amount of \$[Amount].]**
 - [OPTION - policy to be without standard survey exception,]**
 - [OPTION - policy to be without exception to Homestead, Survey or Taxes,]**
 - [OPTION - policy must reflect that all taxes and municipal liens have been brought current or paid.]**
 - [OPTION - Such policy must contain no exceptions for parties in possession, mechanic’s or materialman’s liens, or matters which would be disclosed by an accurate survey.]**
 - [OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]**
 - [MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]**

- (3) Attorney's certificate of title or title opinion in favor of lender and assigns certifying that lender has obtained the required lien position.

[OPTION - Certificate or opinion will not contain a survey exception or an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]

[MUST APPEAR if R/E located in VT - Certificate or opinion must address that the real property and its use are in compliance with state and federal environmental laws and regulations, as well as zoning, subdivision and land use laws, as determinable from all relevant publicly issued, filed or recorded governmental documents.]

- (4) Title insurance customarily obtained for similar transactions in this jurisdiction.
- (5) Title and/or Lien Search or other evidence of proper ownership and lien position.
- (6) CLTA Loan Policy.
- (7) Limited Title Policy.
- (8) Property, Judgment and Lien Report indicating that lender has obtained the required position.

In addition to the above, a "write your own" option is provided in case a survey or other endorsement is required

- (9) **[Write Your Own]**

*The following paragraphs must appear in **504 Authorizations only** when collateral is Project Property.*

- p. CDC must obtain in recordable form written subordination agreements from any tenants occupying any of the Project real property required as collateral. Appropriate subordination language may be included in the Lease as an alternative.
- q. At the time of Closing, either:
 - (1) there must be no contractor's, mechanic's or materialman's lien on the Property, including a lien which might possibly be filed after Closing, which would impair the stated priority of the CDC/SBA lien, and there must be no other circumstances adversely affecting the value of the property; or,
 - (2) no exception for these in the title insurance commitment/policy, or
 - (3) the title insurance company must provide affirmative coverage to CDC and SBA over any such exceptions, affording reasonably adequate protection against material loss arising from such exceptions. In addition, the title insurance company must provide such endorsements as CDC or SBA deems necessary to protect CDC and SBA reasonably against material loss arising from any other exceptions. In states where a survey is customarily provided for title insurance coverage, Borrower must also provide a survey certified to SBA/CDC, or a prior survey acceptable to SBA/CDC and the title insurer and a satisfactory survey affidavit of no change.

2. Collateral Assignment of (or lien on) Purchaser's Interest in Land Contract of Sale

Note: Some of the options in this collateral condition will vary according to the state in which the real property is located. Refer to Appendix B for more information.

Collateral Assignment of (or lien on) Purchaser's Interest in Land Contract of Sale between **[Seller]** (Seller) and **[Purchaser]** (Purchaser), creating a valid lien on purchaser's interest covering real estate located at **[address of property]**, and its proceeds. **[OPTION - The lien is limited to \$[amount].]**

- a. The outstanding balance due Seller under contract is **[\$[Amount owed to seller].]**
- b. Lender must obtain from seller written verification (1) of amount owing on prior obligation, (2) that prior obligation is current on payments, and (3) that prior obligation is not otherwise in default.
- c. Assignment must contain the following conditions: (1) Right of reassignment; (2) Seller's consent; (3) Seller's agreement to give 60 days notice of forfeiture with right to cure; and (4) Due on sale clause.
- d. Assignment must be subject only to the interest of Seller **[OPTION - and [nature of interest(s) and amount(s)]]**.

The following paragraph is optional

- e. Lender must cause deed to be held in escrow.

Select one and only one of the following choices, from (1) to (8)

- f. Evidence of title and priority of lien must be based upon:
 - (1) ALTA Loan Policy, insuring lender and assigns,
[OPTION - in the amount of \$[Amount].]
[OPTION - with [specify required endorsements] endorsements,]
[OPTION - policy to be without standard exceptions ("extended ALTA"),]
[OPTION - policy to be without standard survey exception.]
[OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]
[MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]
[OPTION - Write Your Own]
 - (2) Mortgagee's Title Policy insuring lender and assigns
[OPTION - in the amount of \$[Amount].]
[OPTION - policy to be without standard survey exception,]
[OPTION - policy to be without exception to Homestead, Survey or Taxes,]
[OPTION - Policy must reflect that all taxes and municipal liens have been brought current or paid.]
[OPTION - Such policy must contain no exceptions for parties in possession, mechanic's or materialman's liens, or matters which would be disclosed by an accurate survey.]
[OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a

detailed engineering study satisfactory to Lender is submitted prior to closing.]
[MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]

- (3) Attorney's certificate of title or title opinion in favor of lender and assigns certifying that lender has obtained the required lien position.

[OPTION - Certificate or opinion will not contain a survey exception or an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]

[MUST APPEAR if R/E located in VT - Certificate or opinion must address that the real property and its use are in compliance with state and federal environmental laws and regulations, as well as zoning, subdivision and land use laws, as determinable from all relevant publicly issued, filed or recorded governmental documents.]

- (4) Title insurance customarily obtained for similar transactions in this jurisdiction.
(5) Title and/or Lien Search or other evidence of proper ownership and lien position.
(6) CLTA Loan Policy.
(7) Limited Title Policy.
(8) Property, Judgment and Lien Report indicating that lender has obtained the required position.

In addition to the above, a "write your own" option is provided in case a survey or other endorsement is required

- (9) **[Write Your Own]**

3. Collateral Assignment of (or lien on) Seller's Interest in Land Contract of Sale

Collateral Assignment of (or lien on) Seller's Interest in Land Contract of Sale between **[Seller]** (Seller) and **[Purchaser]** (Purchaser), creating a valid lien on Seller's interest covering real property sold by the Seller to Purchaser and located at **[address of property]**, and its proceeds.

- a. The outstanding balance due Seller under contract is **[\$[Amount owed seller]]**.
- b. Assignment must contain the following conditions: (1) Seller may receive payments from Purchaser so long as the Loan is not in default; (2) Seller must agree to direct Purchaser to make all future payments to Lender upon Loan default; and (3) Seller must agree that payment is due upon sale of seller's interest.
- c. Assignment must be subject only to the interest of Purchaser **[OPTION - and [nature of interest(s) and amount(s)]]**.

4. Assignment of Beneficial Interest and Power of Direction in Land Trust

Note: Some of the options in this collateral condition will vary according to the state in which the real property is located. Refer to Appendix B for more information.

Assignment of Beneficial Interest and Power of Direction in Land Trust holding title to real estate located at **[Property Address]**.

The 2 following paragraphs a and b are optional

- a. Subject only to the prior assignment(s) held by **[Prior Assignee]**, not exceeding **[\$Amount]**.
- b. Fee title to real estate must be subject only to prior lien(s) held by **[prior lienholders]**, not exceeding **[\$Amount]**.

Select one and only one of the following paragraphs c and d

- c. Title and lien position to be supported by ALTA Owner's Title Insurance Policy and current trust record.
- d. Evidence of title and lien position is required, in form of tract book search or attorney's letter of opinion and current trust record.

5. Leasehold Instrument on Building Constructed on Leased Land

The following [Option – Shared] must appear in 7a, 504 and EWCP Authorizations only if shared lien position.

[Option – Shared] [SELECT - First, Second, etc.] Leasehold [SELECT - Deed of Trust, Mortgage or other state specific instrument] (including due on sale clause) on Building(s) Constructed on Leased Land located at **[address of property]**. This property is **[SELECT - commercial - OR - agricultural]**. **[OPTION - The lien is limited to \$[amount].]**

The following must appear if first lien position.

- a. subject to no other liens.

The following must appear if junior lien position.

- b. subject only to prior lien(s) as follows:
 - (1) First: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
 - (2) Second: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
 - (3) **[etc., up to four]**.

The following must appear in 504 Authorizations only if shared lien position.

- c. The lien securing the 504 Loan is a shared lien pari passu with that of **[name of lender]** in the amount of \$**[amount]**. An intercreditor agreement, satisfactory to CDC and SBA, must be executed. The agreement (or a memorandum thereof) must be recorded.

The following must appear in 7a Authorizations only if shared lien position.

- d. The lien securing the Loan is a shared lien pari passu with **[SELECT – Lender's non-SBA loan - OR - name of lender]** in the amount of \$**[amount]**. Lender must follow the requirements in the pari-passu provision below.

The following paragraphs always appear

- e. Remaining term of lease, including options to renew exercisable solely by the Borrower, must cover term of Loan **[OPTION - plus number of years]** year(s).
- f. Lease must contain clauses providing for the following:
 - (1) Tenant's right to encumber leasehold estate;
 - (2) No modification or cancellation of lease without lender's or assignee's approval;
 - (3) Lender's or assignee's right to acquire the leasehold at foreclosure sale or by assignment and right to reassign the leasehold estate (along with right to exercise any options) by lender or successors; lessor may not unreasonably withhold, condition or delay the reassignment;
 - (4) Lender's or assignee's right to sublease;
 - (5) Lender's or assignee's rights upon default of the tenant or termination of the lease. This would include notice, extended time to cure (at least 60 days), time allotted for foreclosure and sale, and procedures for non-monetary defaults;
 - (6) Lender's or assignee's rights to hazard insurance proceeds resulting from damage to improvements;
 - (7) Lender's or assignee's right to share in condemnation proceeds.
- g. Lender must obtain Lessor's written consent to the leasehold **[Type of Instrument - same as above]** and a collateral assignment of lease.

The following paragraphs are optional.

Note : availability of options may vary depending on the state in which the real property is located - see Appendix B for more information.

- h. Any prior lien(s) that is (are) open ended as to future advances must be closed, in writing, according to applicable state law. The revolving line(s) of credit set out above, if any, must be limited in writing to the amount stated.
- i. Lender must obtain a written agreement from prior lienholders to provide Lender with **[number of days]** days written notice before commencing foreclosure of prior lien.
- j. Lender to file a Request for Notice pursuant to state law. For 504 loans, notice required to CDC and SBA CLSC.
- k. Written waiver of homestead required. (Residential property only.)
- l. Statement of non-homestead required. (Residential property only.)

- m. Written waiver of Business Homestead required if real property collateral is owned by an individual or an individual and spouse.
- n. Lender must obtain from prior lienholders written verification (1) of amount owing on prior obligation, (2) that prior obligation is current on payments, and (3) that prior obligation is not otherwise in default.
- o. Written waiver of redemption rights is required. (Non-residential property only.)
- p. Survey, certified to lender, is required, or prior survey and affidavit of no change acceptable to lender.
- q. Statutory Condition and the Statutory Power of Sale language required.

Select one and only one of the following choices, from (1) to (8)

- r. Evidence of title and priority of lien must be based upon:
 - (1) ALTA Loan Policy, insuring lender and assigns,
 - [OPTION - in the amount of \$[Amount].]**
 - [OPTION - with [specify required endorsements] endorsements,]**
 - [OPTION - policy to be without standard exceptions (“extended ALTA”),]**
 - [OPTION - policy to be without standard survey exception.]**
 - [OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]**
 - [MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]**
 - [OPTION - Write Your Own]**
 - (2) Mortgagee’s Title Policy insuring lender and assigns
 - [OPTION - in the amount of \$[Amount].]**
 - [OPTION - policy to be without standard survey exception,]**
 - [OPTION - policy to be without exception to Homestead, Survey or Taxes,]**
 - [OPTION - Policy must reflect that all taxes and municipal liens have been brought current or paid.]**
 - [OPTION - Such policy must contain no exceptions for parties in possession, mechanic’s or materialman’s liens, or matters which would be disclosed by an accurate survey.]**
 - [OPTION - Policy will not contain an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]**
 - [MUST APPEAR if R/E located in VT - Policy must provide affirmative coverage over any environmental contamination on property when publicly issued, filed, or recorded government documents indicate that environmental contamination is above federal or state action levels.]**
 - (3) Attorney’s certificate of title or title opinion in favor of lender and assigns certifying that lender has obtained the required lien position.
 - [OPTION - Certificate or opinion will not contain a survey exception or an M.G.L. Section 21(e) exception unless a detailed engineering study satisfactory to Lender is submitted prior to closing.]**
 - [MUST APPEAR if R/E located in VT - Certificate or opinion must address that the real property and its use are in compliance with state and federal environmental**

laws and regulations, as well as zoning, subdivision and land use laws, as determinable from all relevant publicly issued, filed or recorded governmental documents.]

- (4) Title insurance customarily obtained for similar transactions in this jurisdiction.
- (5) Title and/or Lien Search or other evidence of proper ownership and lien position.
- (6) CLTA Loan Policy.
- (7) Limited Title Policy.
- (8) Property, Judgment and Lien Report indicating that lender has obtained the required position.

In addition to the above, a "write your own" option is provided in case a survey or other endorsement is required

(9) **[Write Your Own]**

The following paragraph (LANDLORD'S WAIVER) is optional

SOP 50 10 5(D), p. 208, Subpart B, Chapter 5, Paragraph V.A--Assignment of Lease and Landlord's Wavier

- s. Lender must obtain a written agreement from all Lessors (including sublessors) agreeing to: (1) Subordinate to Lender Lessor's interest, if any, in this property; (2) Provide Lender written notice of default and reasonable opportunity to cure the default; and (3) Allow Lender the right to take possession and dispose of or remove the collateral.

*The following paragraphs must appear in **504 Authorizations only** when collateral is Project Property.*

- t. CDC must obtain in recordable form written subordination agreements from any tenants occupying any of the Project real property required as collateral. Appropriate subordination language may be included in the Lease as an alternative.
- u. At the time of Closing, either:
 - (1) there must be no contractor's, mechanic's or materialman's lien on the Property, including a lien which might possibly be filed after Closing, which would impair the stated priority of the CDC/SBA lien, and there must be no other circumstances adversely affecting the value of the property; or,
 - (2) no exception for these in the title insurance commitment/policy, or
 - (3) The title insurance company must provide affirmative coverage to CDC and SBA over any such exceptions, affording reasonably adequate protection against material loss arising from such exceptions. In addition, the title insurance company must provide such endorsements as CDC or SBA deems necessary to protect CDC and SBA reasonably against material loss arising from any other exceptions. In states where a survey is customarily provided for title insurance coverage, Borrower must also provide a survey certified to SBA/CDC, or a prior survey acceptable to SBA/CDC and the title insurer and a satisfactory survey affidavit of no change.

6. Leasehold Security Interest in building on leased land

[Option – Shared] [SELECT - First, Second, etc.] Leasehold Security Interest (including due on sale clause) in building on leased land located at **[address of property]**.

The following must appear if junior lien position.

- a. Subject to lien(s) totaling not more than **[\$[Amount]]**.

The following must appear if junior lien position.

- b. Subject only to prior lien(s) as follows:
- (1) First: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
 - (2) Second: **[name of lienholder] [SELECT - in the amount of \$[amount] - OR - in the present amount of \$[amount], with a revolving provision limited to a total principal outstanding of \$[amount]]**.
 - (3) **[etc., up to four]**.

The following must appear in 504 Authorizations only if shared lien position.

- c. The lien securing the 504 Loan is a shared lien pari passu with that of **[name of lender]** in the amount of **[\$[amount]]**. An intercreditor agreement, satisfactory to CDC and SBA, must be executed. The agreement (or a memorandum thereof) must be recorded.

The following must appear in 7a Authorizations only if shared lien position.

- d. The lien securing the Loan is a shared lien pari passu with **[SELECT – Lender's non-SBA loan - OR - [name of lender]]** in the amount of **[\$[amount]]**. Lender must follow the requirements in the pari-passu provision below.

The following paragraphs must always appear.

- e. Remaining term of lease, including options to renew exercisable solely by the Borrower, must cover term of Loan **[OPTION - plus [number of years] year(s)]**.
- f. Lease must contain clauses providing for the following:
- (1) Tenant's right to encumber leasehold estate;
 - (2) No modification or cancellation of lease without lender's or assignee's approval;
 - (3) Lender's or assignee's right to acquire the leasehold at foreclosure sale or by assignment and right to reassign the leasehold estate (along with right to exercise any options) by lender or successors; lessor may not unreasonably withhold, condition or delay the reassignment;
 - (4) Lender's or assignee's right to sublease;
 - (5) Lender's or assignee's rights upon default of the tenant or termination of the lease. This would include notice, extended time to cure (at least 60 days), time allotted for foreclosure and sale, and procedures for non-monetary defaults;
 - (6) Lender's or assignee's rights to hazard insurance proceeds resulting from damage to improvements;
 - (7) Lender's or assignee's right to share in condemnation proceeds.

- g. Lender must obtain Lessor's written consent and subordination to the fixture filing.

7. Lessee's Interest in a Lease by Assignment

Collateral Assignment of Lessee's Interest in the Lease between **[Lessor's name]**, Lessor, and **[Lessee's name]**, Lessee, **[OPTION - dated [date of lease]]** for the premises located at **[address of leased premises]**, including right of reassignment, Lessor's consent to the assignment and agreement to subordinate its interest in any property which is collateral for the Loan. Remaining term of lease, including options to renew exercisable solely by the Borrower, must cover term of Loan **[OPTION - plus [number of years] year(s)]**. Lease must require Lessor to provide Lender/SBA **[number of days - default is 60]**-day written notice of intent to terminate the lease for Borrower's default and an opportunity to cure.

8. Lessee's Interest in a Lease by Lien, Mortgage or Deed of Trust

[SELECT - First, Second, etc.] Lien, Mortgage or Deed of Trust on Lessee's interest (including due on sale clause) in the lease between **[Lessor's name]**, Lessor, and **[Lessee's Name]**, Lessee, **[MUST APPEAR if not a first lien position - subject to lien(s) totaling not more than \$[Amount]]**. This property is **[SELECT - residential - OR - commercial - OR - agricultural]**. The terms of the lease or the lien instrument must include a right of reassignment, Lessor's consent to the assignment and agreement to subordinate its interest in any property which is collateral for the Loan. Remaining term of lease, including options to renew exercisable solely by the Borrower, must cover term of Loan **[OPTION - plus [number of years] year(s)]**. Lease must require Lessor to provide Lender/SBA **[number of days - default is 60]**-day written notice of intent to terminate the lease for Borrower's default and an opportunity to cure.

9. Leasehold on Tribal Land

Assignment of Leasehold on Tribal Land. **[SELECT - First, Second, etc.]** Assignment, with right of reassignment, of all of Borrower's rights and interests in and to a certain Lease between Borrower (as Lessee) and **[name of Indian tribe]** Indian Tribe (as Lessor) covering premises located at **[location of leasehold]**, **[MUST APPEAR if not a first lien position - subject to lien(s) totaling not more than \$[Amount]]** to include written consent of the Tribal Council and the Secretary of the Interior. Remaining term of lease, including options to renew exercisable solely by the Borrower, must cover term of Loan **[OPTION - plus [number of years] year(s)]**.

10. Cooperative Apartment

[SELECT - First, Second, etc.] Security Interest in Cooperative Apartment located at **[property address]**, including an Assignment of Proprietary Lease to Premises and pledge of shares of stock in Cooperative Apartment, subject to recognition of lien by Cooperative Association/Corporation. A Uniform Commercial Code lien search evidencing the required lien position is required.

C. Security Interests

1. Personal Property

This section should be used more than once if different lien positions are taken on different kinds of personal property.

For Puerto Rico Chattel Mortgage only: the text 'perfected security interest' will be replaced with 'chattel mortgage'.

The following [Option – Shared] must appear in 7a, 504 and EWCP Authorizations only if shared lien position.

[Option – Shared] [SELECT - First, Second, etc.] perfected security interest, [MUST APPEAR if first lien position - subject to no other liens] in the following personal property (including any proceeds and products), [SELECT - whether now owned or later acquired - OR - acquired with loan or project proceeds, including all replacements and substitutions], wherever located:

[OPTION - Equipment;]

[OPTION - Fixtures;]

[OPTION - Inventory;]

[OPTION - Accounts;]

[OPTION - Instruments;]

[OPTION - Chattel Paper;]

[OPTION - General Intangibles;]

[OPTION - Farm Products - Crops growing or to be grown, their products, and all accounts or general intangibles arising from their sale ;]

[OPTION - Farm Products - All livestock now owned, in gestation and later acquired, including their products and natural increase, if any;]

[OPTION - Write Your Own]

The following must appear in 504 Authorizations only if shared lien position.

- a. The lien securing the 504 Loan is a shared lien pari passu with that of **[name of lender]** in the amount of **[\$[amount]]**. An intercreditor agreement, satisfactory to CDC and SBA, must be executed.

The following must appear in 7a Authorizations only if shared lien position.

- b. The lien securing the Loan is a shared lien pari passu with **[SELECT – Lender's non-SBA loan - OR - [name of lender]]** in the amount of **[\$[amount]]**. Lender must follow the requirements in the pari-passu provision below.

If junior lien position, select one or more of the following options (a, b, and c).

Note : Options a and c can be repeated if necessary

- c. Subject only to the prior lien of **[prior lienholder]** in the amount of **[\$[Amount]]** on the following collateral: **[SELECT from list of personal properties selected above]**

- d. Any prior lien that is open ended as to future advances must be closed, in writing, according to applicable state law.
- e. Subject only to the interest of **[lender's name]** under a Line of Credit in the maximum amount of **[\$[Amount]]** on the following collateral: **[SELECT from list of personal properties selected above]**

The following paragraph (LANDLORD'S WAIVER) is optional

- f. Lender must obtain a written agreement from all Lessors (including sublessors) agreeing to: (1) Subordinate to Lender Lessor's interest, if any, in this property; (2) Provide Lender written notice of default and reasonable opportunity to cure the default; and (3) Allow Lender the right to take possession and dispose of or remove the collateral.

The following paragraph must appear if equipment or fixtures is selected above

- g. Lender must obtain a list of all equipment and fixtures that are collateral for the Loan. For items with a unit value of \$5,000 or more, the list must include a description and serial number, if applicable.

The following paragraph must always appear

- h. Lender must obtain an appropriate Uniform Commercial Code lien search evidencing all required lien positions. If UCC search is not available, another type of lien search may be substituted.

The following paragraph must appear in 7(a) Authorizations only if junior lien position

- i. Lender must take a purchase money security interest in all personal property acquired with Loan proceeds.

The following paragraphs must appear in 504 Authorizations only when collateral is Project Property.

- j. At the time of Closing, there must be no circumstances adversely affecting the value of the property. There must be no lien on the Property, including a lien which might possibly be filed after Closing, which impairs the stated priority of the CDC/SBA lien.

2. Liquor License

[SELECT - First, Second, etc.] Security interest in [SELECT - Liquor License #[License number]] and the proceeds of any sale of the license - OR - proceeds of the sale of Liquor License #[License number]].

The following must appear if first lien position.

- a. subject to no other liens.

The following must appear if junior lien position.

- b. subject only to prior lien(s) as follows:
 - (1) First: **[name of lienholder]** in the amount of **[\$[amount]]**
 - (2) Second: **[name of lienholder]** in the amount of **[\$[amount]]**

(3) [etc., up to four]

3. Vehicle

[SELECT - First, Second, etc.] Security Interest on the following Vehicle - Make or Model: **[INPUT]**, Year: **[INPUT]**, Vin #: **[INPUT]**.

The following must appear if first lien position.

a. subject to no other liens.

The following must appear if junior lien position.

b. subject only to prior lien(s) as follows:

- (1) First: **[name of lienholder]** in the amount of \$**[amount]**
- (2) Second: **[name of lienholder]** in the amount of \$**[amount]**
- (3) [etc., up to four]

4. Mobile Home

[SELECT - First, Second, etc.] Security Interest in a Mobile Home, Serial Number **[serial number]**, owned by **[record owner]** located at **[property address]**.

The following must appear if first lien position.

a. subject to no other liens.

The following must appear if junior lien position.

b. subject only to prior lien(s) as follows:

- (1) First: **[name of lienholder]** in the amount of \$**[amount]**
- (2) Second: **[name of lienholder]** in the amount of \$**[amount]**
- (3) [etc., up to four]

5. Aircraft

[SELECT - First, Second, etc.] Perfected Security Agreement recorded with the Federal Aviation Administration (FAA) Oklahoma City, Oklahoma, against the following aircraft - Make: **[make]**, Model: **[model]**, Year: **[year]**.

The following must appear if first lien position.

a. subject to no other liens.

The following must appear if junior lien position.

b. subject only to prior lien(s) as follows:

- (1) First: **[name of lienholder]** in the amount of \$**[amount]**
- (2) Second: **[name of lienholder]** in the amount of \$**[amount]**

(3) [etc., up to four]

The following paragraph always appears

c. Lender must verify title and lien position by Certificate.

6. Vessel

[SELECT - First, Second, etc.] Preferred Ship's Mortgage recorded with the U.S. Coast Guard against the vessel named **[name of vessel]**, and noted on the vessels' official log.

The following must appear if first lien position.

a. subject to no other liens.

The following must appear if junior lien position.

b. subject only to prior lien(s) as follows:

(1) First: **[name of lienholder]** in the amount of \$**[amount]**

(2) Second: **[name of lienholder]** in the amount of \$**[amount]**

(3) [etc., up to four]

The following paragraph always appears

c. Lender must verify lien position by Certificate issued by U.S. Coast Guard.

*The following paragraphs must appear in **504 Authorizations only** when collateral is Project Property.*

d. At the time of Closing, there must be no circumstances adversely affecting the value of the property. There must be no lien on the Property, including a lien which might possibly be filed after Closing, which impairs the stated priority of the CDC/SBA lien.

D. Assignments of Interest

1. Certificate of Deposit

Assignment of certificate of deposit held by **[owner of CD]** in the amount of \$**[Amount of CD]**, with acknowledgment from the issuing financial institution.

2. Mutual Fund

Assignment of Mutual Fund Interest: Assignment to Lender by **[shareholder]** (shareholder) of all interest in **[name of Mutual Fund account]**. Lender must obtain acknowledgment of such assignment from the broker or Mutual Fund.

3. Corporate Stock (by pledge)

Pledge of Corporate Stock: Pledge to Lender by **[shareholder]** (shareholder) of **[number of shares]** shares of stock (but not voting rights) in **[name of company]**.

4. Note

Assignment of note dated **[date of note]**, executed by **[Input]** to **[Input]** with approximate balance due of **[\$[Amount of balance due] [OPTION - and assignment of: [Reverts to full list of collateral conditions to select]]**

5. Contract

Contract Assignment: A valid assignment and first security interest covering all proceeds under contract dated **[date of contract]** between Borrower and **[name of other party to contract]** in the amount of **[\$[Amount]**.

6. Government Contract

U.S. Government Contract Assignment and Notice of Assignment: Assignment of monies due or to become due under federal contract number **[contract number]** with the **[name of agency]** in the amount **[\$[Amount of contract]** and any subsequent modifications or additions. Lender must perfect the assignment pursuant to Federal Acquisition Regulations.

7. U.S. Patent

Assignment of U.S. patent number **[patent number]** issued to **[patent holder]**. Lender must comply with U.S. Patent and Trademark laws.

8. Franchise Agreement

SOP 50 10 5(D), pp. 93-102, Subpart B, Chapter 2, Paragraph –III.B.9--SBA Franchise Requirements

Assignment of Franchisee's Interest. Franchisor must agree to allow Franchisee to assign the Franchise Agreement for security purposes with rights of reassignment.

Appendix B

State-specific Options in the Standard Collateral Conditions

This appendix describes the title options and other requirements for real property collateral liens in SBA authorizations, for every U.S. state and territory.

For each state, this appendix lists below the types of lien instruments available, the available evidence of title options and additional provisions required by the SBA for real property liens, called Boilerplate Provisions. The Boilerplate Provisions for each state are mandatory where applicable.

Please note special requirements for 504 projects: the ALTA Title Policy is required where it is available. The exceptions are Alabama, Indiana, Iowa and Texas.

Evidence of Title Key. *Refer to Appendix A for the full text.*

- (1) ALTA Loan Policy insuring lender and assigns
- (2) Mortgagee's Title Policy insuring lender and assigns
- (3) Attorney's Certificate of title, or title opinion in favor of lender (...)
- (4) Title Insurance customarily obtained for similar transactions in this state
- (5) Title and/or Lien Search, or other evidence of proper ownership (...)
- (6) CLTA Loan Policy
- (7) Limited Title Policy
- (8) Property, Judgment and Lien Report indicating lender obtained required position

Boilerplate Provision Requirements Key. *Refer to Appendix A for the exact text.*

- (1) (index not used)
- (2) Prior open ended lien(s) closed in writing according to applicable state law. Revolving line(s) of credit limited in writing to the amount stated.
- (3) Written agreement from prior lienholders to provide Lender with [Number of days] day's written notice before commencing foreclosure of prior lien.
- (4) Request for Notice filed pursuant to state law. For 504 Loans, notice required to CDC and SBA CSLC.
- (5) Written waiver of homestead. (Residential property only).
- (6) Prior lienholder written verification (a) of amount owing on prior obligation, (b) that prior obligation is current on payments, and (c) that prior obligation is not otherwise in default.
- (7) Written waiver of redemption rights. (Non-residential property only).
- (8) Survey, certified to Lender, or prior survey and affidavit of no change acceptable to Lender.
- (9) Written waiver of Business Homestead required if real property collateral is owned by an individual or an individual and spouse.
- (10) Statement of non-homestead. (Residential property only.)
- (11) Statutory Condition and the Statutory Power of Sale language required.

Real Property Provisions by state

Alabama

Instrument: Mortgage
Evidence of Title: (3) (4) (5)
Boilerplate: (6) (10)

Alaska

Instrument: Deed of Trust
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (3) (6)

Arizona

Instrument: Deed of Trust
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (6)

Arkansas

Instrument: Mortgage, Deed of Trust
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (3) (5) (6) (10)

California

Instrument: Deed of Trust
Evidence of Title: (1) (6) (7) (4) (5)
Boilerplate: (2) (4) (6)

Colorado

Instrument: Deed of Trust
Evidence of Title: (1) (5)
Boilerplate: (2) (6) (10)

Connecticut

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (5) (6)

Delaware

Instrument: Mortgage
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (6)

Florida

Instrument: Mortgage
Evidence of Title: (1) (5)
Boilerplate: (2) (6) (10)

Georgia

Instrument: Deed to Secure Debt
Evidence of Title: (1) (3) (4) (5)
Boilerplate: (2) (3) (6)

Guam

Instrument: Mortgage
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (6) (10)

Hawaii

Instrument: Mortgage
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (6)

Idaho

Instrument: Deed of Trust, Mortgage
Evidence of Title: (1) (5)
Boilerplate: (6)

Illinois

Instrument: Mortgage
Evidence of Title: (1) (3) (5)
Boilerplate: (2) (5) (6) (7)

Indiana

Instrument: Mortgage
Evidence of Title: (2) (5)
Boilerplate: (2) (3) (6)

Iowa

Instrument: Mortgage
Evidence of Title: (3) (5)
Boilerplate: (2) (5) (6)

Kansas

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (6) (7) (10)

Kentucky

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (3) (6)

Louisiana

Instrument: Mortgage
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (3) (5) (6) (10)

Maine

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (6)

Maryland

Instrument: Deed of Trust; Indemnity Deed of Trust (when securing guarantee)
Evidence of Title: (1) (2) (3) (8) (5)
Boilerplate: (2) (3)

Massachusetts

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (6) (10) (11)

Michigan

Instrument: Mortgage
Evidence of Title: (1) (5)
Boilerplate: (2) (3)

Minnesota

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (4) (6) (10)

Mississippi

Instrument: Deed of Trust
Evidence of Title: (1) (3)
Boilerplate: (2) (3) (5) (6) (10)

Missouri

Instrument: Deed of Trust
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (4) (6)

Montana

Instrument: Montana Trust Indenture, Mortgage
Evidence of Title: (1)
Boilerplate: (2) (3)

Nebraska

Instrument: Deed of Trust
Evidence of Title: (1) (2) (3)
Boilerplate: (2) (4) (6) (10)

Nevada

Instrument: Deed of Trust
Evidence of Title: (1) (2) (3)
Boilerplate: (2) (4) (5) (6) (10)

New Hampshire

Instrument: Mortgage
Evidence of Title: (1) (3)
Boilerplate: (2) (3) (5) (6) (10)

New Jersey

Instrument: Mortgage
Evidence of Title: (1) (2)
Boilerplate: (6) (10)

New Mexico

Instrument: Mortgage
Evidence of Title: (1) (2)
Boilerplate: (2) (3) (6)

New York

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5) (8)
Boilerplate: (2) (3) (6)

North Carolina

Instrument: Deed of Trust
Evidence of Title: (1) (2) (3) (4)
Boilerplate: (2) (4) (6)

North Dakota

Instrument: Mortgage
Evidence of Title: (1) (2) (3)
Boilerplate: (2) (5) (6) (10)

Ohio

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (6)

Oklahoma

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (6) (10)

Oregon

Instrument: Deed of Trust, Mortgage
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (6)

Pennsylvania

Instrument: Mortgage
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (6)

Puerto Rico

Instrument: Mortgage
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (6)

Rhode Island

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (4) (5)
Boilerplate: (2) (3) (10) (11)

South Carolina

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (3) (6)

South Dakota

Instrument: Mortgage
Evidence of Title: (1) (2) (5)
Boilerplate: (2) (5) (6) (10)

Tennessee

Instrument: Deed of Trust
Evidence of Title: (1) (3)
Boilerplate: (2) (3) (6) (8)

Texas

Instrument: Deed of Trust
Evidence of Title: (2) (5)
Boilerplate: (2) (3) (5) (6) (9)

Utah

Instrument: Deed of Trust
Evidence of Title: (1) (5)
Boilerplate: (2) (4) (6)

Vermont

Instrument: Mortgage
Evidence of Title: (1) (2) (3) (5)
Boilerplate: (2) (3) (5) (6) (10)

Virginia

Instrument: Deed of Trust
Evidence of Title: (1) (3) (5)
Boilerplate: (2) (3) (5) (6) (10)

Washington

Instrument: Deed of Trust, Mortgage
Evidence of Title: (1) (2)
Boilerplate: (2) (6)

Washington DC

Instrument: Deed of Trust
Evidence of Title: (1) (4) (5)
Boilerplate: (2) (3) (6) (10)

West Virginia

Instrument: Deed of Trust, Mortgage
Evidence of Title: (1) (3) (5)
Boilerplate: (2) (3) (4) (6)

Wisconsin

Instrument: Mortgage
Evidence of Title: (1) (5)
Boilerplate: (2) (3) (6) (10)

Wyoming

Instrument: Mortgage
Evidence of Title: (1) (2) (4) (5)
Boilerplate: (5) (6) (10)

Appendix C

Frequently-Asked Questions (FAQ's)

This appendix is a compilation of frequently asked questions (FAQ's) relating to the Boilerplate. For questions relating to the operation of the Wizard, refer to the FAQ section of the "CAPLines Wizard Help Topics" available from the CAPLines Wizard menu.

What should you do if you don't find the answer to your question in this FAQ?

Additional FAQ's published after the release date of this document will be posted on [SBA's intranet](#). SBA has created an Exchange Mailbox - "Auth-CAP" to receive and respond to questions raised by SBA employees. SBA employees should first submit questions, comments and suggestions through their supervisory financing personnel or counsel, who may be able to resolve the issue locally.

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1. What are some of the major differences between the CAPLines Authorization and the 7(a) Authorization?

- a. The CAPLines Authorization Boilerplate contains the national standard language for the four CAPLines programs; Contract, Seasonal, Builders, and Working Capital. The boilerplate also includes requirements and options related to single project loans and multiple project loans. Since it covers four separate programs and all the variables related to each, the CAPLines wizard is much more complex than either the 7(a) or 504 Authorizations. You will be asked to select what type of loan you are making and whether it is for a single project or multiple projects. Based on your selections, the wizard will ask you for information related only to the type of loan you are making.
- b. There are program specific collateral options that will be put into the Authorization at the beginning of the collateral section. In order to include Guarantees and other additional collateral, you must complete the Collateral Conditions section of the wizard, just like you do for 7(a) and 504 loans.
- c. There is no EPC/OC option in CAPLines loans. Therefore, no EPC/OC language or options are included in the CAPLines Authorization.

2. What if I change from one program to another after I have made the initial selection?

- a. If you change from one of the 4 subprograms to another or from a single project to multiple projects, then you must:
 - cycle through each section of the wizard again;
 - check to see if the information you put in the panels is still appropriate;
 - revise the information as necessary; and
 - click the finish button to update each section of the authorization.
- b. Because of the complex nature of this wizard and the many different variables and options that relate to each subprogram, this is the only way you can assure that you have all the required language in the Authorization related to the Loan.

3. Why does the wizard ask me for collateral related information in the Use of Proceeds section?

In order to input the required project collateral paragraph(s) for each of the programs without interfering with the existing programming in the complex Collateral Conditions section, there are panels and programming in the Use of Proceeds section.

In order to include Guarantees and other additional collateral in the Authorization, you must complete the Collateral Conditions section of the wizard.

4. Is the required language in the Repayment section to be used on SBA’s Note form, SBA Form 147, or on the Lender’s own Note forms?

In many CAPLines loans there is one Master Note and several Sub-Notes. The repayment language in the Authorization language is intended for use on the Master Note. SBA’s Note, SBA Form 147 or Lender's own Note, must be used for the Master Note. The Lender may use its own forms for Sub-Notes, if any.

5. Where do I find the specific servicing requirements related to CAPLines Loans?

The requirements for disbursing and monitoring CAPLines Loans can be found in the SOP 50 10(5), Subpart B, Chapter 7, Paragraph IV.H., and the Servicing SOP (see SOP 50 50(4A) Chapter 6, Paragraph 8, and Appendix 28).

7. Why was the Authorization changed so that it is no longer a Loan Agreement?

Under SBA regulations, the Authorization is not an agreement to lend money (see 13 CFR 120.10). The Authorization is intended to provide the lender with specific conditions which must be met for SBA to provide a guaranty of the loan the lender is making to the borrower. It is not a contract between SBA and the borrower, and the borrower is not a third party beneficiary of the Authorization. SBA is not lending money to the borrower and SBA cannot force a lender to make a loan to any borrower, even if the borrower complies with the terms of the Authorization. The borrower and operating company do not sign the Authorization. The change in focus reflects these SBA policies.

The requirements of the Authorization are directed to the lender. SBA is not directing borrowers to meet certain requirements. SBA directs lenders to obtain the information, documents, and certifications from the borrowers necessary to meet SBA's requirements for a guaranty. When a lender requests that SBA honor its guaranty, SBA requires the lender to present evidence that the loan was properly closed in accordance with the Authorization and serviced and liquidated according to SBA policies. Lenders are responsible for meeting SBA requirements and the focus of the Authorization emphasizes this SBA policy.

8. Does SBA require a loan agreement? What sample form can lenders use for borrower's certifications?

SBA does not require that a lender use a loan agreement. It is up to a lender to determine whether a loan agreement is needed for its lending practice. Paragraph C. of the Boilerplate states that it is a lender's sole responsibility to close the loan in accordance with the terms and conditions of the authorization, to obtain valid and enforceable loan documents, and to retain the documents. SBA does not require a loan agreement but does require that the documents be enforceable and that the borrower makes certain certifications. Lenders are provided with a sample form, Borrower's Certification (2 pages - see Appendix D), which is a compilation of the various certifications found in the Boilerplate and provides a space for the borrower to initial next to those certifications applicable to the particular loan. Lenders will need to retain an executed document containing these certifications, and may use this sample form as a basis for that document or for incorporating the required certifications into their loan agreement. Lenders are also provided with a sample Loan Agreement form (1 page - see Appendix D) which they may use. SBA is leaving the issue of whether a loan agreement is required, and what form it should take, up to the lender, but SBA does require that necessary borrower's certifications be made in writing.

9. What if Authorization provisions conflict with SOP 50-10?

If you discover an apparent conflict, please send an e-mail to "Auth-CAP" mailbox describing the conflict and stating the SOP paragraph and the authorization paragraph which you believe conflict. You must continue to use the Boilerplate. The Boilerplate reflects current SBA policy. OGC and OFA have reviewed and approved the Boilerplate. The Boilerplate is considered an Appendix to SOP 50-10. The Boilerplate will be updated from time to time to reflect policy changes in subsequent regulations, Notices, or SOPs.

10. How will subsequent modifications to the Authorization be distributed to the field?

The Authorization will be modified periodically to address state-specific issues, implement policy changes, and correct "glitches".

Future updates will be available at <http://www.sba.gov/content/caplines-authorization-wizard>.

11. Can you include additional forms in section "D. Required Forms"?

The Boilerplate lists all SBA required forms. SBA offices may not require lenders to use any local forms.

When Lenders use their own forms and instruments, they must comply with legal requirements and prudent lending practices. Lenders must add to all of their forms and instruments the federal law and arbitration provisions required in the Collateral section of the Authorization. This language must also be added to the SBA Deed of Trust and Mortgage forms if the lender chooses to use these forms. The federal law provisions stating that the lien instrument is to be construed in accordance with federal law if SBA is enforcing the Note protects SBA if the lender assigns its loan documents to SBA for enforcement. The arbitration clause is necessary to protect SBA from binding arbitration clauses found in some local forms.

12. Why doesn't SBA instruct lenders how to obtain insurance, perfect liens or meet other requirements in the Authorization?

The Authorization gives a lender the requirements that must be met for SBA to guarantee a loan. It does not instruct the lender how specifically to meet those requirements. As lenders, they are responsible for knowing how to properly close loans, secure collateral, and obtain and perfect the required lien position. A lender and SBA sign a Loan Guaranty Agreement, SBA Form 750, that provides the general requirements the lender must meet for SBA to guarantee loans at lender's request. SBA lenders must follow SBA's regulations and SOP requirements. They are held to a prudent lender standard.

13. Why doesn't the Authorization specify how to perfect a lien for each piece of real estate taken as collateral or specify which signatures a lender must obtain for rental property?

The Boilerplate notifies lenders that they must obtain "the signature or written consent of any obligor's spouse if such consent or signature is necessary to bind the marital community or create a valid lien on marital property." SBA holds lenders responsible for knowing how to create and properly perfect a lien on property required by the Authorization. The Authorization gives a lender the requirements that must be met for SBA to guarantee the loan between the lender and the borrower. It does not instruct the lender on how to meet those requirements. The lender, not SBA, must determine the legal ownership of a piece of real estate and determine what signatures must be obtained to create enforceable documents.

14. Why are machinery, furniture and business assets not collateral categories in the lien provisions?

The Boilerplate provisions for personal property collateral use the defined terms in the Uniform Commercial Code (Code) for property categories. The Code states which types of property fall into each category. Machinery, furniture and business assets are included in one or more of the defined collateral categories. For example, machinery and furniture are defined as equipment under the Code. If you cannot determine the appropriate option(s), consult with counsel.

15. May I write my own repayment terms, or use local lender terms and skip the standard repayment terms?

You may not replace the standard repayment terms in the Authorization with lender-specific or office-specific language. All authorized CAPLines loan options have been provided. The repayment terms in the Authorization are terms for the Master Note. If there is a need for a specific term for a particular loan that is not in the Boilerplate, you and the SBA counsel should work together to draft a provision for use in that specific case.

16. What options are there for the base interest rate?

The SBA allows three base rates, The Prime Rate that is published in a national financial newspaper or website, the SBA Optional Peg Rate published by SBA in the Federal Register for every calendar quarter, and the LIBOR Base Rate, the combination of the One Month London Interbank Offered Rate plus 3.0 percentage points. Prime and LIBOR are the rates in effect on the first business day of the month in which SBA received the application and the first day of the month in which any interest rate change occurs, except that the LIBOR rate has 3.0 percentage points added. Base rates will be rounded to two decimal places with .004 being rounded down and .005 being rounded up.

17. Can I remove the extraneous documents in the "Borrower and Guarantor Documents" section?

No. The Authorization intentionally lists documents required for all types of legal entities. Borrowers and Guarantors frequently change their legal structures between the time the authorization is issued and the loan is closed. The list tells a lender what is required for each entity and accommodates changes in organization that are made before closing. As required, Lenders should inform SBA of any changes and should submit material changes for SBA review and approval.

18. Why was the Administrator's name omitted from the SBA signature block?

The Authorization is signed on behalf of the "Administrator", whomever that may be at the time. The name is not a necessary part of the official document. Eliminating the name avoids changing the document when there is a new Administrator.

19. How is the SBA Loan Name determined?

Choose the first available name from this list:

- a. dba of the Borrower
- b. name of the Borrower

In the case of multiple borrowers, apply the same rule, using the first borrower listed by the Loan Officer.

20. What is SBA's Environmental Policy?

SBA's Environmental Policy is in SOP 50-10. Lenders must be familiar with this policy. Basic environmental conditions are set forth in the Boilerplate. Except for PLP loans, a lender must submit the results of the Environmental Investigation to the SBA. Except for PLP loans, a lender must not disburse a loan until SBA has reviewed the results of the investigation and is satisfied that the risk of potential environmental contamination has been sufficiently minimized. PLP lenders must comply with the environmental provisions of the SOP in conducting the environmental investigation and reaching a conclusion that the risk of contamination is sufficiently minimized.

21. How does a lender or SBA loan officer add loan specific provisions to the Authorization?

There is an OPEN OPTION for the processing office or lender to add loan specific requirements. It is expected that lender and SBA staff, including SBA counsel, will communicate closely in drafting these requirements. Any special conditions created by an SBA office must only be used one time before obtaining SBA approval of the language for use in other authorizations. For more information on how to use the Open Options with the CAPLines Wizard, refer to the CAPLines Wizard Help available from the CAPLines Wizard menu.

Loan Agreement and Borrower's Certification Sample documents (Appendix D of the National CAPLines Authorization Boilerplate version 2012)

This document is a copy of Appendix D of the National CAPLines Authorization Boilerplate version 2012 in MS-Word format. It contains 2 sample documents provided to lenders under the conditions described below:

SBA does not require that a lender use a loan agreement. It is up to a lender to determine whether a loan agreement is needed for its lending practice. Paragraph C. of the Boilerplate states that it is a lender's sole responsibility to close the loan in accordance with the terms and conditions of the authorization, to obtain valid and enforceable loan documents, and to retain the documents.

SBA does not require a loan agreement but does require that the documents be enforceable and that the borrower makes certain certifications.

Lenders are provided with a sample form, **Borrower's Certifications** (2 pages), which is a compilation of the various certifications found in the Boilerplate and provides a space for the borrower to initial next to those certifications applicable to the particular loan. Lenders will need to retain an executed document containing these certifications, and may use this sample form as a basis for that document or for incorporating the required certifications into their loan agreement.

Lenders are also provided with a sample **Loan Agreement** form (1 page) which they may use. SBA is leaving the issue of whether a loan agreement is required, and what form it should take, up to the lender, but SBA does require that necessary borrower's certifications be made in writing.

LOAN AGREEMENT

THIS LOAN AGREEMENT ("Agreement") is made _____, _____ between the Borrower and Lender identified in the attached Authorization issued by the U.S. Small Business Administration ("SBA") to Lender, dated _____, _____, SBA Loan Number _____ ("Authorization").

SBA has authorized a guaranty of a loan from Lender to Borrower for the amount and under the terms stated in the attached Authorization (the "Loan").

In consideration of the promises in this Agreement and for other good and valuable consideration, Borrower and Lender agree as follows:

1. Subject to the terms and conditions of the Authorization and SBA's Participating Lender Rules as defined in the Guarantee Agreement between Lender and SBA, Lender agrees to make the Loan if Borrower complies with the following "Borrower Requirements". Borrower must:
 - a. Provide Lender with all certifications, documents or other information Lender is required by the Authorization to obtain from Borrower or any third party;
 - b. Execute a note and any other documents required by Lender; and
 - c. Do everything necessary for Lender to comply with the terms and conditions of the Authorization.
2. The terms and conditions of this Agreement:
 - a. Are binding on Borrower and Lender and their successors and assigns;
and
 - b. Will remain in effect after the closing of the Loan.
3. Failure to abide by any of the Borrower Requirements will constitute an event of default under the note and other loan documents

Borrower: _____

Lender: _____

BORROWER'S CERTIFICATION

INSTRUCTIONS: INDICATE THE PARAGRAPHS BEING CERTIFIED TO BY HAVING THE BORROWER INITIAL IN THE [_____] NEXT TO THE APPROPRIATE PARAGRAPHS, PRIOR TO SIGNING.

In order to induce _____ ("Lender") to make a U. S. Small Business Administration ("SBA") guaranteed Loan, SBA Loan Number _____ ("Loan") to _____ ("Borrower"),

A. Borrower certifies that:

- [_____] 1. **Receipt of Authorization** — Borrower has received a copy of the Authorization for this Loan from Lender, and acknowledges that:
- The Authorization is not a commitment by Lender to make a loan to Borrower;
 - The Authorization is between Lender and SBA and creates no third party rights or benefits to Borrower;
 - The Note will require Borrower to give Lender prior notice of intent to prepay.
 - If Borrower defaults on Loan, SBA may be required to pay Lender under the SBA guarantee. SBA may then seek recovery of these funds from Borrower. Under SBA regulations, 13 CFR Part 101, Borrower may not claim or assert against SBA any immunities or defenses available under local law to defeat, modify or otherwise limit Borrower's obligation to repay to SBA any funds advanced by Lender to Borrower.
 - Payments by SBA to Lender under SBA's guarantee will not apply to the Loan account of Borrower, or diminish the indebtedness of Borrower under the Note or the obligations of any personal guarantor of the Note.
- [_____] 2. **Adverse Change** — That there has been no adverse change in Borrower's financial condition, organization, operations or fixed assets since the date the Loan application was signed.
- [_____] 3. **Child Support** — No principal who owns at least 50% of the ownership or voting interest of the company is delinquent more than 60 days under the terms of any (1) administrative order, (2) court order, or (3) repayment agreement requiring payment of child support.
- [_____] 4. **Current Taxes** — Borrower is current on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.
- [_____] 5. **Environmental** — For any real estate pledged as collateral for the Loan or where the Borrower or Operating Company is conducting business operations (collectively "the Property"):
- At the time Borrower submitted the Loan application, Borrower was in compliance with all local, state, and federal environmental laws and regulations pertaining to reporting or clean-up of any hazardous substance, hazardous waste, petroleum product, or any other pollutant regulated by state or federal law as hazardous to the environment (Contaminant), and regarding any permits needed for the creation, storage, transportation or disposal of any Contaminant;
 - Borrower will continue to comply with these laws and regulations;
 - Borrower and all of its principals have no knowledge of the actual or potential existence of any Contaminant that exists on, at, or under the Property, including groundwater under such Property other than what was disclosed in connection with the Environmental Investigation of the Property;
 - Until full repayment of Loan, Borrower will promptly notify Lender and SBA if it knows or suspects that there has been, or may have been, a release of a Contaminant, in, at or under the Property, including groundwater, or if Borrower or such property are subject to any investigation or enforcement action by any federal, state or local environmental agency

(Agency) pertaining to any Contaminant on, at, or under such Property, including groundwater.

- (e) As to any Property owned by Borrower, Borrower indemnifies, and agrees to defend and hold harmless, Lender and SBA, and any assigns or successors in interest which take title to the Property, from and against all liabilities, damages, fees, penalties or losses arising out of any demand, claim or suit by any Agency or any other party relating to any Contaminant found on, at or under the Property, including groundwater, regardless of whether such Contaminant resulted from Borrower's operations. (Lender or SBA may require Borrower to execute a separate indemnification agreement).

B. Borrower certifies that they will:

[_____] 1. **Reimbursable Expenses** — Reimburse Lender for expenses incurred in the making and administration of the Loan.

[_____] 2. **Books, Records, and Reports** —

- a. Keep proper books of account in a manner satisfactory to Lender;
- b. Furnish [*check one if appropriate*: compiled - reviewed - audited] year-end statements to Lender within _____ days [*120 days, if not filled in*] of fiscal year end;
- c. Furnish additional financial statements or reports whenever Lender requests them;
- d. Allow Lender or SBA, at Borrower's expense, to:
 - 1) Inspect and audit books, records and papers relating to Borrower's financial or business condition; and
 - 2) Inspect and appraise any of Borrower's assets; and
 - 3) Allow all government authorities to furnish reports of examinations, or any records pertaining to Borrower, upon request by Lender or SBA. Provide Lender with:
 - a) Month-to-month cash-flow projection of all known operational activity on at least an annual basis for the term of the loan, for all Seasonal and Builder's CAPLines loans.
 - b) [Monthly borrowing base certificate, as required by Lender, in a form satisfactory to Lender, so that Lender may reconcile the borrowing base certificates [at least monthly] or [before each disbursement]] or [Financial reports as required by Lender showing satisfactory cash flow and 1:1 collateral ratio].
 - c) Monthly [*OPTIONS-aging report of accounts receivable*] [*inventory schedule*] [*aging report of accounts receivable and inventory schedule*], in a form satisfactory to Lender, so that Lender may determine the appropriate amount to advance.
 - 4) Provide Lender with a cash flow projection for each specific contract.

[_____] 3. **Contract Performance Notices** — Notify Lender of any of the following for any contract, subcontract or purchase order:

- a. Modification of any contract provision that affects the amount due under the contract(s) or otherwise substantially affects the contract(s);
- b. Termination of all or part of any contract(s);
- c. Failure of either party to perform its contract obligations;
- d. Contracting Entity:
 - (i) Provides Borrower notice of default;
 - (ii) Rejects any contract deliverable; or
 - (iii) Provides Borrower notice of non-performance.

[_____] 4. **Equal Opportunity** — Post SBA Form 722, Equal Opportunity Poster, where it is clearly visible to employees, applicants for employment and the general public.

[_____] 5. **American-made Products** — To the extent practicable, purchase only American-made equipment and products with the proceeds of the Loan.

[_____] 6. **Taxes** — Pay all federal, state, and local taxes, including income, payroll, real estate and sales taxes of the business when they come due.

C. Borrower certifies that it will not, without Lender's prior written consent:

[_____] 1. **Distributions** — Make any distribution of company assets that will adversely affect the financial condition of Borrower.

[_____] 2. **Ownership Changes** — Change the ownership structure or interests in the business during the term of the Loan.

[_____] 3. **Transfer of Assets** — Sell, lease, pledge, encumber (except by purchase money liens on property acquired after the date of the Note), or otherwise dispose of any of Borrower's property or assets, except in the ordinary course of business.

[_____] 4. **Fixed Asset Limitation** — Acquire by purchase or lease agreement any fixed assets (totaling more than \$ _____ in any year).

[_____] 5. **Location Limitation** — Acquire by purchase or by lease, any additional locations.

[_____] 6. **Limitation on Compensation** — Allow total annual salaries, withdrawals or other forms of remuneration to officers or owners of Borrower or their immediate family members, to exceed \$ _____.

[_____] 7. _____

(Borrower) Date

By: _____