

AGREEMENT

MICHIGAN STRATEGIC FUND
SMALL BUSINESS CAPITAL ACCESS PROGRAM

This AGREEMENT is entered as of _____ 20____, between the Michigan Strategic Fund, a public body corporate and politic in the State of Michigan, whose address is 300 N. Washington Square, Lansing, Michigan 48913 (the “MSF”), and _____, a _____, whose address is _____ (the “Lender”).

RECITALS

WHEREAS, the MSF has been created by the Michigan Strategic Fund Act, 1984 PA 270 (the “Act”), with the power to provide loan insurance for endeavors relating to industrial, commercial or agricultural enterprise;

WHEREAS, the Michigan Legislature has provided, through 2005 PA 225, at least \$3.5 million to reinstitute the Small Business Capital Access Program in a manner similar to the program conducted by the MSF before January 1, 2002;

WHEREAS, the MSF has determined that in order to promote economic development and help create jobs for the people of the State of Michigan, there is a crucial need to assist in providing access to financing for Michigan small businesses, as defined in the Act, that otherwise might not be able to obtain such access; and

WHEREAS, the MSF and the Lender desire to set forth the terms and conditions of the loan insurance that will apply if the Lender decides to make loans under the Program.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

DEFINITIONS

In addition to the words and terms defined elsewhere in the Agreement, each of the following words and terms as used in the Agreement shall have the following meaning unless the context or use indicates another or different meaning or intent, and such definition shall be equally applicable to both the singular and plural forms of the terms as the content may require:

“Affiliate”, when describing a relationship with the Lender, shall refer to the same relationship as the relationship between an affiliate and an institution as described in MCL 487.11201(c) or for credit unions, MCL 490.102(a).

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

“Claim” means any claim filed by the Lender pursuant to Section 5.3.

“Eligible Loan” means a loan made by the Lender to a Borrower for which the representations and warranties as set forth in Section 2.2 are true.

“Enrolled Loan” means a loan enrolled by the MSF pursuant to the terms of Article IV.

“Passive Real Estate Ownership” means ownership of real estate for the purpose of deriving income from speculation, trade or rental, except that such term shall not include a) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or b) ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

“Program” means the Capital Access Program established by the MSF pursuant to Resolution 1986-39 and the Small Business Capital Access Program established by the MSF pursuant to Resolution 2006-002.

“Reserve Fund” means an administrative account maintained by the MSF to account for funds accumulated pursuant to this Agreement to cover losses sustained by the Lender on Enrolled Loans.

“Small Business” means a business entity formed or doing business in this state, including the affiliates of the business concern, which business entity is independently owned and operated and employs fewer than 250 full-time employees or has gross annual sales of less than \$6,000,000.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the MSF. With respect to any loan enrolled under this Agreement, the MSF makes the following representations and warranties as of the time of the each enrollment:

- (a) The MSF is a public body corporate and politic established and acting pursuant to the Act.
- (b) The MSF has the necessary power under the Act, and has duly taken all action on its part required to authorize, execute and deliver this Agreement. This Agreement when executed will be valid, binding and enforceable in accordance with its terms. The execution and performance of this Agreement by the MSF will not violate or conflict with any instrument by which the MSF is bound.

Section 2.2. Representations by the Lender. With respect to any loan that the Lender files for enrollment under this Agreement, the Lender makes the following representations and warranties as of the time of each filing:

(a) The Lender has obtained in writing from the Borrower the following representations and warranties, and, based on knowledge that the Lender has, the Lender has no substantial reason to believe that such representations and warranties are not true:

(i) The Borrower is a Small Business as defined in Article I of this Agreement.

(ii) The Borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, which is authorized to conduct business in the State of Michigan.

(iii) The proceeds of the loan will be used for an endeavor related to industrial, commercial, or agricultural enterprise, or any combination thereof, within the State of Michigan.

(iv) The Borrower is not an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of any such executive officer, director, principal shareholder or member of the immediate family. For the purpose of this provision, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” shall refer to the same relationship to the Lender, whether or not the Lender is a member bank, as the relationship specified for those terms in connection with member banks in Part 215 of Title 12 of the Code of Federal Regulations, including amendments of such Part 215 which may be made from time to time.

(b) The Lender further represents and warrants as follows:

(i) That the Lender has received from the Borrower a written representation, warranty, pledge and waiver in the form as set forth in Exhibit 1 stating that Borrower has no legal, beneficial or equitable interest in the non-refundable premium charges or any other funds credited to the Reserve Fund established to cover losses sustained by the Lender on Enrolled Loans.

(ii) That the Lender has not made the loan in order to place, under the protection provided by the Program, prior debt which is not covered under the Program and which is or was owed by the Borrower to the Lender or to an Affiliate of the Lender.

(iii) That the Lender has disclosed to the Borrower information concerning the Program as set forth on Exhibit 2, or such modified exhibit as may be specified by the MSF.

- (iv) That the Lender has complied with all federal and state laws, rules and regulations pertaining to the making of the loan.
- (c) The Lender further represents that the Borrower has covenanted in writing that it will not use the money for any of the following:
- (i) The development of a stadium or arena for use by a professional sports team.
 - (ii) To finance the construction or purchase of residential housing.
 - (iii) To finance Passive Real Estate Ownership.
 - (iv) The development of a casino regulated by this state under the Michigan gaming control and revenue act, MCL 432.201 to 432.226, or a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat 2467, or property associated or affiliated with the operation of either type of casino including, but not limited to, a parking lot, hotel, motel, or retail store.
 - (v) The provision of money to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this Agreement, if a person is a business entity, person includes affiliates, subsidiaries officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.
 - (vi) The provision of money to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.
 - (vii) The provision of money to a business enterprise to induce qualified businesses or small business to leave this state.
 - (viii) The provision of money that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.
 - (ix) The provision of money to a corporation or an affiliate of the corporation who is incorporated in a tax haven country after September 11, 2001, while

maintaining the United States as the principal market for the public trading of the corporation's stock.

ARTICLE III

ESTABLISHMENT OF THE RESERVE FUND

Upon execution of this Agreement, the MSF shall establish an administrative account in the name of the MSF for the purpose of receiving all required premium charges to be paid by the Lender and the Borrower, and transfers made by the MSF, pursuant to Section 5.1. The account shall be called the Reserve Fund - _____ (the "Reserve Fund").

If the Lender has an existing reserve fund established under the Capital Access Program established by the MSF, pursuant to Resolution 1986-39, this existing reserve fund will be combined with the reserve fund established under the Small Business Capital Access Program established by the MSF pursuant to Resolution 2006-002. A list of any enrolled loans outstanding in the reserve account established under the Capital Access Program established by the MSF pursuant to Resolution 1986-39 must be provided to the MSF prior to any fund transfer to the reserve account under the newly created Small Business Capital Access Program.

ARTICLE IV

ENROLLMENT OF LOANS IN PROGRAM

Section 4.1. A loan to be filed for enrollment under this agreement is to enhance financing availability for small businesses in Michigan for the purposes of economic development. The loan shall be made to fulfill the intent of the program and may be made with the interest rate, fees, and other terms and conditions as the Lender and Borrower may agree. The loan may be in the form of a line of credit, in which case the amount of the loan shall be considered to be the maximum amount that can be drawn down against the line of credit.

Section 4.2. Enrolling a Loan. In order to enroll a loan under the Program, the Lender shall file the loan for enrollment by delivering to the MSF the following:

- (a) A copy of Exhibit 3 in completed form, or such modified exhibit as may be specified by the MSF, bearing an execution signature of an authorized officer of the Lender.
- (b) Transmittal of the non-refundable premium charges payable as set forth in Section 5.1 in connection with the loan by the Lender and the Borrower, or evidence that such transmittal has occurred, in accordance with procedures specified by the MSF.

The Lender shall file the loan for enrollment within ten (10) days after the Lender makes the loan. For the purposes of this Agreement, the date on which the Lender makes a loan shall be deemed to be the date on which the Lender first disburses proceeds of the loan to the

Borrower, or such earlier date on which the loan documents have been executed and the Lender has obligated itself to disburse proceeds of the loan. For the purposes of this Agreement, the filing of a loan for enrollment shall be deemed to occur on the date of which the Lender delivers to the MSF, delivers to a professional courier service for delivery to the MSF, or mails to the MSF, the documentation required by this Section.

Section 4.3. MSF Acknowledgement. Upon receipt by the MSF of the documentation identified in Section 4.2, the MSF shall enroll the loan unless the information provided indicates that the loan is not an Eligible Loan, and shall mail or otherwise deliver to the Lender, within ten (10) business days of such receipt, an acknowledgement of enrollment, bearing the execution signature of an authorized representative of the MSF, including documentation of the amount being transferred by the MSF into the Reserve Fund pursuant to Section 5.1.

Section 4.4. Amount Covered. When filing a loan for enrollment, the Lender may specify an amount to be covered under the Program that is less than the total amount of the loan. Unless the context clearly requires otherwise, when used in this Agreement in connection with a loan or loans, the words “amount” and “proceeds” shall refer only to the amount covered under this Agreement.

Section 4.5. Refinancing Loans. If the Lender makes a loan to a Borrower which loan is a refinancing of a loan previously made to the Borrower by the Lender or an Affiliate of the Lender, where such prior loan was not enrolled under the Program, and if additional or new financing is extended by the Lender as part of the refinancing, the Lender may file the loan for enrollment pursuant to Section 4.2, with the amount of the loan to be covered under the Program only up to the amount of additional or new funding.

Section 4.6. Refinancing Enrolled Loans.

- (a) In the event that an Enrolled Loan is refinanced and the total amount to be covered under the Program does not exceed the covered amount of the loan as previously enrolled, the loan, as refinanced, may continue as an Enrolled Loan and there shall be no additional premium charges payable or MSF transfer into the Reserve Fund.
- (b) If the refinancing of a loan under this Section results in the outstanding balance of an Enrolled Loan being increased, the Lender at the time of the refinancing shall be deemed to have made, with respect to such refinanced loan, the representations and warranties specified for the lender in Section 2.2 (a) and 2.2 (b) (ii) and (iv).

Section 4.7. Enrolling Increased Amounts. In the event that an Enrolled Loan is refinanced in an amount which exceeds the amount of the loan as previously enrolled, and if the Lender wishes the amount of the refinanced loan to exceed the amount previously enrolled, the Lender shall file again the loan for enrollment pursuant to Section 4.2 with payments and transfers to be made into the Reserve Fund based on the amount to be covered which is in excess of the previous covered amount.

Section 4.8. Lines of Credit Balances. For the purposes of this Agreement, fluctuations in the outstanding balance of a line of credit, without increasing the covered amount under the Program, shall not be deemed to be a refinancing of the loan.

Section 4.9. Termination as an Enrolled Loan. If the outstanding balance of an Enrolled Loan that is not a line of credit is reduced to zero, that loan shall no longer be considered an Enrolled Loan. If an Enrolled Loan which is a line of credit has an outstanding balance of zero for a twelve (12) month period, it shall no longer be considered an Enrolled Loan, unless before the expiration of the twelve (12) month period the Lender has reaffirmed in writing to the Borrower that the line of credit will remain open and the Borrower has acknowledged that reaffirmation in writing.

ARTICLE V

USE OF THE RESERVE FUND

Section 5.1. Payments and Transfers to the Reserve Fund. The Lender shall set the premium charges payable to the Reserve Fund by the Lender and the Borrower in connection with a loan being filed for enrollment with the MSF pursuant to Section 4.2. The amount paid by the Borrower shall not be less than 1.5% of the amount of the loan, and shall not be greater than 3.5% of the amount of the loan. The amount paid by the Lender shall be equal to the amount paid by the Borrower. The Lender may recover from the Borrower the cost of the Lender's payment, in any manner in which the Lender and Borrower agree. When enrolling a loan under Article IV, the MSF shall transfer into the Reserve Fund, from available funds that have been allocated by the Board of Directors of the MSF to the Program, an amount determined as follows:

- (a) An amount equal to the combined amounts paid into the Reserve Fund by the Borrower and the Lender for each Enrolled Loan.
- (b) The maximum amount to be transferred into the Reserve Fund by the MSF over any three (3) year period in connection with any one Borrower, or any group of Borrowers among which a common enterprise exists, shall be \$150,000 unless pursuant to a written request by the Lender the MSF approves, in writing, the transfer of an amount in excess of \$150,000. For the purpose of this paragraph the term "common enterprise" shall have the same meaning given to it in Part 32 of Title 12 of the Code of Federal Regulations, including amendments of those regulations.

Section 5.2. Ownership, Control and Investments of Reserve Fund. All funds credited to the Reserve Fund shall be the exclusive property of, and solely controlled by, the MSF. The MSF may not withdraw funds from the Reserve Fund except as is provided for in this Agreement.

Interest or income earned on the funds credited to the Reserve Fund shall be deemed to be part of the Reserve Fund. The MSF is authorized to withdraw at any time from the Reserve

Fund fifty (50%) percent of all interest or income that has been credited to the Reserve Fund, except that after the first such withdrawal the MSF may not withdraw more than fifty (50%) percent of all interest or income that has been credited to the Reserve Fund since the time of the last such withdrawal. These withdrawals need not be returned to the Reserve Fund.

Section 5.3. Claims by Lender to Reserve Fund. If the Lender charges off all or part of an Enrolled Loan, the Lender may file a Claim with the MSF by submitting a completed claim form in the form attached as Exhibit 4, or as otherwise approved by the MSF, bearing the execution signature of an authorized officer of the Lender. Any Claim that is filed under this Agreement shall be filed contemporaneously with the action of the Lender to charge off all or part of the loan.

Lender's Claim may include the amount of principal charged off plus up to ninety days' accrued interest. The amount of principal and accrued interest included in the Claim shall not exceed the principal amount covered under the Program upon enrollment, plus up to ninety days' accrued interest attributable to such covered principal amount.

The Lender shall determine when and how much to charge off on an Enrolled Loan in a manner consistent with its normal method for making such determinations on business loans which are not Enrolled Loans.

If the Lender files two (2) or more Claims contemporaneously, and if there are insufficient funds in the Reserve Fund at that time to cover the entire amounts of those Claims, the Lender may designate the order of priority in which the MSF shall pay the claims in accordance with Section 5.4.

Section 5.4. Disbursement of Reserve Fund.

(a) Notwithstanding the violation of any other provision of this Agreement by the Lender, upon receipt by the MSF of a Claim filed by the Lender in accordance with Section 5.3, the MSF shall promptly pay, from funds in the Reserve Fund, the Claim as submitted, except that the MSF may reject a Claim when the representations and warranties provided by the Lender in Section 2.2 were known by the Lender to be false when the loan was enrolled.

(b) If there are insufficient funds in the Reserve Fund to cover the entire amount of the Lender's Claim, the MSF shall pay to the Lender an amount equal to the current balance in the Reserve Fund. That payment shall be deemed to fully satisfy the Claim and the Lender shall have no other or further right to receive any amount from the Reserve Fund with respect to that Claim.

Section 5.5. Recovery by Lender Subsequent to Claim. If after payment of a Claim by the MSF, the Lender recovers from a Borrower any amount for which payment of the Claim was made, the Lender shall promptly pay to the MSF for deposit in the Reserve Fund the amount recovered, less its out-of-pocket expenses. The Lender shall retain documentation in its files

evidencing those expenses. The Lender shall only be required to pay to the MSF amounts in excess of the amount of recovery needed to fully cover the Lender's loss on an Enrolled Loan.

For the purposes of this Section and Section 5.6, the Lender's loss on an Enrolled Loan may include loss of principal up to the enrolled amount and up to 90 days accrued interest on the enrolled principal balance.

Section 5.6. Subrogation.

- (a) If the payment of a Claim pursuant to Section 5.4 has fully covered the Lender's loss on an Enrolled Loan, or if the payment of a Claim pursuant to Section 5.4, when combined with any recovery from the Borrower, has fully covered the Lender's loss, the MSF, upon its request, shall be subrogated to the rights of the Lender with respect to any collateral, security or other right of recovery, in connection with the loan, which has not been realized upon by the Lender. The Lender thereafter shall assign to the MSF any right, title or interest to any collateral, security, or other right of recovery in connection with the loan. If such assignment has been made, the MSF shall not be required to undertake any obligations of the Lender pursuant to its loan documents, except for any obligations directly related to the exercise by the MSF of its assigned rights of recovery in connection with the loan. The Lender agrees that it will fulfill any other obligations it may have under the loan documents in the same manner and to the same degree as required had the assignment not been made. The Lender shall provide the MSF with all reasonable assistance thereafter as the MSF may request in proceeding with respect to any such collateral, security or other right of recovery, except that such reasonable assistance shall not require the Lender to incur any out of pocket expenses. Any funds received by the MSF as a result of enforcement actions taken with respect to any such collateral, security or other right of recovery shall be deposited by the MSF in the Reserve Fund, less any out of pocket expenses incurred by the MSF in taking the enforcement actions.
- (b) If the MSF determines that it desires to exercise its right of subrogation in connection with an Enrolled Loan, and would be entitled to exercise such right except for the fact that the Lender's loss has not been fully covered, the MSF, at its option, may pay, from funds in the Reserve Fund, an amount sufficient to cover the Lender's loss, notwithstanding the fact that such payment may cover a principal amount not covered under the Program or not included in the Lender's Claim. Upon making such payment pursuant to this subsection, the MSF shall be subrogated to the rights of the Lender in accordance with this Section.

ARTICLE VI

WITHDRAWAL OF EXCESS RESERVE FUNDS

Section 6.1. On or before April 1 of each year, the Lender must file a report with the MSF indicating the number and aggregate outstanding balance of all Enrolled Loans as of the previous December 31. In computing the aggregate outstanding balance of all Enrolled Loans, the balance of any loan shall in no event be considered to be greater than the covered amount of the loan as enrolled. If reports filed pursuant to this Section indicate that for the immediately preceding twenty-four (24) month period the balance in the Reserve Fund continually exceeded the aggregate outstanding balance of all Enrolled Loans, the MSF may withdraw from the Reserve Fund, on or before the last day of the month in which the report is due, an amount not greater than the amount by which the reserve Fund balance exceeded the aggregate outstanding balance of all Enrolled Loans as of the most recent report, unless the Lender has provided to the MSF adequate documentation that at some time during such twenty-four (24) month period, the aggregate outstanding balance of all Enrolled Loans exceeded the balance then in the Reserve Fund.

Section 6.2. If the MSF is entitled to withdraw funds from the Reserve Fund pursuant to Section 6.1, but the Lender's report pursuant to Section 6.1, which report in combination with prior consecutive reports demonstrates the MSF's right to withdraw, is not timely filed with the MSF, the MSF shall have fifteen (15) days from its actual receipt of such report to withdraw such funds.

If such report is not filed within thirty (30) days of its original due date, the MSF may withdraw from the Reserve Fund, based on the MSF's determination from an inspection of the Lender's files pursuant to Section 9.3, an amount not greater than the amount by which the Reserve Fund balance exceeded the aggregate outstanding balance of all Enrolled Loans as of the date for which such report was required to be filed.

ARTICLE VII

TERMINATION

Section 7.1. The MSF may, in its sole discretion, terminate its obligation under this Agreement to enroll loans under the Program. The termination shall be applicable on the effective date specified in the notice of termination, except that the termination shall not apply to any loan which is made on or before the date on which the notice of termination is received by the Lender. However, if the MSF is terminating the enrollment of loans not merely for the Lender but instead for all participating lenders under the Program, the MSF shall provide notice of at least ninety (90) days to the Lender. Any terminations under this Section shall be prospective only, and shall not apply to any loans previously enrolled under the Program, except that if a previously Enrolled Loan is refinanced, the amount covered under the Program shall not be increased beyond the covered amount as previously enrolled.

Section 7.2. After a termination pursuant to Section 7.1, if the balance of the Reserve Fund is reduced to zero, this Agreement shall automatically terminate.

ARTICLE VIII

PLEDGE OF THE RESERVE FUND

The MSF pledges the funds in the Reserve Fund to be available to pay Claims pursuant to Section 5.4. The MSF further pledges that the Lender shall have a first security interest in the funds in the Reserve Fund to pay Claims pursuant to Section 5.4 and the MSF will not encumber or pledge the funds to any other party. This pledge does not, however, diminish the ownership or control of the Reserve Fund granted to the MSF in Section 5.2, and it shall not affect the MSF's right to withdraw funds from the Reserve Fund pursuant to Section 5.2 or Article VI.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Amendments to Agreement. The MSF may, with at least forty-five (45) days' notice to the Lender, amend any provision of this Agreement. However, in the absence of the consent of the Lender, the amendment shall be not applicable to loans made prior to the effective date of the amendment nor diminish Lender's rights with respect to funds in the Reserve Fund before the amendment.

Section 9.2. Information. The Lender shall provide the MSF with the information regarding its participation in the Program as the MSF may reasonably require.

Section 9.3. Inspection of Files. Upon notice to the Lender, the MSF may inspect the files of the Lender relating to any loans enrolled under the Program, during normal business hours of the Lender. The MSF will not copy or extract any information from such files unless (a) the information is eligible for protection from disclosure pursuant to the Act, in which case the MSF agrees to invoke the confidentiality provisions of the Act or (b) if such information cannot be protected, the consent of the Borrower has been obtained. Notwithstanding the foregoing, this Section is not intended to limit or preclude the ability of the MSF to exercise its right of subrogation, to withdraw funds from the Reserve Fund pursuant to Section 6.2, or to defend itself in any legal action commenced against the MSF by the Lender or any Borrower.

Section 9.4. Compliance with Applicable Law. The Lender shall comply with all applicable state and federal laws, rules and regulations.

Section 9.5. Limitation of Rights. This Agreement shall be for the exclusive benefit of the Lender and the MSF, and shall not be construed to give any other person any legal or equitable right, remedy or claim with respect to the Agreement.

Section 9.6. Severability. If any clause, provision or section of this Agreement is held illegal or invalid by any court, the invalidity shall not affect any of the remaining clauses,

provisions or sections of this Agreement and this Agreement shall be construed and enforced as if the illegal or invalid clause, provision or section had not been in the Agreement.

Section 9.7. Notices. All notices, certificates, requests or other communications shall be sufficiently given when delivered by messenger, by professional courier service or by registered or certified mail postage prepaid, return receipt requested, addressed as follows:

If to the MSF: Michigan Strategic Fund
300 N. Washington Square
Lansing, Michigan 48913
Attention: Capital Access Program

If to the Lender: _____

Section 9.8. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 9.9. Reports of Regulatory Agencies. The Lender consents to the transmittal to the MSF, by any financial institutions regulatory agency of the federal or state governments, any information directly relating to the Lender's participation in the Program. To the extent permitted by law, the MSF shall hold any information acquired pursuant to this Section confidential.

Section 9.10. No Personal Liability. No member, officer or employee of the MSF, including any person executing this Agreement, shall be liable personally under this Agreement or subject to any personal liability for any reason relating to the execution of this Agreement or the Program.

Section 9.11. Collateral. Except upon the exercise of the MSF's right of subrogation as set forth in Section 5.6, the MSF shall have no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the Program and, thus, MSF's consent is not necessary for any amendment to the Lender's loan documents. This Section shall not, however, permit Lender to modify any its obligation to make payments to the Reserve Fund pursuant to Section 5.5.

Section 9.12. Due Diligence. Within the context of the objectives of the Program, the Lender agrees to exercise reasonable care and diligence in the making and collection of loans under the Program.

Section 9.13. Captions. The captions in this Agreement are of convenience only and in no way limit the scope of intent of any provision of this Agreement.

Section 9.14. Interpretation. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan.

Michigan Strategic Fund

By: _____

Title: _____

Lender

By: _____

Title: _____

MICHIGAN STRATEGIC FUND
SMALL BUSINESS CAPITAL ACCESS PROGRAM

EXHIBIT 1

BORROWER'S REPRESENTATIONS REGARDING RESERVE FUND

The undersigned borrower (the "Borrower") acknowledges:

(Please check box after reading each paragraph)

- (a) that the loan to be made by (Lender) _____ to the Borrower will be filed for enrollment by the Lender in the Small Business Capital Access Program (the "Program"), a program established by the Michigan Strategic Fund (the "MSF"), an agency of the State of Michigan;
- (b) that the purpose of the Program is to assist the Lender in making loans that might otherwise not qualify for a loan from the Lender and to provide financing for Michigan small businesses and promote economic development in the state of Michigan;
- (c) that as a condition of having the loan filed for enrollment in the Program, the Borrower is required to pay a non-refundable premium charge to an administrative account called the Reserve Fund, which Reserve Fund is established by the Michigan Strategic Fund to help cover losses that the Lender may sustain on loans enrolled in the Program; and
- (d) that the Borrower's payment of its non-refundable premium charge will be collected by the Lender for transmittal to the Reserve Fund, and that other payments or transfers will be made to the Reserve Fund by the Lender and the Michigan Strategic Fund.

The Borrower represents that:

(Please check box after reading each paragraph)

- (a) the Borrower is a Small Business as defined in Article I of this Agreement.
- (b) the Borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, which is authorized to conduct business in the State of Michigan.
- (c) the proceeds of the loan will be used for an endeavor related to industrial, commercial, or agricultural enterprise, or any combination thereof, within the State of Michigan.
- (d) the Borrower is not an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender, or a related interest of any such executive officer, director, principal shareholder or member of the immediate family. For the purpose of this provision, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" shall refer to the same relationship to the Lender, whether or not the Lender is a member bank, as the relationship specified for those terms in connection with member banks in Part 215 of Title 12 of the Code of Federal Regulations, including amendments of such Part 215 which may be made from time to time.

The Borrower covenants that the proceeds of this loan will not be used for:

(Please check box after reading each paragraph)

- (a) the development of a stadium or arena for use by a professional sports team.
- (b) to finance the construction or purchase of residential housing.
- (c) to finance Passive Real Estate Ownership.
- (d) the development of a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or property associated or affiliated with the operation of either type of casino described in this subdivision, including, but not limited to, a parking lot, hotel, motel, or retail store.
- (e) the provision of money to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this subdivision, if a person is a business entity, person includes affiliates, subsidiaries officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.
- (f) the provision of money to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.
- (g) the provision of money to a business enterprise to induce qualified businesses or small business to leave this state.
- (h) the provision of money that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.
- (i) the provision of money to a corporation or an affiliate of the corporation who is incorporated in a tax haven country after September 11, 2001, while maintaining the United States as the principal market for the public trading of the corporation's stock.

The Borrower covenants that it has no, and has not been promised or told by anyone that it has any, legal, beneficial or equitable interest in the aforementioned non-refundable premium charges or any other funds credited to the Reserve Fund, and waives any right, claim or interest to any and all such funds paid or credited to the Reserve Fund.

Borrower's Signature

Date

MICHIGAN STRATEGIC FUND
SMALL BUSINESS CAPITAL ACCESS PROGRAM

EXHIBIT 2

NOTICE TO BORROWER

This notice is provided to borrowers who may receive a loan from a financial institution under the Small Business Capital Access Program of the Michigan Strategic Fund, a State of Michigan agency.

The purpose of this program is to assist financial institutions to make loans to enhance financing availability for small businesses in Michigan for the purposes of economic development. The program utilizes a special loss reserve to assist the lender in covering losses from a portfolio of loans that a lender makes under the program. The borrower pays a premium charge to the reserve, which is matched by a financial institution premium payment to the reserve. The Michigan Strategic Fund will then match the combined total of the Borrower's payment and the financial institution's payment.

It is important to emphasize that the loan is a private transaction between the financial institution and the borrower. While the program may assist a lender in being able to take more risk than normal, it is important to understand that it is still the financial institution that is bearing the risk of the loan. The Michigan Strategic Fund is not a party to the loan and plays no role at all in the lender's decision regarding whether or not to make the loan, or in the setting of the interest rate, fees, duration, or any other terms or conditions of the loan. The financial institution's rights and remedies are delineated in the loan contract and in law applicable to any financial institution financing. The Michigan Strategic Fund plays no role in any decision by the financial institution with respect to enforcing the financial institution's rights under the loan contract.

While the purpose is intended to assist the financial institution in providing you with access to financial institution financing, you should understand that it is likely to be more expensive for the borrower than would be the case with a conventional financial institution loan. Not only does the borrower make a payment to the reserve, but it is expected that the financial institution may, in some manner, recover from the borrower the cost of the financial institution's payment into the reserve.

MICHIGAN STRATEGIC FUND
SMALL BUSINESS CAPITAL ACCESS PROGRAM

EXHIBIT 3

LOAN FILING FORM

1. Name of Lender: _____
2. Lender ID #: _____
3. Lender Loan #: _____
4. Date Loan Contract Entered into: _____
5. Name and Address of Borrower: _____
6. County Location of Borrower: _____
7. NAICS and/or SIC Code: _____
8. Primary Business Activity of Borrower: _____
9. Covered Loan Amount: _____
10. Loan Type (Please check one): Term _____ Line of Credit _____ Other _____

Please fill out 11 – 13 only if refinancing a program loan

11. Previous Covered Loan Amount: _____
12. Balance Immediately Prior to Refinancing: _____
13. New Total Covered Loan Amount: _____

14. Current Number of Employees in Michigan: _____
15. Borrower's Estimate of Jobs Created in Michigan as a Result of this Loan: _____
16. Borrower's Estimate of Jobs Retained in Michigan as a Result of this Loan: _____
17. Current Annual Sales of Borrower: _____
18. Total Amount of Borrower Plus Lender Payment to Reserve Fund: _____

In filing this loan for enrollment, the Lender makes the representations and warranties specified for the Lender in Section 2.2 of the Agreement.

Authorized Signature: _____ Date: _____

Name and Title: _____

MSF USE ONLY

% Borrower/Lender Payment: _____

Verify Borrower/Lender Payment Received: _____

MSF Matching Payment: \$ _____

Signed: _____

Date: _____

MICHIGAN STRATEGIC FUND
SMALL BUSINESS CAPITAL ACCESS PROGRAM

EXHIBIT 4

CLAIM FORM

1. Name of Lender: _____
 2. Lender ID #: _____
 3. Name of Borrower/Loan: _____
 4. Original Amount of Enrolled Loan: _____
 5. Outstanding Balance of Loan: _____
(Immediately prior to charge-off)
 6. Claim Details
 - a. Principal: _____
 - b. Accrued Interest (up to 90 days): _____
- Total Amount of Claim: _____

The completed Claim Form, along with proof that the above loan has been charged off, should be submitted to:

The Small Business Capital Access Program
Michigan Strategic Fund
300 N. Washington Square
Lansing, Michigan 48913

If submitted by fax: 517/241-5640

Authorized Signature: _____

Name and Title (Printed): _____

Date: _____