

***SSBCI Capital Access Program
Borrower's Certification***

Borrower: _____ **EIN:** _____

These assurances reference Section 3005(e)(7) and Section 3011 (c)(2) of the *Small Business Jobs Act of 2010*.

The Borrower hereby certifies the following:

1. The Borrower is an entity with 250 or less employees in Virginia and fewer than 500 employees overall;
2. The loan proceeds will be used for a "business purpose". A business purpose includes, but is not limited to, startup costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovations or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities, and lobbying activities as defined in Section 3 (7) of the Lobbying Disclosure Act of 1995, P. L. 104-65, as amended.
3. The loan proceeds will not be used to:
 - a. Eliminate the bank's requirement for collateral or the principal's personal guaranty, or
 - b. Finance passive real estate investment, purchase of residential housing, real estate construction or development, or
 - c. Refinance a Lender's existing debt, except that if there is additional debt added to the refinance amount, the additional principal is eligible for enrollment in the *SSBCI Capital Access Program*, or
 - d. Repay delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
 - e. Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
 - f. To purchase any portion of the ownership interest in the Borrower; or to purchase any portion of the ownership interest in any company, including 100% interest; or
 - g. To purchase goodwill, or
 - h. To finance the unguaranteed portion of SBA-guaranteed loans or other federally guaranteed loans.
 - i. To provide financing to a religious establishment unless the proceeds of the loan are used only for a "business purpose." A "business purpose" does not include an explicitly religious purpose, and the proceeds of the loan to a religious establishment may not be used for the purposes of supporting, assisting, or furthering an explicitly religious purpose, including, but not limited to, worship, religious instruction, or proselytization.
4. The Borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity (including a state-designated charitable, religious or other non-profit or eleemosynary institution or faith-based organization), which is authorized to conduct business in the Commonwealth of Virginia, and has secured or made application for all applicable licenses or permits needed to conduct its business.
5. The Borrower is not:
 - a. An executive officer, director, or principal shareholder of the Lender; or
 - b. A member of the immediate family of an executive officer, director, or principal shareholder of the Lenders; or
 - c. A related interest of such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these 3 Borrower restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a Lender as the relationship described in part 215 of title 12 of the *Code of Federal Regulations*, or any successor to such part.

- d. A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities or the business or,
- e. A business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company certified as a *Community Development Financial Institution*; or
- f. A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number or participants; or
- g. A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operations a motel that knowingly permits illegal prostitution); or
- h. A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.



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6. The Borrower authorizes the Lender to report to the VSBFA certain loan information as the VSBFA may reasonable require.
7. The *SSBCI National Standards for Compliance and Oversight* issued by the U.S. Treasury requires that the Commonwealth of Virginia must obtain a sex offender certification that covers each Principal

As required by Section 3011(c)(2) of the *Small Business Jobs Act of 2010*, the private entity hereby certifies to the Commonwealth of Virginia that no Principals of the private entity have been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).
National registry is at <http://www.nsopw.gov/Core/Portal.aspx>.

For the purposes of this Certification, "Principal" means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the private entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the private entity.

Borrower's Employment Information and Expected Job Creation or Retention:

Full-Time Existing Jobs Located in Virginia _____ #Full-Time Existing Jobs Located Outside of Virginia _____
 # Full-Time Existing Jobs Saved as a result of this Financing _____ # Full-Time Equivalent Jobs Created as a result of this Financing _____
 Average Hourly Wage Rate: \$ _____

Government Monitoring Data: I do not wish to provide this information

Sex: Female Male **Ethnicity:** Hispanic or Latino Not Hispanic or Latino

Woman-Owned Business: Yes No **Minority-Owned Business:** Yes No **Veteran-Owned Business:** Yes No

Race: American Indian or Alaska Native Asian White Black or African American Native Hawaiian or Other Pacific Islander

Authorization and Certification:

The undersigned hereby certifies that all information provided in support of this *SSBCI Capital Access Program* Borrower's Certification is true to his/her best knowledge, and is submitted for the purpose of obtaining financial assistance from the VSBFA.

VSBFA is a political subdivision of the Commonwealth of Virginia all information submitted with this application may be subject to a Freedom of Information Act request. Applicant businesses and applicant Industrial or Economic Development Authorities certify that they do not discriminate against employees or applicants for employment.

The Borrower agrees to provide VSBFA with economic development information (i.e. job creation, wage rates, investment, and revenues) as VSBFA may reasonable request while the loan remains outstanding.

Borrower: _____ **Date:** _____

By: _____ **Title:** _____

Guarantor: _____ **Date:** _____

Guarantor: _____ **Date:** _____