



### CDC / BORROWER AGREEMENT

This CDC/Borrower Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Greater Texas Capital Corporation ("GTCC") and \_\_\_\_\_ ("Borrower") in connection with a proposed Small Business Administration 504 loan in the original principal amount of \_\_\_\_\_ (the "Loan"). **It is imperative that all information requested for the application is provided by the Third Party Lender and Borrower as quickly as possible in order to complete the application in a timely manner.**

**GTCC is a Certified Development Corporation that underwrites, packages, and submits to the Small Business Administration ("SBA") loans for approval under the SBA 504 loan program. After the loan closes and funds, GTCC services said loan for the SBA.**

GTCC's loans have terms of either ten (10), twenty (20), or twenty-five (25) years **(circle one)**.

**Attention:** You will have **two** permanent loans: 1) Third Party Lender Loan (first lienholder), and 2) SBA 504 Loan. This Disclosure Statement is being provided to you as a good faith estimate of fees and rates associated with closing your SBA 504 Loan. These fees are **separate** from any fees you pay to the participating Third Party Lender.

#### **Processing Fee:**

In accordance with SBA regulations, GTCC charges a one-time processing fee for packaging the loan for submission, gaining SBA approval, and providing assistance in closing and funding of the loan. This processing fee is equal to one and one-half percent (1.5%) of the net proceeds of the debenture loan (SBA/CDC portion). A \$2,500.00 deposit will be collected prior to processing the application. Two-thirds (2/3) of the processing fee (less the deposit) will be collected by GTCC when the Terms & Conditions for Debenture (SBA Loan Approval) is issued by SBA. The remaining one-third (1/3) of the processing fee will be paid at the closing of the SBA 504 Permanent Loan.

- If the CDC or SBA declines the application and the decline cannot be mitigated or successfully overturned, then the deposit will be refunded in full within ten (10) business days after a decline, including any period for reconsideration.
- If SBA approves the Loan, the deposit may be applied toward the CDC processing fee described above and in 13 CFR § 120.883.
- If the Borrower withdraws its Loan application at any time before SBA issues the Terms & Conditions, the CDC may deduct its reasonable and necessary costs incurred in packaging and processing the Loan application. Such costs must be documented and cannot be a percentage of the Loan. Any remaining deposit balance must be remitted to the Borrower within ten (10) business days of the withdrawal.

**Please indicate your understanding and agreement to the foregoing by initialing below.**

\_\_\_\_\_  
(Borrower's Initials)

\_\_\_\_\_  
(GTCC's Initials)

GTCC will package and underwrite the Loan, and then the Loan application will be presented to GTCC's Loan Committee and Board of Directors for approval before it is submitted to the SBA.

Provided that the Loan Committee of the Board of Directors of GTCC conditionally approves the Loan, it will then be forwarded for review by the SBA. Borrower understands that the SBA loan officers are the final decision makers as to whether the Loan is approved. (Borrower also understands that GTCC cannot in any way approve the Loan as a final approval regarding credit or eligibility; rather, this is the SBA's sole responsibility.)

### **Ongoing Servicing Fees**

Servicing, Guaranty, and Participation Fees – Monthly servicing fees will be paid by the Borrower on the unpaid balance of the Loan. The CDC/SBA note payment amount reported to the Borrower will include the following approximate fees as part of such monthly payment:

- CDC Servicing Fee – 0.625% or 1.00% per annum;
- CSA Servicing Fee – 0.1% per annum; and
- SBA Borrower Guaranty Fee – 0.364% per annum (subject to periodic change by the SBA).

### **THESE PROCESSING FEES ARE INCLUDED IN THE INTEREST RATE QUOTE.**

The net debenture proceeds are the CDC percentage of the total project financed by SBA/CDC. The following loan fees will be paid by the Borrower on the SBA portion of the 504 Loan. All of the fees are financed in the 504 permanent loan at the time the SBA debenture is funded:

- CDC Processing fee 1.50% of the net debenture proceeds identified on page one. This fee will be collected during the loan process, but will be refunded to you upon the sale of the related debenture;
- SBA funding Fee 0.25% of the net debenture proceeds;
- SBA Reserve Account Fee 0.0% of the net debenture proceeds (subject to periodic change by SBA); and
- The underwriting fee is approximately 0.40% of the net debenture proceeds.
- The senior collateral lender ("Third Party Lender") will be charged a one-time participation fee equal to fifty (50) basis points on the Third-Party Lender's senior loan amount. This may be passed on to the Borrower by Third Party Lender through an origination fee at Third Party Lender's discretion.

### **Interest Rates**

The interest rate on ten (10) year 504 loans are based on a "spread" over the five (5) year US Treasury rate, and the interest rate on twenty (20) and twenty-five (25) year loans are based on a "spread" over the ten (10) year US Treasury rate. Any interest rate quoted to the Borrower is for illustration purposes only and will actually be set by SBA on the date of the debenture sale (loan funding) which is usually forty-five (45) days after the execution of the documents for the SBA 504 Permanent Loan. The SBA 504 Permanent Loan will not be funded until the debenture sale. The participating lender may establish its own interest rate, provided that the rate is legally reasonable and reflects the prevailing level of interest rates in the market area at the time for loans of similar risk, maturity, and location.

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**Fees to be paid by Borrower on the date of the SBA 504 Permanent Loan closing:**

- **Attorney Fees / Document Preparation:** The Borrower will be required to pay approximately \$3,500.00 in attorney's fees and closing costs for the preparation and filing of the SBA 504 Permanent Loan documents. (Borrower understands that such an amount is an estimate and is subject to change due to the complexity of the project.) Approximately forty-five (45) days after the loan closing, these fees will be rolled into the SBA 504 Permanent Loan debenture, and the fees paid will be refunded to the Borrower.
- **Title Insurance:** Total cost of this insurance will vary. This cost is set by Texas State Law and is based on the size of your loan. As a guideline, the following list shows current policy premium estimates before any discounts or endorsements.

The below chart reflects the estimated title premium corresponding to each SBA 504 Loan Amount.

<b>SBA 504 Loan Amount</b>	<b>Estimated Title Premium</b>
<b>Up to \$500,000.00</b>	<b>Up to \$2,940</b>
<b>\$500,001 - \$1,000,000</b>	<b>\$2,941 - \$5,575</b>
<b>\$1,000,001 - \$2,000,000</b>	<b>\$5,576 - \$9,905</b>
<b>\$2,000,001 - \$3,000,000</b>	<b>\$9,906 - \$14,235</b>
<b>\$3,000,001 - \$4,000,000</b>	<b>\$14,236 - \$18,565</b>
<b>\$4,000,001 - \$5,000,000</b>	<b>\$18,566 - \$22,895</b>

- Note: You will pay this cost plus any other title charges up front at the closing table. Title Insurance costs will not be refunded to you. (Title Insurance is not required for equipment-only loans).

**Loan Funding**

The funding of the Loan will not occur at closing. Funding typically occurs approximately forty-five (45) to sixty (60) days after the closing of the Loan provided all requirements and conditions of GTCC and those set forth in SBA's Terms & Conditions relating to the Loan have been satisfied. It is our desire to close the SBA 504 Permanent Loan in a timely manner. **However, it is imperative that all information needed to close the debenture is provided by the third-party lender and Borrower on a timely basis in order to meet the Loan closing.**

Borrower hereby acknowledges and agrees that the funding of the Loan is hereby contingent on providing any and all documentation, including but not limited to financial or business documentation, requested by GTCC, SBA, the first lienholder, and any title company involved in the Loan, or their respective officers, directors, attorneys, successors or assigns.

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(GTCC's Initials)

### **Automatic Debit**

The SBA requires a payment program whereby the Borrower's 504 loan payments are automatically debited around the first of each month from the Borrower's bank account.

### **Life Insurance**

Life insurance may be required if the Borrower is a sole proprietorship or single-member LLC or does not have an adequate management succession plan in place. The CDC will evaluate each situation based on SBA policy and guidelines and determine an appropriate amount not to exceed the debenture amount.

### **Prepayment**

Payment of the entire outstanding balance may be made prior to the maturity date but no partial prepayments may be made. Any prepayment during the first half of the stated term must be accompanied by a prepayment premium which will be a declining percentage of the debenture interest rate applied to the outstanding principal balance of the note. A schedule of the dollar amount of the premium and the semi-annual payment dates will be provided to the Borrower after the funding of the Loan. **In order to process a request for prepayment you will be required to provide written notification of at least forty-five (45) days.**

### **Child Support**

The Borrower will certify that no principal of the small business who owns at least fifty percent (50%) of the voting interest of the company is delinquent more than sixty (60) days under the terms of any administrative order, court order, or repayment agreement that requires payment of child support.

### **Assumption of Loan**

The Loan may be assumed by another eligible borrowing entity, subject to SBA guidelines, analysis and approval. A fee of one percent (1.0%) of the outstanding principal balance will be required, and the Borrower must pay all costs and expenses associated with the assumption.

### **Job Requirements**

To qualify for an SBA 504 loan, your business must create one full-time job for every \$90,000 of SBA funds. For manufacturers, the requirement is one full-time job for every \$140,000.00 of SBA funds. These requirements may be waived if certain public policy goal objectives are met.

Please indicate your understanding and agreement to the foregoing by initialing below.

\_\_\_\_\_  
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\_\_\_\_\_  
(GTCC's Initials)

## **Occupancy Requirements**

### **Loan Proceeds for Purchase or Renovation of an Existing Building**

For Loans not involving an eligible passive company ("EPC"), the Borrower must occupy at least fifty-one percent (51%) of the total rentable property and one hundred percent (100%) of the renovated rentable property.

For Loans involving an EPC, the Borrower must lease one hundred percent (100%) of the total rentable property to the operating company ("OC"), and the OC may sublease up to forty-nine percent (49%) of the rentable property.

### **Loan Proceeds for New Construction**

For Loans not involving an EPC, the Borrower must immediately occupy at least sixty percent (60%) of the total rentable property, may lease long-term no more than twenty percent (20%) of the rentable property and temporarily lease an additional twenty percent (20%) of the rentable property with the intention of using some of the additional twenty percent (20%) within three (3) years and all of it within ten (10) years.

For Loans involving an EPC, the Borrower must lease one hundred percent (100%) of the total rentable property to the OC, and the OC must immediately occupy at least sixty percent (60%) of the rentable property, may lease long-term no more than twenty percent (20%) of the rentable property and temporarily lease an additional twenty percent (20%) of the rentable property with the intention of using some of the additional twenty percent (20%) within three (3) years and all of it within ten (10) years.

For Loans involving an EPC, **the rent or lease payments cannot exceed the amount necessary to make the loan payment to GTCC and the related Third Party Lender**, and an additional amount to cover the EPC's direct expenses of holding the property, such as routine maintenance, insurance, and property taxes.

**Before closing can occur, the required occupancy must be met, and all proper permits must be obtained.**

## **Guarantees**

Any person/entity owning twenty percent (20%) or more of either the small business operating entity or the real estate holding entity will be required to be a guarantor on the Loan. Both spouses must provide a guarantee if their combined ownership of either the EPC or OC is 20% or more. For a non-owner spouse, CDC must require the signature of such spouse on the appropriate collateral documents; however, the non-owner spouse's guaranty secured by jointly held collateral pledged to secure the Loan will be limited to such spouse's interest in such collateral. SBA reserves the right to require any individual to provide full or limited guarantees without regard to ownership.

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**Do-It-Yourself Construction**

Do-It-Yourself Construction with the Borrower acting as its own contractor may be allowed under the following conditions:

1. The Borrower/contractor is experienced in the type of construction or renovations (including carpeting or painting) and has all appropriate licenses;
2. The cost is the same as, or less than, what an unaffiliated contractor would charge as evidenced by two (2) bids on the work; and
3. The Borrower/contractor will not earn a profit on the construction.

**No Adverse Change:**

Prior to the SBA 504 Permanent Loan funding, GTCC must certify to the SBA that (i) there is full compliance with the terms of the related SBA Terms & Conditions for Debenture Guaranty; and (ii) there has been “no significant, un-remedied, adverse change” in the financial condition of the Borrower since the application date. This must be supported by financial records including, but not limited to, current business financial statements and/or tax returns.

**Supplemental Documentation and Servicing Requests:**

As part of GTCC’s ongoing servicing of the Loan, the Borrower will be required to provide additional information and/or documentation in connection with the Loan and related obligors including, but not limited to, proof of insurance, financial statements, tax returns, and other additional servicing documents as will be requested by GTCC during the life of the Loan. Such requests may be required by GTCC as frequently as on a quarterly basis.

Annual financial statements and tax returns on Borrowers and any related guarantor are required to be submitted to GTCC on a timely basis or whenever requested.

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(GTCC’s Initials)

## **Acknowledgments**

Each of the undersigned hereby acknowledges and agrees that any owner of the Loan, its servicers, successors, and assigns, may verify or reverify any information contained in this application or obtain any information or data relating to the Loan, including credit reports or background checks, for any legitimate business purpose through any source, including a source named in this application, a consumer reporting agency, or LexisNexis®. More specifically, the undersigned acknowledge and agree that GTCC or any of its participating lenders are given permission to pull a credit report on the Borrower, any twenty percent (20%) or more owner of the Borrower, or any guarantors on the Loan.

Each of the undersigned hereby acknowledges and agrees that each has received financial support from GTCC through the SBA guaranteed loan program. Each understands that a report will be acquired prior to approval of the SBA loan to determine eligibility for SBA financing. This report is the Credit Alert Verification Reports System (CAIVRS) to determine if any of the individuals or businesses have outstanding Delinquent Federal Debt or Prior Loss caused to the federal government. Each of the undersigned also understands that if the small business defaults on the SBA-guaranteed loan and SBA suffers a loss, the names of the small business and guarantors of the SBA-guaranteed loan will be referred for listing in the CAIVRS database, which may affect his/her/its eligibility for further financial assistance. **Please disclose all prior and current SBA financing at the time of application, including SBA 7(a), 504, PPP (Payroll Protection Program), EIDL (Economic Injury Disaster Loan).**

Borrower understands and acknowledges that it does not have to employ an agent or representative (including the CDC) to assist Borrower with the Loan application.

**If Borrower engages a loan packager, referral agent, broker, accountant, attorney, consultant, or any other party that receives compensation from representing Borrower in connection with the Loan, Borrower must disclose the names of such persons engaged and the fees paid or to be paid to such persons by submission of the Fee Disclosure Form and Compensation Agreement (SBA Form 159).**

In addition to the above limitations, this Agreement is subject to (a) verification that all representations made by the Borrower to GTCC before or after issuance of this Agreement are factual; and (b) verification that the Borrower has complied (and/or is able to comply) with all conditions set forth by GTCC.

*This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable by the parties hereto in Smith County, Texas, where it is stipulated that jurisdiction and venue lies with respect to this Agreement.*

Please indicate your understanding and agreement to the foregoing by initialing below.

\_\_\_\_\_  
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(GTCC's Initials)

### **Confidentiality**

The terms of this Agreement and related financing transactions are confidential and, without the prior written consent of GTCC, may not be disclosed to any person or entity other than (i) by the Borrower to its employees, officers, and directors and Borrower's advisors in connection with the subject Loan transaction, provided that in each case such persons also agree to abide by the confidentiality provisions hereof and (ii) by the Borrower as may be required by applicable law.

Notwithstanding the foregoing, GTCC may disclose the general business relationship between Borrower and GTCC to any third party without prior approval, and Borrower expressly agrees to and consents to such disclosure by GTCC. Such disclosure includes the use of the Borrower's name, likeness, or logo ("Borrower's Identity").

By way of example and not limitation, GTCC may mention its relationship to or with Borrower and may use Borrower's Identity, directly or indirectly, in conjunction with any other clients of GTCC, any client list, advertisements, websites, news releases or releases to any professional or trade publications without the aforementioned approval of Borrower or any other party.

### **Indemnification**

BORROWER, ITS AFFILIATES AND ITS RESPECTIVE OFFICERS, SHAREHOLDERS, AGENTS, DIRECTORS, AND EMPLOYEES (EACH "AN INDEMNIFIER") AGREE TO INDEMNIFY AND HOLD HARMLESS GTCC, ITS AFFILIATES AND ITS RESPECTIVE OFFICERS, SHAREHOLDERS, AGENTS, DIRECTORS, AND EMPLOYEES (EACH, AN "INDEMNIFIED PERSON") FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, DAMAGES AND LIABILITIES TO WHICH ANY SUCH INDEMNIFIED PERSON MAY BECOME SUBJECT ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE RELATED LOAN TRANSACTION, LOAN DOCUMENTS, THE USE OF THE PROCEEDS THEREOF, OR ANY RELATED TRANSACTION OR ANY CLAIM, LITIGATION, INVESTIGATION OR PROCEEDING RELATING TO ANY OF THE FOREGOING, REGARDLESS OF WHETHER ANY INDEMNIFIED PERSON IS A PARTY HERETO, AND TO REIMBURSE EACH INDEMNIFIED PERSON UPON DEMAND FOR ANY REASONABLE LEGAL OR OTHER EXPENSES INCURRED IN CONNECTION WITH INVESTIGATING OR DEFENDING ANY OF THE FOREGOING. THE INDEMNIFIED PERSONS AND THE BORROWER AND/OR INDEMNIFIER WILL COOPERATE TO MINIMIZE THE LEGAL AND OTHER EXPENSES ASSOCIATED WITH ANY DEFENSE AND ANY POTENTIAL SETTLEMENT OR JUDGMENT. NO INDEMNIFIED PERSON SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH ITS ACTIVITIES RELATED TO THIS AGREEMENT, THE RELATED LOAN TRANSACTION, LOAN DOCUMENTS, AND/OR THE USE OF THE PROCEEDS THEREOF.

### **Waivers**

**TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND THE UNDERSIGNED OBLIGORS EACH HEREBY JOINTLY, SEVERALLY AND UNCONDITIONALLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, OR THE ACTIONS OF GTCC IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.**

*Signature page follows.*

Please indicate your understanding and agreement to the foregoing by initialing below.

\_\_\_\_\_  
(Borrower's Initials)

\_\_\_\_\_  
(GTCC's Initials)



**Accepted and acknowledged by:**

\_\_\_\_\_  
(Borrower) Date

\_\_\_\_\_  
(GTCC) Date

**Acknowledged by:**

\_\_\_\_\_  
(Guarantor) Date

\_\_\_\_\_  
(Guarantor) Date