

## AGREEMENT

THIS AGREEMENT is dated as of \_\_\_\_\_ (the "Agreement") is made and entered into by \_\_\_\_\_ (the "Bank") and SBA LOAN EXCHANGE, LLC, a Georgia limited liability company (the "Company").

### RECITALS

Company maintains a database (the "Exchange") of information relating to potential financing opportunities. Bank wishes to access the Exchange for purposes of gaining access to the information included on the Exchange and Company has agreed to provide Bank with such access in accordance with, and subject to, the terms and conditions as set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, undertakings and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Access.** Company hereby grants Bank access to the Exchange upon the terms and conditions hereof.

2. **Process.** The following process shall apply to Bank's actions within the Exchange:

(a) The Exchange will provide Bank with information related to various loan opportunities. In the event Bank chooses a specific opportunity from the Exchange, Bank has seven (7) days from the date thereof to issue a commitment letter to the borrower in connection therewith. If Bank fails to deliver to the borrower a commitment letter for the opportunity identified from the Exchange within said seven (7) day time period the opportunity shall be relisted on the Exchange and Bank shall not longer have rights in and to that opportunity.

(b) Bank may submit loan opportunities to the Company for listing on the Exchange. The Company, in its sole and absolute discretion, may choose to list the opportunity but in no event shall be required to do so.

(c) Any loan opportunity on the Exchange may be removed by Company at any time with or without notice to Bank.

3. **Compensation.**

(a) Upon Bank's closing of a loan identified from the Exchange, Bank shall remit to Company, within five (5) business days of closing, an amount equal to one percent (1%) of the original principal balance of said loan. Said funds shall be in the form of a certified check or wire per Company's request.

(b) In the event of a closing of a loan opportunity placed on the Exchange by Bank, Company shall remit to Bank, within ten (10) business days after Company's notification to the Bank of

the closing of its loan opportunity, a fee in the amount of one half of one percent (0.5%) of the principal amount of said loan.

4. **Request for Information.** Bank agrees to provide Company with updates as to any loan opportunities Bank has selected from the Exchange within two (2) days of Company's request for such information.

5. **Termination.** Company shall have the right at any time, with or without cause and without any advance notice, to terminate Bank's access to the Exchange.

6. **Integration; Modification; Waiver.** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and shall supersede any and all other agreements between the parties with respect to the subject matter hereof. This Agreement may not be changed or modified orally but only by written instrument signed by duly authorized officers or representatives of the parties hereto. No failure of either party to exercise, or delay in exercising, any right hereunder shall operate as a waiver thereof, and no waiver of a right in any one instance shall prevent the exercise of such right in future instances.

7. **Representations and Warranties of Company.** Company hereby makes no representations and warranties as to the validity or correctness of information on the Exchange or the quality of loan opportunities contained on the Exchange. The Company is merely facilitating the exchange of information on the Exchange and does not comment or certify as to the or accurateness or quality of information contained therein. The Bank agrees to hold Company harmless in the event of any loss by Bank in connection with the Exchange or opportunities identified thereon.

8. **Assignment.** Neither this Agreement nor any of the rights and/or duties of either party hereunder may be assigned without the prior written consent of the other, which consent may be withheld by such party in its sole and absolute discretion.

9. **Counterparts.** To facilitate execution, this Agreement may be executed in counterparts, and it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signatures of, or on behalf of each party, or that the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

10. **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement or the applications thereof which can be given effect without the invalid provision or application, and to this end the parties hereto agree that the provisions of this Agreement are and shall be severable. If any provision or provisions of this Agreement shall be held unenforceable or void, this Agreement shall not thereby be terminated, but the parties shall promptly negotiate a replacement provision or provisions designed to remove the terms which caused the original provisions to be unenforceable or void and, insofar as is lawful and commercially reasonable, to achieve their original purposes.

11. **No Partnership or Joint Ventures.** Nothing contained in the agreement shall be construed to make Bank and Company partners or joint ventures or to render any of said parties liable for the debts or obligations of the other, except as expressly provided in this Agreement. Nothing contained herein is intended to confer any benefit upon any third party or make any third party a third party beneficiary of this Agreement.

12. **Limited Liability.** No officers, shareholders, members, managers, partners, owners, directors, employees, servants or agents of Company or Bank or any of the foregoing shall be personally liable for the performance of Company or Bank's respective obligations under this Agreement.

13. **Hold Harmless.** Bank agrees to hold Company, as well as its agents, employees and subcontractors, harmless from any and all actions, causes of actions, claims, liability, damages, costs and expenses in any way arising out of the release of personal information in connection with the Exchange except as may be a result of gross negligence on the part of the Company.

14. **Confidentiality and Nondisclosure.** Bank acknowledges that it will acquire confidential information from the Exchange that may include, but is not limited to, "nonpublic personal information" as that term is defined in 15 U.S.C. 6809 concerning customers (collectively, "Confidential Information") and agrees that it will not use nor disclose any such Confidential Information to any person other than their retained legal or financial advisor(s) or parties to whom such matters would normally be disclosed in the ordinary course of business. Bank represents that it has in place policies and procedures designed to: (1) ensure the security and confidentiality of Confidential Information; (2) protect against any anticipated threats or hazards to the security or integrity of Confidential Information; and (3) protect against unauthorized access to or use of Confidential Information.

15. **Jury Trial Waiver.** Company and Bank hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other in respect of any matter arising out of or in connection with this Agreement.

16. **Binding Effect.** This Agreement shall be binding on the parties hereto, their respective successors and assigns.

17. **Governing Law.** This Agreement will be construed and enforced in accordance with and governed by the laws of the State of Georgia without regard to the conflicts of law provisions or principles thereof.

18. **Legal Fees.** In any legal action relating to this Agreement, the party in whose favor final judgment shall be entered on the substantiality of the claim(s) shall be entitled to receive from the other party all actual costs and expenses of such action (including attorneys' fees and disbursements).

[SIGNATURES TO BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

BANK:

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

COMPANY

SBA LOAN EXCHANGE, LLC

By: \_\_\_\_\_ (SEAL)

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

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