

THIS SAMPLE DOCUMENT SHOWS THE CONTENT OF A TYPICAL CONDITIONAL COMMITMENT

CONDITIONAL COMMITMENT

(Business and Industry and Section 9006 Program)

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|---|---|
| TO: Lender Rural Business Bank | Case No. 43 – 0XX – 0XXXXXXXXXX |
| Lender’s Address 100 Main Street, Ruraltown, OR 90000 | State Oregon |
| Borrower Example, Inc. | Principal Amount of Loan \$2,000,000.00 |

From an examination of information supplied by the Lender and other relevant information, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the United States Department of Agriculture (USDA) hereby agrees that, in accordance with applicable provisions of the regulations, it will execute Form 4279-5, “Loan Note Guarantee,” subject to the conditions and requirements specified in the regulations and herein.

The Loan Note Guarantee fee payable by the lender to USDA will be the amount as specified in the regulations on the date of this Conditional Commitment for Guarantee. The interest rate for the loan is see attached condition #3 % 1/. If a variable rate is used, it must be tied to a base rate agreed to by the Lender and USDA which cannot change more often than quarterly (for Business and Industry) and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower.

A Loan Note Guarantee will not be issued until the Lender certifies that there has been no adverse change in the Borrower’s financial condition, nor any other adverse change in the borrower’s condition, for any reason, during the period of time from USDA’s issuance of this Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee regardless of the cause or causes of the change and whether the cause or causes of the change were within the Lender’s or Borrower’s control. The Lender’s certification must address all adverse changes and be supported by financial statements of the Borrower and its guarantors executed not more than 60 days before the time of certification. As used in this paragraph only, the term “Borrower” includes any parent, affiliate, or subsidiary of the Borrower.

In the event of the Government’s failure to issue a guarantee in a situation where it is found to be in breach, the other party’s remedy is limited to a suit for the guaranteed portion of principal and interest which ultimately remains unpaid.

This agreement becomes null and void unless the conditions are accepted by the Lender and Borrower within 60 days from the date of issuance by USDA.

Except as set out below, the purposes for which the loan funds will be used and the amounts to be used for such purposes are set out in the Application for Loan Guarantee. Once this instrument is executed and returned to USDA no major change of conditions or approved loan purpose as listed on the forms will be considered. Additional Conditions and Requirements including Source and Use of Funds: 2/ **See attached conditions.**

If the conditions set forth in this commitment are not met within 365 days from the date of this commitment, USDA reserves the right to discontinue the processing of the application and terminate its commitment. If USDA decides to terminate this commitment USDA will provide the Lender a written notice at least 14 days prior to termination. 3/

UNITED STATES OF AMERICA

By: _____
JEFFREY D. DEISS
Business & Cooperative Program Director, Oregon
(Title)

Date: XXXXXXXXXX

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0017 and 0570-0050. The time required to complete this information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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ACCEPTANCE OF CONDITIONS

To: USDA 4/

Rural Business Bank, the lender, certifies that by accepting this Conditional Commitment for a \$2,000,000 guarantee, the lender understands that the intent of RD Instruction 4279-B, §4279.181(m), is that no adverse change may occur during the period of time from the Agency issuance of the Conditional Commitment to the issuance of the Loan Note Guarantee relating to Example, Inc. (borrower), regardless of the cause or causes of the change and whether the change or cause(s) of the change were within the lender's or borrower's control.

The conditions of this Conditional Commitment for Guarantee including attachments are acceptable and the undersigned intends to proceed with the loan transaction and request issuance of a Loan Note Guarantee within _____ days.

Rural Business Bank

(Name of Lender)

By:

Date: _____

(Signature of Lender)

Date: _____

(Signature of Borrower)

- 1/ Insert fixed interest rate or, if authorized by regulations, variable interest rate followed by a "V" and the appropriate loan subsidy rate, if applicable.
- 2/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space; otherwise, insert "NONE".
- 3/ USDA will determine and insert the date by which conditions should be met.
- 4/ Return completed and signed copy of this form to USDA issuing office.

EXAMPLE, INC. 43 – 0XX – 0XXXXXXXXXX B&I

\$2,000,000.00 Guaranteed Business & Industry (B&I) Loan Note Guarantee

Approval Date: XXXXXX

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1. Purpose. The purpose of the loan is to provide long-term, permanent financing for the development of a 10-acre commercial property at 123 NW Business Way in Ruraltown, Oregon, to be used as a business facility. Funds will be used for real estate improvements (about \$900,000), the refinance of debt owed to Big City Bank (about \$1,025,000), and fees & costs associated with this loan (about \$75,000). These funds are to be matched by contributions from the borrower of approximately \$150,000.
2. Guarantee. An 80.0% guarantee will be issued.
3. Rates & terms. The term of the loan is to be 30 years. The interest rate is to be established by the formula: IR = Prime rate (as published in The Wall Street Journal, West Coast Edition) + 1.5. The interest rate is to be fixed. The loan is to be fully amortized with monthly installments.
4. Collateral. This loan is to be secured by a first deed of trust (including assignment of rents) on the 10-acre commercial property being improved with loan funds at 123 NW Business Way in Ruraltown, Oregon. All taxes and assessments are to be current at loan closing.
5. Guarantors. In addition to the full liability of Example, Inc., John and Mary Example are to pledge full unconditional personal guaranties for the loan using Form RD 4279-14, "Unconditional Guarantee".
6. Hazard insurance. Hazard insurance naming the lender as beneficiary will be maintained in the lesser amount of the loan balance or the security property's depreciated replacement value.
7. Key person life insurance. Key person life insurance naming the lender as beneficiary will be maintained on Mary Example in the amount of \$300,000.
8. Loan agreement. A loan agreement between the lender and borrower will be executed which conforms to RD Instruction 4279-B, § 4279.161(b)(11) and the draft agreement submitted to USDA Rural Development for this B&I loan with the following additions:
 - a. A copy of this B&I Conditional Commitment with these conditions will be appended to the lender's loan agreement as supplemental covenants to that loan agreement.
 - b. The borrower must obtain compiled financial statements annually, prepared by an independent CPA in accordance with Generally Accepted Accounting Principles, and submit them to the lender within 90 days of the business's fiscal year-end.
 - c. All guarantors of this loan must provide current financial statements when deemed appropriate by the lender or USDA.
 - d. Indicate any limitations on purchase or sale of equipment and fixed assets.
 - e. Indicate any restrictions concerning consolidations, mergers, or other circumstances.
 - f. Indicate any prohibition against assuming the liabilities or obligations of others.

EXAMPLE, INC. 43 – 0XX – 0XXXXXXXXXX B&I

\$2,000,000.00 Guaranteed Business & Industry (B&I) Loan Note Guarantee

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- g. Indicate any limitations on selling the business without concurrence of the lender.
 - h. Indicate any minimum working capital or current ratio requirement.
 - i. Indicate any maximum debt to net worth ratio.
 - j. Indicate any limitations on the compensation of officers and owners.
 - k. Indicate any restrictions on dividend payments.
9. Closing the guarantee. Prior to issuance of the guarantee, the lender will provide USDA Rural Development with the following:
- a. A guarantee fee of \$18,035.20 (= \$1,127,200 x 80% x 2%)
 - b. This guarantee will be governed by the previously executed Form RD 4279-4, "Lender's Agreement", dated June 27, 2006.
 - c. Certification that the conditions set forth in RD Instruction 4279-B, § 4279.181 have been met.
 - d. A copy of the executed loan and security instruments (including any Form RD 4279-14 when required), along with documentation of lien position and evidence of the hazard and key person life insurance coverage required.
 - e. A current (not more than 60 days old) Balance Sheet for the business prepared in accordance with Generally Accepted Accounting Principles. This balance sheet must be prepared and dated subsequent to loan closing. The business must have a tangible balance sheet equity position of no less than 10.00% at the time the Loan Note Guarantee is issued.
 - f. A copy of all required building permits, with sign-offs, and Notice of Completion.
10. Annual renewal fee. To maintain the enforceability of the guarantee as to the lender, a fixed annual renewal fee must be paid to USDA Rural Development in an amount equal to 0.20% (= 0.25% fee x 80.0% guaranteed portion) of the loan's principal balance as of each December 31st. This fee is due annually by January 31st and if not received by April 1st may at USDA's discretion result in cancellation of the guarantee as to the lender. (Holder's rights will continue in effect as specified in the Loan Note Guarantee and Assignment Guarantee Agreement.) Any delinquent annual renewal fee will bear interest at the note rate and will be deducted from any loss payment due the lender. The first annual renewal fee will be due on the first January 31st after the Loan Note Guarantee is issued. However, in the event that the Loan Note Guarantee is issued between October 1 and December 31, the first annual renewal fee payment will be due January 31st of the second year following the date the Loan Note Guarantee is issued.