

EXPORT-IMPORT BANK OF THE UNITED STATES



WORKING CAPITAL GUARANTEE PROGRAM MANUAL ("Manual")

**To be used in conjunction with the Master Guarantee Agreement
and related documents effective on or before October 1, 1999.**

PREFACE

This Manual provides an overview of the Working Capital Guarantee Program ("WCGP" or "Program") and should be used in conjunction with the Master Guarantee Agreement ("MGA") and other legal documents that govern transactions under the Program. The MGA is the primary document that governs the relationship between the Export-Import Bank of the United States ("Ex-Im Bank") and a guaranteed lender under the Program. Unless otherwise defined, the capitalized terms used in this Manual shall have the meanings set forth in the MGA. In the event of any conflict between this Manual and the provisions of the MGA, or any other documents described in Section VIII of this Manual, the MGA and/or other such documents shall control. This Manual supersedes the WCGP Instructions effective April 1, 1996 and any amendments and addendums thereto.

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EXPORT-IMPORT BANK OF THE UNITED STATES
WORKING CAPITAL GUARANTEE PROGRAM MANUAL

I. INTRODUCTION

Established in 1934, Ex-Im Bank is the official export credit agency of the United States, responsible for assisting in financing and facilitating U.S. exports. During its long history, Ex-Im Bank has developed numerous programs designed to supplement private sector financing. Ex-Im Bank's Guarantee commits the full faith and credit of the Government of the United States of America.

Many small and medium-sized U.S. firms with the potential to export are often unable to access adequate working capital financing. Pursuant to the Export Trading Company Act of 1982, Ex-Im Bank developed the WCGP to meet this need by making loan guarantees available to banks, providers of commercial credit, or other public or private lenders to support their secured short-term working capital loans to small and medium-sized exporters. In order to provide support for a Loan Facility, Ex-Im Bank must determine that a reasonable assurance of repayment exists. Since the inception of the Program, Ex-Im Bank has authorized more than two billion dollars in working capital guarantees, thus facilitating exports and creating and preserving U.S. jobs. In Fiscal Year 1999 alone, \$416 million in WCGP authorizations supported over \$2 billion in export sales.

II. PROGRAM GUIDELINES

A. Eligibility Criteria - Participants under the Program must meet certain eligibility criteria.

- 1. Lenders** - Any bank, provider of commercial credit, or other public or private lender may apply under the Program. In determining the eligibility of a lender, Ex-Im Bank considers many factors, including the lender's financial condition, its knowledge of trade finance, and its ability to manage asset-based loans. Lenders that are new to Ex-Im Bank must submit three years of audited statements or their most recent annual report. In addition, lenders that meet eligibility requirements as set forth in this Manual may be approved by Ex-Im Bank as Priority Lenders and/or Delegated Authority Lenders (see Sections III and IV of this Manual). Such lender status confers expedited processing benefits.

Affiliates of Lenders - Under certain circumstances, Ex-Im Bank's Guarantee may be extended to cover Loan Facilities established by a Lender's affiliate. For further details, please refer to Sections II(B) and VIII(A)(10) of this Manual.

- 2. Borrowers** - Any sole proprietorship, partnership, corporation, or limited liability company that operates as a going concern and currently exports or plans to export may apply for support under the Program.

- a.** Borrowers must be domiciled in the U.S., although ownership by foreign nationals

or foreign entities is acceptable. A borrower may use a foreign sales corporation in connection with its export sales provided that the foreign sales corporation is a co-obligor or guarantor of the Loan Facility.

- b. Borrowers must have a revenue-producing operating history of at least one year and a positive net worth. Start-up and development stage entities are ineligible.
- c. Borrowers cannot have been suspended or debarred from doing business with the U.S. Government, or, if previously suspended or debarred, must provide acceptable evidence of reinstatement.

- 3. **Maximum Amount** - Ex-Im Bank's WCGP is harmonized with the Small Business Administration's (SBA's) Export Working Capital Program. Applications should be submitted to either Ex-Im Bank or the SBA based on the Maximum Amount requested, as follows:

For Loan Facility requests up to and including \$1,111,111, apply to the SBA.

For Loan Facility requests greater than \$1,111,111, apply to Ex-Im Bank.

Please note that the above does not apply to the Underserved Markets Pilot Program (see Section VII(B)(2)) or to transactions that may be approved under Delegated Authority. Delegated Authority ("DA") Lenders may continue to approve and commit Ex-Im Bank's guarantee for Loan Facilities of any dollar amount in accordance with their DA limits, provided they meet the required criteria, as stated in this Manual and in the Delegated Authority Letter Agreement.

- B. **Guarantee Coverage, Risk Retention and Interest Rate** - Ex-Im Bank's Guarantee covers ninety percent (90%) of the principal, accrued interest thereon, and certain collateral protection costs. The Lender must retain ten percent (10%) risk in the Loan Facility. **The Lender is not permitted to separately collateralize its retained 10% risk unless the transaction is processed under Delegated Authority.** (See Section IV(G) of this Manual.) The Lender may assign, transfer, negotiate, sell or participate all or part of its interests and rights in the Loan Facility to an affiliate or subsidiary of the Lender or to any other financial institution, provided that the Lender continues to act as the administrative and collateral agent for such Loan Facility and retains all obligations under the Guarantee with respect to Ex-Im Bank. Any other circumstances wherein the Lender sells, assigns, transfers, negotiates, or participates all or part of its interests and rights in the Loan Facility will require Ex-Im Bank's prior written approval. (See also Section VIII(A)(10) of this Manual.) In the event of a claim, Ex-Im Bank shall pay the Lender 90% of the outstanding principal balance of the Loan Facility. Ex-Im Bank shall also pay the Lender 90% of the accrued interest at the note rate up to the date of claim payment, as well as certain collateral protection costs. Ex-Im Bank does not impose any interest rate ceiling or limitation on Lenders' fees, however, penalty interest and other punitive fees are excluded from Guarantee coverage.

Note: While the WCGP benefits exporters and Borrowers by providing them access to

export financing, the Guarantee protects the Lender. It does not protect the Borrower in the event of non-payment from a foreign buyer.

C. Type and Term of Loan Facility - A Loan Facility can support a single export transaction (“Transaction Specific Loan Facility”) or multiple export transactions (“Revolving Loan Facility” or “Transaction Specific Revolving Loan Facility”).

1. A Transaction Specific Loan Facility is a non-revolving Loan Facility which supports a specifically identified export transaction. While the term of a Transaction Specific Loan Facility generally should not exceed one year, Ex-Im Bank may, on a case-by-case basis, approve a longer Loan Facility Term to allow for an extended production cycle.

2. A Revolving Loan Facility supports either multiple export transactions or a specifically identified export transaction on a continuous basis during the term of the Loan Facility. The term of a Revolving Loan Facility generally should not exceed one year. However, a Revolving Loan Facility may be committed for a term of up to 36 months, provided (i) that the Lender is also committing to provide the Borrower a revolving credit facility in addition to the Revolving Loan Facility for the same term, and (ii) that it is common practice for that Lender to extend loans with such terms.

a. The Facility Fee for a Loan Facility with a term of 36 months will be *pro-rated*, due and payable as shown below. (See Section II(F) regarding Facility Fees.)

| Loan Facility Term | Portion of Fee due up-front | Portion of Fee due at 1 st anniversary | Portion of Fee due at 2 nd anniversary |
|---------------------------------|---------------------------------|---|---|
| Up to and including 12 months | Full Facility Fee | N/A | N/A |
| Over 12 months, up to 24 months | 12-month <i>pro-rata</i> amount | Remainder of Facility Fee | N/A |
| Over 24 months, up to 36 months | 12-month <i>pro-rata</i> amount | 12-month <i>pro-rata</i> amount | Remainder of Facility Fee |

b. For a Revolving Loan Facility with a term of greater than twelve (12) months, the Lender will be responsible for conducting an annual review of the Loan Facility and Borrower, and submitting a summary of such review to Ex-Im Bank.

3. A Transaction Specific Revolving Loan Facility supports one or more specifically identified export transaction(s) on a continuous (or revolving) basis during the Loan Facility Term. The Loan Facility Term for such Loan Facilities will generally not exceed twelve months, however, longer terms may be considered on a case-by-case basis by Ex-

Im Bank, depending on the terms of the subject contract(s) to be financed under such Loan Facility and the length of time needed by the Borrower to fulfill such contract(s). Transaction Specific Revolving Loan Facilities are well-suited to contracts calling for progress payments and/or other interim payments to be made by the foreign buyer to the Borrower.

D. Final Disbursement Date and Maturity of the Loan Facility - The Final Disbursement Date is the last date on which the Lender may make a Disbursement under the Working Capital Guarantee. The Guarantee remains in effect for Disbursements made through the Final Disbursement Date, subject to the terms and conditions of the MGA and related documentation. With the exception of a Disbursement made to fund a drawing under a Letter of Credit (as set forth in the MGA and below), Disbursements made after the Final Disbursement Date are not covered under the Guarantee. The maturity of the Loan Facility is determined as follows:

- 1. A Loan Facility** matures on the first Business Day following the Final Disbursement Date. If the Loan Facility is not renewed or extended, all outstanding amounts are due and payable on that day. A Lender must notify Ex-Im Bank in writing within five Business Days of its determination not to renew the Loan Facility.
- 2. Letters of Credit:** If the Lender makes a Disbursement after the Final Disbursement Date because there has been a draw on a Letter of Credit issued under a Loan Facility, such Disbursement will be covered by the Guarantee unless the Letter of Credit has been cash collateralized or the Lender has been indemnified for such Letter of Credit obligation. To the extent that the Letter of Credit has not been cash collateralized or the Lender otherwise indemnified, coverage under the Guarantee will continue until thirty (30) days past the expiry of the Letter of Credit. Typical scenarios where Guarantee coverage will not continue past the Final Disbursement Date include (but are not limited to): (a) a Letter of Credit extending beyond the Final Disbursement Date for which the Borrower is required to cash collateralize it at 100% of face value in the event the Loan Facility is not renewed at maturity; and (b) a refinancing wherein the takeout lender indemnifies the Lender for any outstanding Letters of Credit that had been issued under the Loan Facility at 100% of the (aggregate) face value(s) of any such Letter(s) of Credit.

E. Application Process - Ex-Im Bank will accept an application for either a Preliminary Commitment from the Borrower or a Final Commitment from the Lender. Each application must contain all of the information requested in the SBA/Ex-Im Bank Joint Application in full and complete form, together with the appropriate non-refundable application fee (\$500 for a Preliminary Commitment, \$100 for a Final Commitment). In reviewing an application, Ex-Im Bank and/or the Lender will determine whether a reasonable assurance of repayment exists.

- 1. Preliminary Commitment Applications** - A Borrower may apply directly to Ex-Im Bank for a Preliminary Commitment by submitting a completed application and the

required information together with the \$500 application fee. Upon approval of the application, Ex-Im Bank will issue a Preliminary Commitment letter to the Borrower which outlines the terms and conditions under which Ex-Im Bank is prepared to issue its Guarantee to a Lender. The Borrower then has up to six months to find a Lender and negotiate financing.

Note: In the event the Borrower is unable to find a Lender after the issuance of a Preliminary Commitment, alternate funding source(s) may be available as described in Section VII(B)(1) of this Manual.

2. **Conversion of Preliminary Commitments** - Once the Borrower has selected a Lender, the Lender applies to Ex-Im Bank for conversion of the Preliminary Commitment to a Final Commitment. No additional application fee is required.

Note: When the Preliminary Commitment is converted to a Final Commitment, \$400 of the original \$500 Preliminary Commitment application fee will be credited toward the Facility Fee (see Section II(F) re: Ex-Im Bank Fees).

3. **Final Commitment Applications** - If a Borrower and a Lender have agreed to financing terms conditioned on the coverage of a Working Capital Guarantee, the Lender can bypass the Preliminary Commitment process by making the application for a Final Commitment on behalf of the Borrower. The application fee is \$100. In order to expedite processing time, the Lender should submit its credit memorandum and financial analysis along with the other information required, as listed on the SBA/Ex-Im Bank Joint Application. Upon approval of the application, Ex-Im Bank will issue a Final Commitment to the Lender which outlines the terms and conditions of the Working Capital Guarantee.

4. **Renewal of Existing Revolving Loan Facilities** - To renew an existing Revolving Loan Facility, the Lender must submit to Ex-Im Bank a completed SBA/Ex-Im Bank Joint Application with relevant updated supporting material and the \$100 application fee. The renewal will be contingent upon a satisfactory review, similar in scope to the initial application, by Ex-Im Bank (or by the Lender in the case of Loan Facilities committed under Delegated Authority). The Lender should submit the renewal request within a reasonable time (i.e., 60 days) prior to the Final Disbursement Date of the existing Loan Facility. (See Section II(D) re: Final Disbursement Date.)

Note: The renewed Loan Facility is considered a new Loan Facility and will be issued a new Guaranteed Loan Facility Number. Ex-Im Bank and the Lender must execute a new Loan Authorization Agreement (or Loan Authorization Notice), and the Borrower and Lender must also execute a new Borrower Agreement.

- F. **Ex-Im Bank Fees** - In addition to the application fee, Ex-Im Bank charges the Lender a non-

refundable Facility Fee. The Facility Fee, together with Schedule A to the Loan Authorization Agreement or Loan Authorization Notice (as applicable), is due within ten (10) Business Days of the Effective Date, and annually thereafter for Revolving Loan Facilities with terms of greater than twelve months, as shown in the table in Section II(C)(2)(a) of this Manual. (Delegated Authority Lenders should refer to the table in Section IV(B) of this Manual regarding fee retention.)

Note: Failure of the Lender to pay Ex-Im Bank the Facility Fee for a Loan Facility within ten (10) Business Days of (i) the Effective Date, (ii) each anniversary date of the Effective Date (if/as applicable), and (iii) the beginning of (each) Extension (if/as applicable), shall render the Guarantee with respect to that Loan Facility null and void. In order to maintain coverage under the Guarantee, it is the Lender's responsibility to ensure that the Facility Fee is paid; the Lender will not receive any billing or statement.

1. The standard **Annual Facility Fee Percentage** is 1.5 percent of the Maximum Amount for a Loan Facility Term of twelve months, or 0.75 percent of the total Maximum Amount for a Loan Facility Term of six months or less. For Loan Facility Terms of greater than six months/up to twelve months, and for Loan Facility Terms of greater than twelve months, the Facility Fee will be *pro-rated* at 1.5 percent per annum of the Maximum Amount based on the number of months in the Loan Facility Term. For extensions of the Final Disbursement Date, the Facility Fee will be *pro-rated* at 1.5 percent per annum of the Maximum Amount based on a 360-day year.
2. **Reduced Facility Fee** - Borrowers that meet the criteria listed below qualify for the Reduced Facility Fee. In such cases the Annual Facility Fee Percentage is 1.0 percent of the Maximum Amount for a Loan Facility Term of twelve months, or 0.50 percent of the Maximum Amount for a Loan Facility Term of six months or less.

For Loan Facility Terms of greater than six months/up to twelve months, and Loan Facility Terms of greater than twelve months, the Facility Fee will be *pro-rated* at 1.0 percent per annum based on the number of months in the Loan Facility Term. For extensions of the Final Disbursement Date, the Facility Fee will be *pro-rated* at 1.0 percent per annum of the Maximum Amount based on a 360-day year.

Criteria for Reduced Facility Fee: A Borrower or Loan Facility that meets either **a** or **b** below is eligible for the Reduced Facility Fee. *All qualifying applications, regardless of the size of the Loan Facility or Borrower, must demonstrate that the "Additionality" test has been satisfied. (See Section II(J) regarding "Additionality," i.e., need for Ex-Im Bank support.)*

- a. **Industry Comparison of Financial Ratios** - In evaluating the Borrower's financial condition, the Lender must compare financial ratios for the Borrower's industry, as published in the Robert Morris Associates ("RMA") Statement Studies, to the Borrower's *most recent fiscal year end* financial ratios. The

Lender must use the most recent RMA Statement Studies (i.e., published within the last 12 months). The Lender must base such comparison on the ratios for the appropriate peer group using either “Current Data Sorted by Assets” or “Current Data Sorted by Sales” category for companies sharing the same primary Standard Industrial Classification Code (SIC Code) as the Borrower. (Ratios must be chosen from the same grouping (i.e., Current Data Sorted by Assets or Current Data Sorted by Sales), not a combination of the two.) The Borrower's ratios must meet or exceed its industry's **Median** Quartile (based on the RMA comparison), for **a minimum of four** of the following ratios:

- i.** Current Ratio;
- ii.** Net Sales/Total Assets;
- iii.** Debt to Worth Ratio;
- iv.** (Net Profit + Depreciation, Depletion, and Amortization Expense)/
Current Portion of Long Term Debt;
- v.** EBIT/Interest;
- vi.** Cost of Sales/Inventory; *and/or*
- vii.** Sales/Accounts Receivable.

Note: In the unlikely event that no reasonably appropriate SIC Code can be determined, the Borrower must either meet **b**, below, or continue to be charged the standard Annual Facility Fee Percentage (1.5%).

- b.** A Borrower must have 100% of its Export-Related Accounts Receivable either:
 - i.** insured for comprehensive commercial and political risk, either through Ex-Im Bank or an insurer acceptable to Ex-Im Bank or the Delegated Authority Lender*; *or*
 - ii.** covered by Irrevocable Letter(s) of Credit*; *or*
 - iii.** some combination of (i) and (ii) covering 100% of the Borrower's Export-Related Accounts Receivable*.

* See Section II(L)(1) of this Manual, Accounts Receivable, Terms of Sale.

Applications which do not meet either **a** or **b**, above, will continue to be charged the standard Annual Facility Fee Percentage (1.5%)

G. Uses of the Loan Facility - The Loan Facility may be used for the following **export-related** activities:

- 1.** To acquire inventory.
- 2.** To pay for direct and indirect costs (e.g., design, engineering, labor and overhead) related

to the manufacture or purchase of goods (including work-in-process), or related to the provision of services.

3. To support Standby Letters of Credit used as bid bonds, performance bonds, or payment guarantees; to support Warranty Letters of Credit (see Section II(N)); and/or to support Commercial Letters of Credit issued for the benefit of United States supplier(s). (Also see Section II(K) of this Manual.)

At no time shall the Credit Accommodation Amount (the sum of the aggregate outstanding amount of Disbursements plus the aggregate outstanding face amount of Letter of Credit Obligations) exceed the Maximum Amount.

4. **Indirect Exports** - The Loan Facility may be used to support an indirect export. The term “indirect export” applies to situations where, although the Borrower’s direct customer is located in the United States, that customer will be exporting the Items it purchased from the Borrower to a foreign Buyer. In such cases, the Borrower must provide evidence of the indirect export (typically in the form of an export order or contract) to the Lender.
The country to which the Items will be shipped must be one with which Ex-Im Bank is not legally prohibited from doing business, pursuant to the Country Limitation Schedule (or any amendments, revisions, or updates thereto). (See Section VIII(A)(9) of this Manual re: Country Limitation Schedule.)
5. **Refinance** - On a case-by-case basis, Ex-Im Bank may, in its sole discretion, permit the first Disbursement (or a portion thereof) under the Loan Facility to be used to refinance existing short-term debt of the Borrower. (If it is the Lender’s practice to make multiple Disbursements at the time of initial funding of the Loan, the term “first Disbursement” is understood to mean the aggregate of all Disbursements made at such time.) Ex-Im Bank will consider the Borrower’s overall financial condition, in addition to the following:
 - a. The Borrower must provide prior year’s export sales as well as its projected export sales and Export-Related Inventory purchases for a twelve-month period, which must reasonably support the amount of Loan Facility proceeds requested to be used towards refinancing previously existing debt;
 - b. Disbursements must be fully supported by the Export-Related Borrowing Base;
 - c. The application, including requested use of proceeds, must meet all other Program guidelines;
 - d. Ex-Im Bank must either review and approve the Loan Facility application, or, if it is to be approved under Delegated Authority, Ex-Im Bank must approve such use of proceeds prior to the closing of the Loan Facility;
 - e. The Borrower’s existing loan must be repaid in full with the first Disbursement (or a portion thereof) under the Loan Facility; and

- f. In such instances when, with Ex-Im Bank's approval, the Lender uses the first Disbursement (or a portion thereof) to repay in full a previously existing loan, the original lender (whether or not under an Ex-Im Bank Guarantee) must concomitantly release all security interests in the Collateral and release the Borrower and Guarantor(s) (if any).

H. Security, Collateral, and Guarantees

- 1. **Security** - As of the Effective Date, the Lender to obtain a valid and enforceable lien in the Collateral, and shall take the required actions to confirm and maintain such lien, in accordance with Section 4.02 of the MGA.

In addition, if the Lender provides any non-Ex-Im Bank guaranteed loan(s) to the Borrower and receives a lien on any assets other than Primary Collateral to secure such loan(s), the WCGP documentation requires such a lien to also secure the Loan Facility.

Note: While this requirement **is** intended to include real estate (in such instances where the Lender has a security in real estate for the benefit of its non-Ex-Im Bank-guaranteed loan(s) to the Borrower), Ex-Im Bank recognizes that mortgage filing processing, fees, and taxes vary from state to state. It is not Ex-Im Bank's intent to unduly burden the Borrower. Thus, if this requirement would result in an undue burden being placed on the Borrower, Ex-Im Bank may be willing to consider waiving such requirement with respect to real estate on a case-by-case basis.

- 2. **Collateral** - Collateral consists of all property (and interest in property) in or upon which the Lender has been granted a lien as security for the payment of all Loan Facility Obligations, including Primary Collateral, Secondary Collateral, and Guarantor Collateral.

- a. **Primary Collateral** - Ex-Im Bank requires Lenders to obtain a valid, enforceable and perfected first priority security interest in the Borrower's assets securing the Loan Facility Obligations, in accordance with Section II(K) of this Manual. Primary Collateral requirements are based on the type of Loan Facility, as follows, however, Ex-Im Bank may require that Primary Collateral also include other types of security.

- i. **Revolving Loan Facilities (other than Transaction Specific Revolving Loan Facilities)** - At a minimum, Primary Collateral must consist of all Export-Related Inventory financed under the Loan Facility, and all Export-Related Accounts Receivable.
- ii. **Transaction Specific Loan Facilities (including Transaction Specific Revolving Loan Facilities)** - At a minimum, Primary Collateral must consist of all Export-Related Inventory relating to Specific Export Orders, and all Export-Related Accounts Receivable

relating to Specific Export Orders.

Note: **If any Export-Related Inventory is taken as Collateral for the Loan Facility, then the Lender, for the benefit of the Loan Facility, must obtain a security interest in both the Export-Related Inventory and the corresponding Export-Related Accounts Receivable.** (Conversely, if the Loan Facility is not being used to finance the Borrower's Export-Related Inventory, the Lender is not required to take the Export-Related Inventory as Collateral.) (Please refer to Sections II(L) through II(O) of this Manual for additional information on Collateral.)

- b. Secondary Collateral** - Secondary Collateral consists of all assets of the Borrower, other than the Primary Collateral, in which the Lender is granted a security interest to secure any non-Ex-Im Bank guaranteed loan(s) provided by the Lender to the Borrower.
 - c. Guarantor Collateral** - Guarantor Collateral consists of all assets of a Guarantor or other third party in which the Lender is granted a security interest to secure any financial accommodations provided by the Lender to the Borrower.
- 3. Personal and Corporate Guarantees** - Principals owning or otherwise controlling more than twenty percent (20%) of the ownership in the Borrower and/or having the power to direct the policies and/or management of the Borrower will be required to personally guarantee repayment of the Loan Facility Obligations. Parent corporate guarantees or other guarantees may also be required. Venture capital firms and other investment groups are exempt from this requirement.

I. Financial Reporting Requirements

- 1. Year-End** - Fiscal year-end financial statements (minimum three years, if applicable) of the Borrower and each Guarantor (other than an individual Guarantor), prepared in conformity with GAAP, are required with each application and annually thereafter, within 120 days of the Borrower's or Guarantor's fiscal year end. (A publicly traded company may submit its fiscal year end statements at the time of filing its Form 10-K.) While Ex-Im Bank reserves the right to require reviewed or audited financial statements, following are its general requirements:
 - a. For Loan Facilities of less than \$1 million:** internally-prepared statements, signed by the Borrower/Guarantor, supported by the Borrower's/Guarantor's signed Federal tax returns.
 - b. For Loan Facilities of \$1 million or more, but less than \$2 million:** compiled financial statements with full disclosure, supported by the Borrower's/Guarantor's signed Federal tax returns.

- c. **For Loan Facilities of \$2 million or more, but less than \$5 million:** reviewed financial statements with full disclosure, supported by the Borrower's/Guarantor's signed Federal tax returns.
- d. **For Loan Facilities of \$5 million or more:** audited financial statements with full disclosure.

Note: Updated interim financial statements, prepared within 60 days from date of application, may be internally prepared and signed by the Borrower.

- 2. **Quarterly** - The Borrower must submit quarterly financial statements to the Lender no later than 45 days after the end of each quarter. A publicly traded company may submit its quarterly statements at the time of filing its Form 10-Q.
- 3. **Individual Guarantors** - Current, signed personal financial statements of each individual Guarantor must be prepared on a bank or other standard form and submitted annually, supported by copies of their personal Federal tax returns. The initial application must include such tax returns for the past three years.

J. Why is Ex-Im Bank's Guarantee Required? ("Additionality") - "Additionality" is a statutory-based test used to determine whether an Ex-Im Bank Guarantee is necessary to facilitate the financing of an export sale. Specifically, Congress instructed Ex-Im Bank to provide guarantee support to otherwise creditworthy Borrowers when support from the private sector is not available and when the exports to be supported would not otherwise go forward. Given the importance of the Additionality test, Ex-Im Bank developed a set of questions aimed at assisting both Ex-Im Bank staff and Ex-Im Bank Delegated Authority Lenders in the decision process. The answers to each of these questions should be accompanied by relevant information supporting a conclusion that the transaction meets the Additionality test. The questions and related information that should be comprehensively addressed in the Lender's credit memorandum are described below:

- 1. **Describe why the Borrower does not have sufficient internally-generated working capital to support the proposed export sale(s).** The narrative should include, as applicable, but not necessarily be limited to, the following: large contract size; expanding sales volume; seasonal cash flow; slow-turning receivables; high levels of work-in-process and/or inventory (e.g., long conversion cycle); bonding requirements; (e.g., performance bonds); and other relevant factors.
- 2. **Describe why funds are not available from "external" sources.** The discussion should address all reasonable potential sources of working capital funds (e.g., persons or entities having a 51% or greater ownership or stock control of the applicable entity, capital market sources, or any other sources where funding might reasonably be obtained). Financial capabilities of the related parties, existing debt covenants or other factors that might restrict the availability of funding from these parties, ownership dilution or control issues, and other relevant issues should be discussed as appropriate.

3. **Describe why the Ex-Im Bank Guarantee is needed in order for your institution to provide the funding.** The discussion should consider, as applicable, but not necessarily be limited to the following: limited export finance experience of the Lender and/or the Borrower; regulatory or credit policies impacting the Lender; financial condition or creditworthiness issues relating to the Borrower; uncertainties regarding economic or industry conditions; and other relevant factors.

Note: Notwithstanding the above, the Additionality test will be deemed to have been met (without specifically addressing the three questions above) by the Lender's signature under Part C of the SBA/Ex-Im Bank Joint Application for a Loan Facility that meets all of the following four criteria:

- (i) the Maximum Amount is \$2,000,000 or less;
- (ii) the Borrower qualifies as a small business under SBA guidelines;
- (iii) the Borrower employs 100 people or fewer; and
- (iv) the Borrower's annual revenues do not exceed \$10,000,000.

K. Disbursements and Issuance of Letters of Credit - A Lender may only make Disbursements or issue Letters of Credit on behalf of the Borrower against written Export Orders. (**Note:** In situations where the Borrower has need of a Standby Letter of Credit to be issued as a bid bond, the Lender may issue such Standby Letter of Credit even though no firm Export Order yet exists.) Credit Accommodations are tied to an Export-Related Borrowing Base consisting of acceptable collateral (i.e., typically Export-Related Inventory and Export-Related Accounts Receivable, and/or cash; see Sections II(L) through II(O) of this Manual).

At no time shall the Credit Accommodation Amount (the sum of the aggregate outstanding amount of Disbursements plus the aggregate outstanding face amount of Letter of Credit Obligations) exceed the Maximum Amount.

1. **Export-Related Borrowing Base Certificates** - The Borrower is required to submit (to the Lender) an Export-Related Borrowing Base Certificate as frequently as the Lender customarily requires from its borrowers but at least once per month, within twenty (20) days of its month-end. The Accounts Receivable and Inventory balances represented on such Export-Related Borrowing Base Certificate must be reconciled with the Borrower's general ledger, Accounts Receivable aging, and Inventory schedule for that month-end.
- Where possible, the Borrower should provide a breakdown of its Inventory by category (i.e., raw materials, work-in-process, finished goods, etc.) on either the Export-Related Borrowing Base Certificate or an attachment thereto.

In instances where the Loan Facility has no outstanding principal balance nor any outstanding Letters of Credit, the Borrower will not be required to submit an Export-Related Borrowing Base Certificate until such time as it requests either a Disbursement or the issuance of a Letter of Credit.

2. Supporting Documentation

- a.** For Transaction Specific Loan Facilities and Transaction Specific Revolving Loan Facilities, the Borrower must submit to the Lender a copy of the contract/Export Order being financed by the Loan Facility.
- b.** For Revolving Loan Facilities, the Borrower must submit copies of its Export Orders with each Export-Related Borrowing Base Certificate. Alternatively, the Lender may choose to allow the Borrower to submit a written summary of such Export Orders with each Export-Related Borrowing Base Certificate. If the Lender chooses the summary option, the Lender must then conduct a quarterly review of a sampling of those Export Orders representing at least ten percent (10%) of the number of Export Orders and at least ten percent (10%) of the aggregate dollar amount of Export Orders.

3. Advance Rates - Credit Accommodations must be made in accordance with stipulated advance rates, set by Ex-Im Bank (or by the Lender in the case of Delegated Authority transactions). See Sections II(L) and II(M) of this Manual.

4. Collateral coverage requirements - Ex-Im Bank requires Lenders to obtain a valid, enforceable, and perfected first priority security interest in sufficient collateral to cover Disbursements and Letters of Credit, at a minimum, as follows:

- a.** Disbursements must be collateralized at least 100%.
- b.** Letters of Credit issued under the Loan Facility need only be collateralized at 25% of their face value. At such time as a Letter of Credit is drawn upon, it shall be considered a Disbursement (and must then be collateralized at least 100%).

Note: Warranty Letters of Credit, or Standby Letters of Credit serving as Warranty Letters of Credit or which by their terms become Warranty Letters of Credit, must be fully collateralized at 100% of face value, of which amount at least 25% must be collateralized by cash. See Section II(N) of this Manual.

- c.** **With respect to Revolving Loan Facilities** (other than Transaction Specific Revolving Loan Facilities), **at no time shall the portion of the principal balance of the Credit Accommodations that is supported by Export-Related Inventory exceed 60% of the sum of the outstanding Disbursements plus the aggregate undrawn face value of all outstanding Commercial Letters of Credit.** (In other words, the principal balance of the

Revolving Loan Facility that is supported by Export-Related Accounts Receivable (and other non-Inventory Primary Collateral, if any) must at all times be equal to at least 40% of the sum described above. See Appendix B, Sample Borrowing Base Calculations, for examples.)

- d. If at any time the applicable Export-Related Borrowing Base is **less** than the sum of (i) the aggregate outstanding amount of Disbursements, (ii) 100% of the aggregate amount set aside for any Standby Letters of Credit serving as Warranty Letters of Credit (pursuant to Section II(N) of this Manual), and (iii) 25% of the aggregate amount set aside for any other Letters of Credit, the Borrower shall immediately either pay the Lender an amount equal to the difference between such sum (as described above) and the Export-Related Borrowing Base, or provide the Lender with additional collateral sufficient to cover such difference.
- e. Notwithstanding the foregoing, Permitted Overadvances whereby the Lender makes Credit Accommodations to a Borrower in excess of the Export-Related Borrowing Base are allowed under the following circumstances:
 - (i) The aggregate amount of Permitted Overadvances shall not exceed five percent (5%) of the Maximum Amount.
 - (ii) The aggregate amount of all Credit Accommodations, including Permitted Overadvances, shall not exceed the Maximum Amount.
 - (iii) Such Permitted Overadvances are not outstanding for more than ninety (90) consecutive days.

5. **Terms of Letters of Credit** - A Lender may issue Letters of Credit throughout the Loan Facility Term, with the length of the term of any such Letter of Credit not to exceed the lesser of the length of the term of the Loan Facility or twelve months. For example, under a 12-month Loan Facility, the Lender may issue Letters of Credit at any time during the Loan Facility Term for a period not exceeding 12 months from the date of issuance of the Letter of Credit. Similarly, for a six-month Loan Facility, the Lender may issue Letters of Credit at any time during the Loan Facility Term for a period not exceeding six months from the date of issuance of the Letter of Credit. For a Revolving Loan Facility with a Loan Facility Term of greater than twelve months, the Lender may only issue Letters of Credit with terms of up to twelve months unless otherwise approved in writing by Ex-Im Bank. **Notwithstanding the foregoing**, if the Lender has determined that it will not renew a Revolving Loan Facility (including a Transaction Specific Revolving Loan Facility), the Lender shall not issue any Letters of Credit during the last 60 days of the Loan Facility Term that extend beyond the Final Disbursement Date without the prior written approval of Ex-Im Bank.

L. Accounts Receivable

1. **Terms of Sale** - Terms of sale must be in compliance with the Country Limitation

Schedule then in effect, and shall not exceed 180 days from the invoice date. In addition, terms of sale should be in line with industry practices. Typical terms of sale include but are not limited to:

- a. Confirmed irrevocable Letter(s) of Credit.¹
- b. Irrevocable Letter(s) of Credit.¹
- c. Open account insured through Ex-Im Bank export credit insurance for comprehensive commercial and political risk.²
- d. Open account insured through non-Ex-Im Bank export credit insurance for comprehensive commercial and political risk.²
- e. Cash payment received prior to shipment.
- f. Open account uninsured.
- g. Sight draft documents against payment (also known as “documentary collections”).

¹ Ex-Im Bank, the Delegated Authority Lender, or the Country Limitation Schedule may require that some or all of the Borrower’s Export-Related Accounts Receivable be supported by Irrevocable Letters of Credit. In such instances, the Borrower must assign to the Lender the proceeds of each such Letter of Credit (through an assignment of proceeds or other acceptable agreement), providing for any payments under such Letter of Credit to be made directly to the Lender.

² Ex-Im Bank or the Delegated Authority Lender may determine that export credit insurance is required to enhance the quality of Export-Related Accounts Receivable. Export credit insurance is available through Ex-Im Bank as well as through several private companies. If export credit insurance is obtained, the Lender must be named as loss payee on the export credit insurance policy.

2. Jurisdiction and Currency of Accounts Receivable

- a. **Accounts Receivable Due and Collectible in the United States -**
Receivables held as collateral must be payable to the Borrower in the United States and must be denominated in U.S. dollars, except as set forth in **b** and **c**, below.
- b. **Accounts Receivable Due and Collectible Outside the United States -**
Receivables due to a foreign subsidiary or affiliate of the Borrower from an unrelated party may be eligible as collateral with Ex-Im Bank’s prior written approval provided that:
 - i. the foreign subsidiary or affiliate is a party to the Loan Facility;
 - ii. all proceeds from such receivables are remitted to the United States on a monthly basis;
 - iii. receivables are derived from eligible exports originating from the United States;

- iv. the Lender obtains a valid and enforceable first priority security interest (or its equivalent) in the receivable in the jurisdiction where the receivable is located;
- v. the Lender obtains a legal opinion from local counsel with regard to the enforceability of the first priority security interest (or its equivalent); and
- vi. the receivables are denominated in U.S. dollars or in other “hard” currencies pre-approved in writing by Ex-Im Bank.

When all the above criteria cannot reasonably be met in Ex-Im Bank's opinion, Ex-Im Bank will consider alternative structuring arrangements on a case-by-case basis. In no case shall more than 50% of the Export-Related Borrowing Base consist of Export-Related Accounts Receivable due and collectible outside the United States.

Note: When the Lender is exercising Delegated Authority, accounts receivable due and collectible outside the United States **cannot** be included in the Export-Related Borrowing Base without the prior written approval of Ex-Im Bank.

- c. **Accounts Receivable Due and Payable in Non-U.S. Currency** may be allowed on a case-by-case basis with Ex-Im Bank’s prior written approval. Depending on the stability of the currency(ies) in question, Ex-Im Bank may require that the Borrower hedge the currency risk in such Accounts Receivable as a condition of such approval.

3. Advance Rates

- a. **Account(s) Receivable Due and Collectible in the United States -** Advance Rates of up to ninety percent (90%) are typically allowed against Eligible Export-Related Account(s) Receivable due and collectible in the United States. The Advance Rate, however, may be lower depending on the quality of the Export-Related Account(s) Receivable.
- b. **Account(s) Receivable Due and Collectible Outside the United States -** Advance Rates of up to seventy percent (70%) may be allowed against Export-Related Account(s) Receivable due and collectible outside the United States that have been approved by Ex-Im Bank. The Advance Rate, however, may be lower depending on the quality of the Export-Related Account(s) Receivable.

Note: The Borrower’s export-related costs in excess of billings may be treated as Eligible Export-Related Accounts Receivable only to the extent that such costs in excess of billings exceed the Borrower’s export-related billings in excess of costs (i.e., only the net amount of costs in excess of billings, if a positive number, may be treated as Eligible Export-Related Accounts Receivable). The appropriate Advance Rate shall be applied against such export-related net costs in excess of

billings, based on the Eligible Export-Related Accounts Receivable to be generated.

4. Collateral for Engineering, Architecture, Environmental Consulting, and Other Service Industries

- a. Types of Costs** - In order to accommodate service industries that may not have sufficient traditional collateral (e.g., inventory, accounts receivable), Ex-Im Bank will consider disbursing against actual contract-related costs incurred. These costs may include, but are not limited to, engineering, design, and overhead allocable to the product or specific contract.
- b. Assignment of Contract and Proceeds** - The Borrower shall execute an assignment of its rights under the specific contract and the proceeds thereof in favor of the Lender, for the benefit of the Loan Facility.
- c. Other Requirements** - The following criteria must also be satisfied:
 - i.** The payment mechanism (e.g., Letter of Credit) and control thereof, must be assigned to the Lender.
 - ii.** The Borrower must have been in business at least three years.
 - iii.** The Borrower must provide audited or reviewed financial statements for three fiscal years.
 - iv.** The Borrower must demonstrate its ability to perform under a contract.

5. Retainages - Retainages (also referred to as **retentions** or **hold-backs**) may be considered eligible for inclusion in the Export-Related Borrowing Base to a limited extent, with Ex-Im Bank's approval. Retainages must meet all eligibility criteria for Eligible Export-Related Accounts Receivable, as well as the additional criteria and limitations outlined in Section II(N) of this Manual.

6. Restrictions - Receivables **not** eligible for inclusion in the Export-Related Borrowing Base are listed below. (Please see Sections II(M)(6) for Inventory-related restrictions and II(O) for additional Program restrictions.) In no event shall Export-Related Accounts Receivable include any Account Receivable:

- a.** that does not arise from the sale of Items in the ordinary course of the Borrower's business;
- b.** that is not subject to a valid, perfected, and enforceable first priority security interest in favor of the Lender;
- c.** as to which any covenant, representation or warranty contained in the Loan Documents, relating to such Receivable, has been breached;

- d.** that is not owned by the Borrower or is subject to any right, claim, or interest of another party other than the Lien in favor of the Lender;
- e.** with respect to which an invoice has not been sent;
- f.** generated by the sale or provision of defense articles or services, subject to the exceptions noted in Section II(O)(1) of this Manual, and as may be approved in writing by Ex-Im Bank;
- g.** that is due and payable from a military Buyer, subject to the exceptions noted in Section II(O)(1) of this Manual, as may be approved in writing by Ex-Im Bank;
- h.** that is due and payable from a foreign Buyer located in a country with which Ex-Im Bank is legally prohibited from doing business as set forth in the current Country Limitation Schedule. (**Note:** If the Borrower has knowledge that an export to a country in which Ex-Im Bank may do business, as set forth in the current Country Limitation Schedule, will be re-exported to a country with which Ex-Im Bank is legally prohibited from doing business, the corresponding receivables (or a *pro-rata* portion thereof) are not eligible for inclusion in the Export-Related Borrowing Base.);
- i.** that does not comply with the requirements of the Country Limitation Schedule;
- j.** that, by its original terms, is due and payable more than one-hundred-eighty (180) days from the date of invoice;
- k.** that is not paid within sixty (60) calendar days from its original due date unless insured through Ex-Im Bank (or other acceptable) export credit insurance for comprehensive commercial and political risk, in which case ninety (90) calendar days shall apply;
- l.** that arises from a sale of goods to or performance of services for an employee, stockholder, or subsidiary of the Borrower, intra-company receivables or any receivable from a stockholder, any person or entity with a controlling interest in the Borrower or which shares common controlling ownership with the Borrower;
- m.** that is backed by a letter of credit where the Items covered by the subject letter of credit have not yet been shipped, or where the covered services have not yet provided;
- n.** that the Lender or Ex-Im Bank, in its reasonable judgment, deem uncollectible or unacceptable; this category includes, but is not limited to, finance charges or late charges imposed on the foreign buyer by the Borrower as a result of the foreign

buyer's past due status;

- o.** denominated in non-U.S. currency, unless pre-approved in writing by Ex-Im Bank;
- p.** that does not comply with the terms of sale as set forth in Section 7 of the Loan Authorization Agreement (or Loan Authorization Notice);
- q.** that is due and payable from a Buyer who becomes unable to pay its debts or whose ability to pay its debts becomes questionable as a result of the events outlined in the Borrower Agreement, Section 1.01 (definition of "Eligible Export-Related Accounts Receivable");
- r.** that arises from a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, or any other repurchase or return basis or is evidenced by chattel paper;
- s.** for which the Items giving rise to such Account Receivable have not been shipped and delivered to and accepted by the Buyer, or the services giving rise to such Account Receivable have not been performed by the Borrower and accepted by the Buyer, or the Account Receivable does not otherwise represent a final sale;
- t.** that is subject to any offset, deduction, defense, dispute, or counterclaim, or the Buyer is also a creditor or supplier of the Borrower, or the Account Receivable is contingent in any respect or for any reason;
- u.** for which the Borrower has made any agreement with the Buyer for any deduction therefrom, except for discounts or allowances made in the ordinary course of business for prompt payment; or
- v.** for which any of the Items giving rise to such Account Receivable have been returned, rejected, or repossessed.

M. Inventory

- 1.** Export-Related Inventory taken as collateral **must** be located within the United States.
- 2.** Export-Related Inventory **must** be valued at the lower of actual cost or market value (including cost of work-in-process inventory) as determined in accordance with Generally Accepted Accounting Principles ("GAAP").
- 3.** Export-Related Inventory may include raw materials, work-in-process and finished goods.

4. Advance Rates against Eligible Export-Related Inventory may vary depending on inventory quality. Advance Rates of up to seventy-five percent (75%) are typically allowed. In certain **exceptional** cases, Ex-Im Bank may allow an Advance Rate of up to one-hundred percent (100%).
5. Ex-Im Bank recognizes that in some instances (e.g., for a downpayment and/or progress payment to suppliers), a time lag may occur between the time a Disbursement is made by the Lender for the purpose of acquiring Inventory, and the time the Borrower actually procures the Inventory and includes it in the Export-Related Borrowing Base. This situation may result in a temporary collateral deficiency at the outset of each Disbursement. However, this deficiency will be satisfied upon full payment and possession by the Borrower of the Inventory. Each such Disbursement is guaranteed under the WCGP provided that the Disbursement is made pursuant to a valid Export Order.
6. **Restrictions** - Export-Related Inventory **not** eligible for inclusion in the Export-Related Borrowing Base is listed below. In no event shall Export-Related Inventory include any Inventory:
 - a. that is not subject to a valid, perfected, and enforceable first priority Lien in favor of the Lender;
 - b. that is located at an address that has not been disclosed to the Lender in writing;
 - c. that is not located in the United States;
 - d. that is placed by the Borrower on consignment or held by the Borrower on consignment;
 - e. that is in the possession of a processor or bailee, or located on premises leased or subleased to the Borrower, or on premises subject to a mortgage in favor of a party other than the Lender, unless such processor or bailee or lessor or sublessor or mortgagee (as applicable) of such premises has executed and delivered all documentation which the Lender shall require to evidence its priority with respect to such Inventory as well as its right to gain access to such Inventory;
 - f. that is produced in violation of the Fair Labor Standards Act or subject to the “hot goods” provisions contained in 29 U.S.C. §215 or any successor statute or section;
 - g. as to which any covenant, representation, or warranty with respect to such Inventory contained in the Loan Documents has been breached;
 - h. that is demonstration Inventory;

- i. that consists of proprietary software (i.e., software designed solely for the Borrower's internal use and **not intended for resale**);
- j. that is damaged, obsolete, returned, defective, recalled or unfit for further processing;
- k. that has previously been exported from the U.S.;
- l. that constitutes defense articles or services;
- m. that is to be incorporated into Items destined for shipment to a country with which Ex-Im Bank is legally prohibited from doing business as designated in the current Country Limitation Schedule, or that the Borrower has knowledge will be re-exported by a foreign Buyer to a country in which Ex-Im Bank is legally prohibited from doing business;
- n. that is to be incorporated into Items destined for shipment to a Buyer in a country in which Ex-Im Bank coverage is not available for commercial reasons as designated in the current Country Limitation Schedule, unless and only to the extent that such Inventory is sold to the foreign Buyer on terms of an irrevocable letter of credit confirmed by a bank acceptable to Ex-Im Bank; or
- o. that is to be incorporated into Items whose sale would result in an Account Receivable that would not be an Eligible Export-Related Account Receivable.

N. Warranties and Retainages

The term **Warranty** refers to a guarantee or promise from the Borrower to the Buyer that the goods or services provided by the Borrower will function as intended during the Warranty period. The Warranty period commences once the Export Order has been completed. In some instances, a Buyer may require a Standby Letter of Credit or performance bond covering the life of the Export Order as well as what is effectively a Warranty period. **For Ex-Im Bank purposes, such a Standby Letter of Credit or bond would be considered a performance bond only until the contract has effectively been completed up to the beginning of a Warranty period, at which time Ex-Im Bank considers such a bond to be a Warranty Letter of Credit.**

The term **Retainage** (or retention or holdback) refers to a portion of the purchase price of the Export Order (typically ten percent) that the Buyer does not pay the Borrower until the end of a specified period of time following satisfactory performance under such Export Order.

1. Warranty Letters of Credit may be issued by a Lender only to, and Retainages may be included in the Export-Related Borrowing Base only for, those Borrowers to whom the Lender also extends a non-Ex-Im Bank-guaranteed line of credit.
2. **Guarantee coverage of Warranty Letters of Credit and/or inclusion of Retainages**

in the Export-Related Borrowing Base requires the prior written consent of Ex-Im Bank. Such coverage must be approved by Ex-Im Bank prior to a Loan Facility being committed under Delegated Authority. Once a Loan Facility has been committed under Delegated Authority, Ex-Im Bank's prior approval must be obtained for coverage of each Warranty Letter of Credit and/or inclusion of each Retainage in the Export-Related Borrowing Base.

3. Warranty Letters of Credit must be fully collateralized at one-hundred percent (100%) of their face amount, of which amount at least 25% must be cash collateral.
4. The term of a Warranty Letter of Credit cannot exceed the shorter of (a) twelve (12) months or (b) the Loan Facility Term. (See Section II(G)(3) of this Manual.)
5. To be included in the Export-Related Borrowing Base, Retainage Accounts Receivable must meet all eligibility criteria for Eligible Export-Related Accounts Receivable (see Section II(L)). In addition, Retainage Accounts Receivable must have been invoiced by the Borrower to the Buyer.
6. The Advance Rate for Retainages cannot exceed twenty-five percent (25%).
7. The sum of (i) the portion of the Credit Accommodations supporting Warranty Letters of Credit and (ii) the loanable value of Retainages in the Export-Related Borrowing Base cannot exceed the lesser of (a) 20% of the Maximum Amount, or (b) \$500,000.

O. Program Restrictions - Ex-Im Bank's Program restrictions are as follows:

1. **Defense and Nuclear Products and Services** - Ex-Im Bank is prohibited by law from financing defense articles and defense services. **Ex-Im Bank** determines whether a good or service is a "defense article" or "defense service" based on the identity of the end-user, the nature of the item, and the end use. Limited exceptions may be made for lifesaving, health and medical equipment, and equipment used for drug interdiction purposes. Ex-Im Bank's guidelines are summarized below. (**Note:** The Lender, whether or not a Delegated Authority Lender, is prohibited from making such determination.)
 - a. Items sold to military organizations are considered defense articles until proven otherwise.
 - b. Items designed primarily for military use are presumed to be defense articles.
 - c. Items with dual military and civilian use are eligible only if convincing evidence exists to Ex-Im Bank's satisfaction that the Items are non-lethal in nature and will be used primarily for civilian activities, and if the Buyer or end-user provides an acceptable certificate to that effect.

receiving and properly applying all payments of principal and interest; reviewing financial statements, Export-Related Borrowing Base Certificates, and other reporting; taking appropriate collateral protection and recovery measures; and performing all other necessary loan making, servicing, and collecting responsibilities. The Lender may use its own form of (Export-Related) Borrowing Base Certificate. However, for those Lenders that do not have their own standard form, an Optional Form of Borrowing Base Certificate has been provided. (See Appendix A to this Manual.)

2. **Field Examinations** - The Lender or a qualified outside party must conduct field examinations according to the guidelines listed below. Such field examinations shall include, but are not limited to, a review of the Borrower's books and records and an inspection of the Borrower's collateral.
 - a. For all Loan Facilities with a Maximum Amount of \$1,000,000 or more, the Lender must conduct semi-annual field examinations, performed either by the Lender or an independent certified public accountant, or other such entity acceptable to the Lender.
 - b. For Loan Facilities with a Maximum Amount of less than \$1,000,000 where the Lender has loans or other financial accommodations to the Borrower for which it performs field examinations, the Lender must conduct field examinations (with respect to the Loan Facility and Collateral) in accordance with its customary procedures, but in no event less than once every six (6) months.
3. **Other Inspections** - If, pursuant to Section II(K)(2)(b) of this Manual, the Lender chooses to allow the Borrower to submit a summary of its Export Orders (rather than copies of such Export Orders) with its Export-Related Borrowing Base Certificates, the Lender must then conduct a quarterly review of a sampling of those Export Orders representing at least ten percent (10%) of the number of Export Orders and at least ten percent (10%) of the aggregate dollar amount of Export Orders.
4. **Annual Reviews** - As stated in Section II(C)(2)(b) of this Manual, the Lender shall submit to Ex-Im Bank an annual review for any Loan Facility with a term of greater than twelve (12) months. At a minimum, such annual review must include the Borrower's financial statements and an analysis thereof, a statement as to the Borrower's compliance with the Loan Documents, and any material information of which Ex-Im Bank may not have previously been made aware.

Q. Events of Default and Other Events, Amendments, Acceleration and Rescheduling, Claims, Liquidation, and Recovery

1. **Events of Default and Other Events** - The Lender is required to notify Ex-Im Bank in writing within five (5) Business Days if it has knowledge of an Event of Default or the occurrence of other significant events as specified in the MGA. Ex-Im Bank also expects the Lender to immediately direct the Borrower to cure such Event of Default or other events. Events of Default include, *inter alia*, the following:

- a. the Borrower fails to pay within thirty (30) days any amount due the Lender under the Loan Facility or any non-Ex-Im Bank guaranteed loan;
- b. the Export-Related Borrowing Base no longer supports the amount outstanding under the Loan Facility;
- c. the Borrower or any Guarantor files for bankruptcy or liquidation;
- d. any default or event of default under any of the Loan Documents (including the Loan Agreement and any Guaranty Agreement) that results in acceleration of the obligations thereunder; or
- e. any material litigation involving the Borrower or any Guarantor.

If directed to do so by Ex-Im Bank in writing following the Event of Default, the Lender shall accelerate the Loan Facility Obligations against the Borrower and any Guarantors.

Other events requiring notice to Ex-Im Bank include, *inter alia*, the following:

- (i) any default or event of default under the Loan Documents or any non-Ex-Im Bank guaranteed loan from the Lender to the Borrower or any Guarantor;
- (ii) any restructuring of any non-Ex-Im Bank guaranteed loan from the Lender to the Borrower or any Guarantor;
- (iii) the Borrower has included in the Export-Related Borrowing Base ineligible Inventory or Accounts Receivable; or
- (iv) the Lender downgrades its internal credit risk rating of the Borrower and/or Loan Facility.

Following the initial notice to Ex-Im Bank, the Lender must thereafter provide Ex-Im Bank at least every thirty (30) days with a written status report on the event(s) covered by the notice. The Lender may not make any additional Disbursements until an Event of Default has been cured and until Ex-Im Bank has given its written consent. The Lender may waive defaults under the Loan Documents that are not otherwise an Event of Default without Ex-Im Bank's consent provided that the Lender sends Ex-Im Bank written notice of such waiver within five (5) Business Days.

The Lender may submit a request for a claim payment only as a result of an uncured payment default. (See (4), Claims, below.)

- 2. **Amendments, Acceleration and Rescheduling, Exercising of Remedies, and Prohibition on Litigation** - Without the prior written consent of Ex-Im Bank, the Lender shall not amend any Loan Document insofar as it relates to the Loan Facility, reschedule or restructure the Loan Facility, or undertake any legal action with respect to

any of the Loan Documents, including accelerating the Loan Facility or exercising any of the Lender's remedies under the Loan Documents or applicable law. If Ex-Im Bank has not responded to the Lender's written request to accelerate the Loan Facility within five (5) Business Days of Ex-Im Bank's receipt of such request, Ex-Im Bank shall be deemed to have given its consent. (Notwithstanding the foregoing, the Lender may amend certain provisions of its Loan Documents to the extent that such provisions are not provisions of any of the WCGP documentation, and provided that such amendment does not in any way contradict any provision of any of the WCGP documentation. For example, the Lender may amend financial covenants established by the Lender where such amended covenants would not be in violation of any WCGP documentation.)

Note: Notwithstanding the foregoing, if the Lender has determined that time is of the essence, the Lender may take immediate action without obtaining Ex-Im Bank's prior consent to protect and secure the Collateral or to preserve the collection prospects of the Loan Facility or Collateral. Such actions may include physically securing the Borrower's books and records and the Inventory, as well as taking possession of and control over the proceeds of the Accounts Receivable. The Lender is, however, required to notify Ex-Im Bank within five (5) Business Days of the Lender's taking such actions.

R. Claims, Assignment, Liquidation, and Recovery

- 1. Claims** - The Lender may submit a request for a claim payment under the Guarantee **no sooner than 30 days after a payment default but no later than 120 days after the payment default.** A filing extension may be requested in writing. The Lender's request must establish that the provision of an extension may allow for a default being cured or the loss being mitigated (e.g., the security might be liquidated at a higher value if an extension is granted).

The documentation that must be submitted with a claim payment request ("Claim Conditions") is set forth in the MGA.

Note: Upon making a claim payment, Ex-Im Bank will report such claim payment to Dun & Bradstreet (D&B) with respect to the Borrower(s) and Guarantor(s) (other than individual Guarantors), if any, and to Experian (formerly known as TRW), TransUnion, and Equifax with respect to the individual Guarantor(s), if any.

- 2. Disposition of Claims** - Within thirty (30) days of Ex-Im Bank's receipt of all Claim Conditions, Ex-Im Bank will notify the Lender of the disposition of the Claim. Ex-Im Bank may notify the Lender that it is prepared to pay the Claim in full, in part, or that it will not pay any portion of the Claim. Potential reasons for non-payment (in full or in part) include (i) the Lender's failure to perfect a security interest in some or all of the required Collateral, (ii) the Lender's failure to comply with or otherwise satisfy in all material respects all of the Claim Conditions, and (iii) the Lender's failure to satisfy the Lender Obligations in all material respects.

3. **Assignment** - Prior to any Claim Payment, Ex-Im Bank may request that the Lender assign all of its right, title, and interest in the Loan Documents, the Primary Collateral, and all other instruments, documents, items, and property related to the Loan Facility Obligations. Ex-Im Bank, however, is not entitled to make such a request if the outstanding principal balance of any non-Ex-Im Bank guaranteed loan(s) provided to the Borrower by the Lender is equal to or greater than the outstanding principal balance of the Loan Facility Obligations. Under such circumstances, the Lender is not required to make an assignment.

Note: At all times after a Claim Filing, the Lender is entitled to make an assignment whether or not requested by Ex-Im Bank.

4. **Liquidation by Lender** - At all times prior to a Claim Payment and at all times thereafter until an assignment is made, the Lender is obligated to enforce the Loan Documents and liquidate the Collateral for the joint benefit of the Lender and Ex-Im Bank, subject to the priorities and standard of care contemplated by the MGA and all other applicable agreements. If an assignment is not required and the Lender elects not to make an assignment, the Lender will be responsible for recovery and liquidation before and after any Claim Payment is made. If an assignment is required and made or the Lender elects to make an assignment, the Lender will no longer be obligated to liquidate after a Claim is paid. Recovery Proceeds will be applied in accordance with the MGA, as explained in paragraph 7 below.

5. **Inventory Liquidation** - Unless the Export-Related Inventory can be effectively segregated from other Inventory, for purposes of claim recovery, the amount of the Export-Related Inventory will be determined on a Pro Rata Inventory Basis.

6. **Protection of Collateral** - Ex-Im Bank's Guarantee covers up to \$50,000 of Collateral Protection and Enforcement Costs. (This amount may be increased by Ex-Im Bank on a case-by-case basis.)

- a. **Collateral Protection Costs** - Collateral Protection Costs consist of all reasonable out-of-pocket costs and expenses incurred by the Lender or Ex-Im Bank in connection with the protection of the Primary Collateral after an Event of Default. Examples include the costs of storage, insurance, and security guards.
- b. **Enforcement Costs** - Enforcement Costs consist of all reasonable out-of-pocket costs and expenses, including reasonable attorney fees, incurred by the Lender or Ex-Im Bank in collecting any of the Loan Facility Obligations after an Event of Default, or in prosecuting any suit, litigation, arbitration or proceeding against a Borrower or Guarantor with respect to the enforcement of the Loan Facility Obligations. All such costs and expenses relating directly and exclusively to the Primary Collateral shall be included. Such costs and expenses directly relating to the Secondary Collateral, Guarantor Collateral, or any Guarantor shall

be included on a Pro Rata Basis.

- 7. Application of Recovery Proceeds** - If Ex-Im Bank pays a claim and there is a liquidation, the Recovery Proceeds received by either Ex-Im Bank or the Lender are applied as follows:
- a.** If from Primary Collateral:
 - i.** Ninety percent (90%) to Ex-Im Bank, and
 - ii.** Ten percent (10%) to the Lender,
Until the Loan Facility Obligations have been paid in full, and then the remainder to be applied to the Lender's non-Ex-Im Bank guaranteed loan(s) to the Borrower.

 - b.** If from Secondary Collateral:
First to the Lender's non-Ex-Im Bank guaranteed loan(s) to the Borrower until paid in full, and then the remainder to be applied:
 - i.** Ninety percent (90%) to Ex-Im Bank, and
 - ii.** Ten percent (10%) to the Lender,
Until the Loan Facility Obligations have been paid in full.

 - c.** If from Collateral which is additional Collateral for both the Loan Facility and any non-Ex-Im Bank-guaranteed loan(s) provided to the Borrower by the Lender (i.e., neither Primary Collateral for the Loan Facility nor the equivalent security for any non-Ex-Im Bank-guaranteed loan(s) provided to the Borrower by the Lender): To be applied on a Pro Rata Basis to **(x)** the Loan Facility Obligations and **(y)** all other obligations of the Borrower and Guarantor to the Lender.

(x) The amounts received from such additional Collateral with respect to the Loan Facility Obligations are to be applied:
 - i.** Ninety percent (90%) to Ex-Im Bank, and
 - ii.** Ten percent (10%) to the Lender,
Until the Loan Facility Obligations have been paid in full, then the remainder are to be applied to all other obligations of the Borrower to the Lender.
(y) Any amounts received with respect to other obligations due the Lender after payment in full of all of the Borrower's obligations to the Lender secured by such additional Collateral (other than the Loan Facility Obligations) are then to be applied:
 - i.** Ninety percent (90%) to Ex-Im Bank, and
 - ii.** Ten percent (10%) to the Lender,
Until the Loan Facility Obligations have been paid in full.

 - d.** If from Guarantor Collateral:
To be applied on a Pro Rata Guaranty Basis to **(x)** the Loan Facility Obligations and **(y)** all other obligations of the Borrower and Guarantor to the Lender.

(x) The amounts received from the Guarantor Collateral with respect to the Loan Facility Obligations are to be applied:

i. Ninety percent (90%) to Ex-Im Bank, and

ii. Ten percent (10%) to the Lender,

Until the Loan Facility Obligations have been paid in full, then the remainder are to be applied to all other obligations of the Borrower and Guarantor to the Lender.

(y) Any amounts received with respect to other obligations due the Lender after payment in full of all of the Borrower's obligations to the Lender secured by the Guarantor Collateral (other than the Loan Facility Obligations) are then to be applied:

i. Ninety percent (90%) to Ex-Im Bank, and

ii. Ten percent (10%) to the Lender,

Until the Loan Facility Obligations have been paid in full.

- e. Any Recovery Proceeds received by Ex-Im Bank in excess of the amount of the Claim Payment shall be remitted to the Lender for application to any other obligations of the Borrower or Guarantor to the Lender that are secured by the Collateral.

III. PRIORITY LENDER PROGRAM

A. **Requirements** - Under the Priority Lender Program, approved Lenders submit complete Final Commitment applications, including a credit memorandum, to Ex-Im Bank and receive a decision from Ex-Im Bank within ten Business Days. The Loan Facility application must be approved by the Lender prior to submission to Ex-Im Bank. The Lender's credit memorandum must comply with Ex-Im Bank's credit memorandum guidelines which is provided to participating Lenders. The highest Maximum Amount that can be processed under the Priority Lender Program is \$5 million per Borrower. In order to participate in the Priority Lender Program, a Lender must meet the following eligibility requirements:

1. At least two persons on the Lender's staff who will be involved in the Priority Lender Program must attend Ex-Im Bank's three-day seminar and the fourth day Priority Lender Program training seminar. The Lender must thereafter at all times maintain at least two persons with such training involved in the Priority Lender Program.

Note: Ex-Im Bank may, in its sole discretion, waive the training requirement for a Lender with substantial experience with the Working Capital Guarantee Program.

2. The Lender must submit its annual report each year.

3. The Lender must demonstrate an understanding of the Working Capital Guarantee Program by having made a minimum of two Loan Facilities operative.
- B. Documentation** - Ex-Im Bank confers Priority Lender status through a Letter of Understanding, which sets forth Ex-Im Bank's agreement to provide the Lender with a ten-Business Day response.
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IV. DELEGATED AUTHORITY LENDER PROGRAM

A Lender which has been deemed eligible by Ex-Im Bank pursuant to the general eligibility requirements set forth in Section II(A)(1) of this Manual, and has met the Priority Lender Program eligibility criteria set forth in Section III of this Manual, can apply for Delegated Authority. Under the Delegated Authority Program, a Lender and Ex-Im Bank enter into a Delegated Authority Letter Agreement which allows the Lender to approve Loans and receive an Ex-Im Bank Guarantee without having to submit individual applications to Ex-Im Bank for approval.

- A. Levels of Delegated Authority** - Ex-Im Bank reserves the right to determine the level of Delegated Authority authorized for each Lender. There are five levels of Delegated Authority, as outlined below:
1. **“Community” Level Lenders** -
 - a. **Limits** - “Community” level Delegated Authority Lenders may approve Loan Facilities up to a total of \$1 million per Loan Facility/per Borrower (including any affiliates and/or subsidiaries), and may approve an aggregate total of up to \$10 million in Loan Facilities.
 - b. **Criteria** - “Community” level Delegated Authority status requires the Lender to:
 - i. be locally owned and operated;
 - ii. serve a single community;
 - iii. make commercial loans as a part of its regular business;
 - iv. set lending policies at the local level;
 - v. have total assets of no greater than \$500 million;
 - vi. have experience in monitoring asset-based loans, (at a minimum) at the most basic levels required by the Program; and
 - vii. have at least one of its staff at the Vice President (or equivalent) level or higher attend either Ex-Im Bank's three-day seminar and the fourth day Priority Lender/Delegated Authority Lender Program training seminar or

an abbreviated Ex-Im Bank training session, which will include a half-day overview of Ex-Im Bank programs, a half-day on Insurance programs, and the half-day WCGP Priority Lender/Delegated Authority Lender Training.

c. Additional Requirements -

- i.** There is no prerequisite for the Lender to make any WCGP Loan Facilities operative prior to receiving Delegated Authority (Community), however, the Lender is required to submit its internal credit memorandum for the first three Loan Facilities it makes operative under Delegated Authority.
- ii.** Terms of Loan Facilities approved under Delegated Authority (Community) are limited to a maximum of twelve months.
- iii.** All Accounts Receivable financed under a Delegated Authority (Community) Loan Facility must be:
 - (a) supported by irrevocable Letters of Credit,
 - (b) insured by acceptable credit insurance, or
 - (c) some combination of (a) and (b) covering one-hundred percent (100%) of the Accounts Receivable.

Note: Satisfaction of this requirement will qualify the Borrower for the Reduced Facility Fee.

- iv.** After a minimum of three Loan Facilities made operative under Delegated Authority, at least one year as a Delegated Authority (Community) Lender, and a satisfactory field examination (conducted by Ex-Im Bank staff), the Lender may request an increase to the “Basic” Delegated Authority Level.

2. “Basic” (formerly “B”) Level Lenders -

- a. Limits -** “Basic” level Delegated Authority Lenders may approve Loan Facilities up to a total of \$2 million per Loan Facility/per Borrower (including any affiliates and/or subsidiaries), and may approve an aggregate total of up to \$25 million in Loan Facilities.
- b. Criteria -** “Basic” level Delegated Authority status requires the Lender to have made operative at least two (2) WCGP Loan Facilities.

3. “Medium”(formerly “A”) Level Lenders -

- a. Limits -** “Medium” level Delegated Authority Lenders may approve Loan Facilities up to a total of \$3.5 million per Loan Facility/per Borrower (including any affiliates and/or subsidiaries), and may approve an aggregate total of up to

\$50 million in Loan Facilities.

- b. **Criteria** - “Medium” level Delegated Authority status requires the Lender to have made operative at least four (4) WCGP Loan Facilities.

4. “High” (formerly “AA”) Level Lenders -

- a. **Limits** - “High” level Delegated Authority Lenders may approve Loan Facilities up to a total of \$5 million per Loan Facility/per Borrower (including any affiliates and/or subsidiaries), and may approve an aggregate total of up to \$75 million in Loan Facilities.

On a case-by-case basis, Ex-Im Bank may increase a particular High level Delegated Authority Lender’s aggregate limit to \$100 million, provided that:

- i. The Lender is approaching its \$75 million aggregate limit; and
- ii. The most recent field examination of that Lender (conducted by Ex-Im Bank) was satisfactory.

- b. **Criteria** - “High” level Delegated Authority requires the Lender to have:

- i. made operative at least ten (10) Delegated Authority Program Loan Facilities totaling at least \$15 million; and
- ii. have undergone an Ex-Im Bank field examination of Loan Facilities committed under Delegated Authority, with satisfactory results.

5. “Super” Level Lenders -

- a. **Limits** - “Super” level Delegated Authority Lenders may approve Loan Facilities up to a total of \$10 million per Loan Facility/per Borrower (including any affiliates and/or subsidiaries), and may approve an aggregate total of up to \$150 million in Loan Facilities.

- b. **Criteria** - “Super” level Delegated Authority requires the Lender to:

- i. be either:
 - (a) a national asset-based lending entity whose portfolio totals \$1 billion or more in aggregate commitments; or
 - (b) a commercial lender having an asset-based lending unit, whose asset-based lending portfolio totals \$1 billion or more in aggregate

commitments;

- ii. have made operative at least five (5) Loan Facilities totaling at least \$25 million (whether under Delegated Authority or approved by Ex-Im Bank) over and above any Loan Facilities counted towards qualifying for “High” Level Delegated Authority status;
- iii. have undergone an Ex-Im Bank field examination within the last six (6) months, with satisfactory results; and
- iv. be approved for “Super” level Delegated Authority status by Ex-Im Bank’s Board of Directors.

c. Additional Requirements -

- i. For any Loan Facility of over \$5,000,000 approved under “Super” level Delegated Authority Lender, the Loan Authorization Notice must be signed by two (2) of the Lender’s employees, at least one of whom must be a Senior Vice President (or the equivalent) or higher, who have been designated as authorized signers pursuant to Annex B to the Delegated Authority Letter Agreement. (See Sections VIII(A)(5), (6), and (7) of this Manual regarding these documents.)
- ii. **Any Loan Facility of over \$5,000,000 approved under “Super” level Delegated Authority must be monitored and serviced by the Lender’s domestic asset-based lending division (which division may be the Lender itself).**

Note:

In order to qualify for a higher level, Delegated Authority Lenders may be subject to an Ex-Im Bank field examination, at the Lender’s offices, of Loan Facilities committed by the Lender under Delegated Authority. At Ex-Im Bank’s sole discretion, the field examination requirement may be fulfilled by a review (at Ex-Im Bank’s offices) of copies of documents and files, submitted by the Lender (at Ex-Im Bank’s request), of Loan Facilities committed under Delegated Authority. Lenders will be notified in writing of any increase in their Delegated Authority. The main objectives of a field examination include, but are not limited to, determining that, with respect to each Borrower and Loan Facility being examined, the Lender’s due diligence: (i) indicates that the Borrower, the Loan Facility terms and conditions, and the exports supported (by the Loan Facility) comply with WCGP guidelines and restrictions; (ii) includes evidence that the Borrower meets the minimum credit criteria (as set forth in Section (6) of the Delegated Authority Letter Agreement); and (iii) has documented, where required, that the Additionality test has been satisfied.

| PARAMETERS FOR DELEGATED AUTHORITY LEVELS | | |
|---|---------------------------------------|--|
| <u>Level</u> | <u>Limits Per Borrower/ Aggregate</u> | <u>Prerequisite Number and Type of Loan Facilities</u> |
| Community | \$1MM / \$10MM | N/A. |
| Basic | \$2MM / \$25MM | Minimum of 2 operative WCGP Loan Facilities. |
| Medium | \$3.5MM / \$50MM | Minimum of 4 operative WCGP Loan Facilities. |
| High | \$5MM / \$75MM | Minimum of 10 operative Delegated Authority Loan Facilities totaling at least \$15MM. |
| Super | \$10MM / \$150MM | Minimum of 5 operative Loan Facilities totaling at least \$25 million, over and above any Loan Facilities counted towards achieving "High" level status. |

O

nce a Lender has reached its aggregate limit (i.e., \$25 million in Loan Facilities for "Basic" level Lenders, \$50 million in Loan Facilities for "Medium" level Lenders, or \$75 million in Loan Facilities for "High" level Lenders), the Lender may make a written request for an increase. Ex-Im Bank's criteria for approval of an increase includes, but is not limited to, the following:

- (i) satisfactory experience under Delegated Authority (Community Level Lenders should refer to Section IV(A)(1)(c)(iv) of this Manual);
- (ii) compliance with Working Capital Guarantee Program parameters; and
- (iii) satisfactory Ex-Im Bank field examination(s).

If the increase is approved, Ex-Im Bank will amend the Delegated Authority Letter Agreement accordingly. The new aggregate limit will be determined by Ex-Im Bank at its sole discretion.

B. Facility Fee Retention - For Loan Facilities approved under Delegated Authority, the Lender and Ex-Im Bank will share the Facility Fee (for either the standard or reduced Annual Facility Fee Percentage) on the basis set forth below. For Revolving Loan Facilities other than Transaction Specific Revolving Loan Facilities, actual payment of the Facility Fee will be due in accordance with the Table in Section II(C)(2)(a) of this Manual.

| LOAN FACILITY TERM | MAXIMUM AMOUNT | STANDARD FACILITY FEE (1.5%) | | | REDUCED FACILITY FEE (1.0%) | | |
|--------------------|--------------------------|------------------------------|----------|-----------|-----------------------------|----------|----------|
| | | Lender | EIB's | Lender | Lender | EIB's | Lender |
| Up to 6 months | First \$2,000,000 | 75 bp | 25 bp | 50 bp | 50 bp | 25 bp | 25 bp |
| | Portion over \$2,000,000 | 75 bp | 37.5 bp | 37.5 bp | 50 bp | 25 bp | 25 bp |
| Over 6 months | First \$2,000,000 | 150 bp pa | 25 bp pa | 125 bp pa | 100 bp pa | 25 bp pa | 75 bp pa |
| | Portion over \$2,000,000 | 150 bp pa | 75 bp pa | 75 bp pa | 100 bp pa | 50 bp pa | 50 bp pa |

Note: For a Loan with a term of over 6 months / up to 12 months, or over 12 months, the Facility Fee will be *pro-rated* accordingly at the rate of 1.5% (Standard) or 1.0% (Reduced) *per annum*..

bp = basis point
pa = per annum

C. Delegated Authority Program Documentation - Ex-Im Bank confers Delegated Authority status through the Delegated Authority Letter Agreement, or the Delegated Authority Letter Agreement (Community), which outlines the specific terms and conditions between Ex-Im Bank and the Lender with respect to the exercise of a Lender's Delegated Authority.

D. General Procedural Standards - Ex-Im Bank requires the Lender to adhere to general procedural standards listed below:

Note: In the event that Ex-Im Bank's operations are suspended due to a lack of appropriations or its Loan and Guarantee Programs are otherwise suspended, all Delegated Authority Letter Agreements and Delegated Authority Letter Agreements (Community) will be temporarily terminated and Delegated Authority Lenders will not be able to commit any additional transactions (including renewals) under Delegated Authority, or to increase the Maximum Amount on any existing Delegated Authority transactions. Once Ex-Im Bank has resumed operations and its Loan and Guarantee Programs have been reinstated, all levels of Delegated Authority will automatically be reinstated without any further action on the part of Ex-Im Bank. The Guarantee for all WCGP transactions committed prior to a suspension of operations will continue to be effective, thus, Lenders may continue to make Disbursements under any such Loan Facilities during such a suspension.

1. Initial Applications - All Lenders with Delegated Authority shall submit their commitments to Ex-Im Bank, as outlined in Section IV(D)(3), below. If the Borrower does not meet all the minimum eligibility requirements as set forth in Section II(A)(2) of this Manual and minimum financial requirements as set forth in Section IV(E) of this Manual at the time of application, the Lender must either request in writing that Ex-Im Bank approve a waiver of the requirement in question, or submit the application package directly to Ex-Im Bank for processing under the Priority Lender Program. Lenders are requested to allow sufficient time (ten (10) Business Days whenever possible) for Ex-Im Bank to review and respond to any requests for waivers and other accommodations.

Note: Neither the Lender nor the Borrower may use the first or any subsequent Disbursement under the Loan Facility (or a portion thereof) to repay any pre-existing debt of the Borrower, unless approved in writing by Ex-Im Bank prior to the Effective Date of the Loan Facility pursuant to Section II(G)(5) of this Manual.

2. Credit Memorandum - The Lender must prepare a credit memorandum and financial analysis. The Lender may either use its own credit memorandum or Ex-Im Bank's Credit Memorandum format, which is provided to participating Lenders. Furthermore, the Lender must address, in either its internal credit memoranda or an addendum, the need for an Ex-Im Bank Guarantee ("Additionality"). (See Section II(J) and Appendix C of this Manual.)

- 3. Loan Facility Commitment Procedures-** The Ex-Im Bank Guarantee becomes effective on the date the Lender closes the Loan Facility. The Lender is required to notify Ex-Im Bank that it has approved a Loan Facility by submitting a completed SBA/Ex-Im Bank Joint Application form (without attachments) and a Loan Authorization Notice (including Schedule A to the Loan Authorization Notice), together with the \$100 application fee and the applicable Facility Fee, no later than ten (10) Business Days after the Effective Date.

Ex-Im Bank will acknowledge receipt of the application form and the Loan Authorization Notice within five (5) Business Days. **The Lender need not wait for receipt of Ex-Im Bank's acknowledgment to fund the Loan Facility.**

Note: The Delegated Authority Lender may assign, transfer, negotiate, sell or participate all or part of its interests and rights in the Loan Facility as outlined in Section II(B) of this Manual.

- 4. Renewal of Existing Delegated Authority Loan Facilities -** For renewals, the Lender must follow the same procedure as described in (1) above. If the Borrower does not meet all the minimum financial and/or eligibility requirements at the time of renewal, the Lender must either submit the Loan Facility request to Ex-Im Bank for consideration under its Priority Lender Program, or request in writing a waiver of the requirement. Waivers are granted for one term at a time, and must be reissued for any subsequent term(s). *Lenders are requested to allow sufficient time (ten (10) Business Days whenever possible) for Ex-Im Bank to review and respond to any requests for waivers and other accommodations.*

Note: On occasion, a situation may exist wherein a Lender commits a Loan Facility under its Delegated Authority, and subsequently (but within that term of the Loan Facility) submits a request to Ex-Im Bank for an increase to the Maximum Amount because the requested (new, higher) Maximum Amount exceeds the Lender's Delegated Authority (per Borrower/per transaction) limit. If at the time of renewal, the Maximum Amount requested (still or again) exceeds the Lender's Delegated Authority (per Borrower/per transaction) limit, the Lender **must** submit the application package to Ex-Im Bank for approval of the entire Maximum Amount. (If, however, the Maximum Amount requested will no longer exceed the Lender's limit, either because the Lender's limit has been increased or because the Maximum Amount requested is lower than previously approved by Ex-Im Bank, the Lender may commit the renewal under its Delegated Authority.)

- 5. Term -** Except as allowed for Revolving Loan Facilities pursuant to Section II(C) of this Manual, the term of the Loan Facility shall not exceed 12 months without the prior written approval of Ex-Im Bank. (The term of a Loan Facility committed under Delegated Authority (Community) shall in no event exceed twelve months.)

Note: A Lender may extend the Final Disbursement Date of a Loan committed under

Delegated Authority up to a maximum of 120 days in the aggregate without Ex-Im Bank's prior written consent, however, the Lender must advise Ex-Im Bank of such extension and must remit the appropriate Facility Fee to Ex-Im Bank within ten (10) Business Days of the effective date of such extension.

6. **Military and Nuclear Items** - A Lender cannot exercise Delegated Authority for a transaction where Items are sold to or destined for sale to or use by any military organization or are designed primarily for military use (regardless of the nature or use of the Item), or for a transaction involving nuclear-related products or services, as previously described in Section II(O)(1)(f) of this Manual.
7. **Accounts Receivable** - All Accounts Receivable must be denominated in U.S. dollars unless otherwise pre-approved by Ex-Im Bank. In addition, Accounts Receivable due and collectible outside the United States cannot be included in the Export-Related Borrowing Base without the prior written consent of Ex-Im Bank.

E. Minimum Financial Requirements - Minimum financial requirements are based on the most recent financial data available. Items **1.** and **2.** must be documented in either the Lender's internal credit memorandum or in an addendum. (See Appendix C to this Manual.)

1. **Industry Comparison of Financial Ratios** - In evaluating the Borrower's financial condition, the Lender must compare financial ratios for the Borrower's industry, as published in the Robert Morris Associates ("RMA") Statement Studies, to the Borrower's *most recent fiscal year end* financial ratios. The Lender must use the most recent RMA Statement Studies (i.e., published within the last 12 months). The Lender must base such comparison on the ratios for the appropriate peer group using either "Current Data Sorted by Assets" or "Current Data Sorted by Sales" category for companies sharing the same primary Standard Industrial Classification Code (SIC Code) as the Borrower. (Ratios must be chosen from the same grouping (i.e., Current Data Sorted by Assets or Current Data Sorted by Sales), not a combination of the two.) The Borrower's ratios must meet or exceed its industry's **Lower** Quartile (based on the RMA comparison), for a **minimum of four** of the following ratios:

- a. Current Ratio;
- b. Net Sales/Total Assets;
- c. Debt to Worth;
- d. (Net Profit + Depreciation, Depletion, and Amortization Expense)/
Current Portion of Long-Term Debt;
- e. EBIT/Interest;
- f. Cost of Sales/Inventory; and
- g. Sales/Accounts Receivable.

Note: In the unlikely event that no reasonably appropriate SIC Code can be determined, the Lender must obtain Ex-Im Bank's written approval prior to committing the Loan Facility under Delegated Authority.

2. **Positive Tangible Net Worth** - The Borrower must have a positive tangible net worth at the time of application. Tangible net worth is defined as net worth determined in accordance with GAAP, increased by debt subordinated to the Loan Facility, and decreased by all intangible assets, including patents, licenses, goodwill, subscription lists, capitalized software, organization expenses, covenants not to compete, and investment in and moneys due from affiliates (including officers, directors and shareholders).
 3. **Annual Financial Statements** - The Borrower, and each Guarantor (other than an individual Guarantor), if any, must submit year-end financial statements to the Lender no later than 120 days after the end of its fiscal year; a publicly traded Borrower may submit its year-end statements at the time it files its Form 10-K.
 4. **Quarterly Financial Statements** - The Borrower and any Guarantor (other than an individual Guarantor) must submit quarterly financial statements to the Lender no later than 45 days after the end of each quarter; a publicly traded Borrower may submit its quarterly statements at the time it files its Form 10-Q.
 5. **Taxes and Judgments** - All Federal, state and local income taxes must be current, and all material judgments and liens must be satisfied.
 6. **Guarantors** - Any Controlling Affiliate (as defined in Section (5)(b) of the Delegated Authority Letter Agreement) must guarantee the Loan. Venture capital firms or other investment groups are excluded from this requirement. All Guarantors (other than individual Guarantors) must provide year-end financial statements as set forth above. All individual Guarantors must provide a current signed financial statement on a bank form; for Loan Facilities with terms of over twelve months, individual Guarantors must provide such personal financial statements on an annual basis.
- F. Collateral** - Delegated Authority Lenders must comply with the WCGP requirements for Security, Collateral, and Guarantees, as set forth in the Master Guarantee Agreement and the Delegated Authority Letter Agreement, and as outlined in Sections II(H)(1) through II(H)(3) of this Manual.
- G. Collateral Options on the 10% Risk Retention** - Delegated Authority Lenders have the option to separately collateralize their ten percent (10%) risk retention or to share *pro-rata* with Ex-Im Bank the Collateral for each Loan Facility. (See Section 6(G) of the Loan Authorization Notice.)
If the Lender opts to separately collateralize its ten percent (10%) risk retention, the Lender must disclose the specific collateral on the Loan Authorization Notice.

The Lender cannot collateralize its ten percent (10%) risk retention with cash, cash equivalents or marketable securities from the Borrower, any Guarantor, any Affiliate of the Borrower (as defined in Section (5)(b) of the Delegated Authority Letter Agreement), or any other third party.

When the Lender chooses to separately collateralize the retained 10% risk, the Lender must execute two separate promissory notes or other such evidence of debt: one for the retained 10% risk, and one for the 90% balance. The note for the retained 10% risk must be on a *pari-passu* basis with respect to disbursements and repayments under the Loan Facility. If the Lender chooses to share Collateral *pro-rata* with Ex-Im Bank, only one document evidencing the debt is required.

V. CITY/STATE PROGRAM

The City/State Program is a cooperative venture between Ex-Im Bank and various state and local government authorities. Under the City/State Program, state and local finance and development agencies assist small and medium-sized Borrowers in understanding and utilizing Ex-Im Bank programs. A list of City/State participants is available on Ex-Im Bank's web-site <http://www.exim.gov> or from Ex-Im Bank's Business Development Division at (202) 565-3946 upon request.

VI. TRADE ASSOCIATION PARTNERSHIP PROGRAM

The Trade Association Partnership Program ("TAPP") is a cooperative venture between Ex-Im Bank and various trade associations. Under TAPP, trade associations assist their members in understanding and utilizing Ex-Im Bank programs. A list of TAPP participants is available on Ex-Im Bank's web-site <http://www.exim.gov> or from Ex-Im Bank's Business Development Division at (202) 565-3946 upon request.

VII. ALTERNATE FUNDING SOURCE

The Private Export Funding Corporation ("PEFCO") is a private corporation owned by commercial banks, industrial corporations and financial service companies. Its purpose is to mobilize sources of capital to finance U.S. exports. PEFCO has different programs to meet the specific needs of Borrowers and Lenders. PEFCO's Working Capital fact sheet is attached as Appendix E to this Manual.

- A. **Programs for Lenders** - PEFCO provides a source of liquidity and overline funding support for Lenders extending Loan Facilities to Borrowers. PEFCO is prepared to purchase participations in these Loan Facilities in amounts up to the fully guaranteed amount (i.e., the principal covered by the 90% Working Capital Guarantee). Lender inquiries should be directed to Mr. Alfred F. Daiboch, Director-Small Business at PEFCO in New York City, telephone (212) 916-0300, fax (212) 286-0304.
- B. **Programs for Borrowers** - Under PEFCO's Programs for Borrowers, Ex-Im Bank offers the Lender guarantee coverage of 100% rather than the standard WCGP 90% coverage.

Note: Applications for these programs must be submitted to Ex-Im Bank for approval (i.e., Delegated Authority Lenders cannot commit a Loan Facility with 100% coverage).

1. **Accessible Lender Program** - For Borrowers with an Ex-Im Bank WCGP Preliminary

Commitment who cannot access financing, Ex-Im Bank and PEFCO have established the Accessible Lender Program to provide them access to an alternate source of pre-export financing. To be eligible for this program, Borrowers must: (i) have applied and been issued a Preliminary Commitment from Ex-Im Bank; and (ii) have contacted at least two Lenders for financing and, if available, the City/State participant in the jurisdiction in which it is located, and demonstrated to Ex-Im Bank's satisfaction that a Lender cannot be obtained. Borrower inquiries should be directed to the Business Credit Division (formerly known as the United States Division) at (202) 565-3780.

2. **Underserved Market Program** - Ex-Im Bank and PEFCO have established a new pilot program to provide access to financing for markets that are generally underserved by the lending community. To this end, please note the following: (i) the Borrower need not obtain a preliminary commitment from Ex-Im Bank, nor have been declined by two lenders (as required under 1., above); and (ii) applications under this pilot program are exempt from the \$1,111,111 *de minimus* (i.e., applications under this pilot program for loans of any dollar amount may be submitted to Ex-Im Bank). In order to qualify, **all** of the following criteria (**a** through **f**, below) must be met:
 - a. The Borrower must fall into **at least one** of the following target markets (as defined in Appendix D to this Manual):
 - i. Minority-owned business, *or*
 - ii. Women-owned business, *or*
 - iii. Business located in an economically depressed area, *or*
 - iv. Business located in a rural area, *or*
 - v. Environmental business;
 - b. The Borrower must be new to Ex-Im Bank (or must not have been a Borrower under the WCGP for at least three years since maturity of the Borrower's last WCGP Loan Facility);
 - c. The Borrower's total annual sales must be \$10,000,000 or less;
 - d. The Borrower must have 100 or fewer employees;
 - e. The Borrower must qualify as a small business under SBA guidelines; *and*
 - f. The Maximum Amount (of the Loan Facility) must be \$2,000,000 or less.

VIII. DOCUMENTATION

A. Working Capital Guarantee Program Documents

1. **U.S. Small Business Administration/Export-Import Bank of the United States Joint Application for Working Capital Guarantee** - The SBA/Ex-Im Bank Joint

Application form requires principal party and transaction information, and Borrower, Lender, and Guarantor certifications, and it includes a checklist of relevant documents and information to be submitted with the form. It must be submitted with all Loan Facility requests.

2. **Master Guarantee Agreement** - The Master Guarantee Agreement (MGA) is made and entered into by Ex-Im Bank and the Lender, and sets forth the terms and conditions that govern Ex-Im Bank's Guarantee of all Loan Facilities made by the Lender under the Program. Upon Ex-Im Bank's approval of the Lender's first Loan Facility application, Ex-Im Bank will execute the MGA and send it to the Lender. The Lender must then execute the MGA prior to making any Loan Facility under the MGA, and return one executed original to Ex-Im Bank.
3. **Loan Authorization Agreement (Annex A to the Master Guarantee Agreement and to the Borrower Agreement)** - The Loan Authorization Agreement is made and entered into by Ex-Im Bank and the Lender, and sets forth the terms and conditions of a particular Loan Facility. Upon approval of a Loan Facility, Ex-Im Bank will execute a Loan Authorization Agreement and send it to the Lender. The Lender must then execute the agreement prior to or upon the Lender making such Loan Facility, and return one executed original to Ex-Im Bank. The Lender must provide a copy of the Loan Authorization Agreement and any Special Conditions (Schedule B to the Loan Authorization Agreement) to the Borrower. The Lender, however, is not required to provide the Borrower with a copy of the Facility Fee Schedule (Schedule A to the Loan Authorization Agreement).

Note: While Ex-Im Bank initially completes and executes the Loan Authorization Agreement (including Schedule A) at the time of approval of the Loan Facility, for a Revolving Loan Facility with a term of greater than twelve (12) months, the Lender must complete and execute Schedule A and submit it together with the Facility Fee due at each anniversary of the Effective Date, as applicable.

4. **Borrower Agreement (Annex B to the Master Guarantee Agreement)** - The Borrower Agreement is made and entered into by the Lender and the Borrower, and sets forth certain obligations of the Borrower with respect to the Loan Facility. This Agreement must be executed by the Borrower for each Loan Facility in the exact form provided, and is then acknowledged and retained by the Lender. To the extent that provisions of the Borrower Agreement address similar requirements set forth in the Loan Agreement between the Borrower and the Lender, the more stringent provisions of each with respect to the Borrower shall govern for that particular Loan Facility.
5. **Delegated Authority Letter Agreement** - The Delegated Authority Letter Agreement is made and entered into by Ex-Im Bank and the Lender, and sets forth the terms and conditions of Delegated Authority. Upon Ex-Im Bank's approval of a Lender for Delegated Authority status, Ex-Im Bank will execute a Delegated Authority Letter Agreement and send it to the Lender. The Lender must then execute the agreement and return one executed original to Ex-Im Bank.

Note: For purposes of this Manual, all references to the Delegated Authority Letter Agreement shall be deemed to include to the **Delegated Authority Letter Agreement (Community)** unless otherwise specified.

6. **Loan Authorization Notice (Annex A to the Delegated Authority Letter Agreement and to the Borrower Agreement)** - The Loan Authorization Notice is made and entered into by Ex-Im Bank and the Lender, and sets forth the terms and conditions of a particular Loan Facility as committed by the Delegated Authority Lender. Within ten (10) Business Days of the Effective Date, The Lender shall execute a Loan Authorization Notice and submit two originals to Ex-Im Bank for acknowledgment. The Lender must also provide a copy of the Loan Authorization Notice to the Borrower. The Lender, however, is not required to provide the Borrower with a copy of the Facility Fee Schedule (Schedule A to the Loan Authorization Notice).

Note: The Lender must also complete and execute Schedule A, Sections I through IV, and submit it when the Loan Authorization Notice is originally submitted, as well as at each anniversary of the Effective Date of a Revolving Loan Facility (as applicable). In addition, the Lender must complete, execute and submit Schedule A, Section V at the time of any Extension of the Final Disbursement Date (such Extensions not to exceed one-hundred-twenty (120) days in the aggregate).

7. **Authorized Officer Designation Notice (Annex B to the Delegated Authority Letter Agreement)** - The Authorized Officer Designation Notice sets forth the Lender's employees who are authorized to execute Ex-Im Bank Delegated Authority documents. At least two (2) employees of the Lender must be so designated. (For Delegated Authority (Community) Lenders, only one employee must be so designated in accordance with Section IV(A)(1)(b)(vii) of this Manual.) The Lender shall complete the Authorized Officer Designation Notice at the time the Delegated Authority Letter Agreement is executed **and/or** whenever there is a change in authorized employee(s).
8. **Priority Lender Program Letter of Understanding** - The Priority Lender Program Letter of Understanding sets forth Ex-Im Bank's agreement to provide the Lender with a ten-Business Day response to complete applications submitted by that Lender.
9. **Country Limitation Schedule** - The Country Limitation Schedule sets forth on a country-by-country basis whether and under what conditions Ex-Im Bank is open for business in the countries listed therein. Each Preliminary Commitment or Loan Authorization Agreement will include a Country Limitation Schedule. From time to time, Ex-Im Bank will provide an updated Country Limitation Schedule to all Delegated Authority Lenders (whether active or not) and to all other Lenders active in the Program. The updated Country Limitation Schedule supersedes the previous Country Limitation Schedule.

It is the Lender's responsibility to provide a copy of the Country Limitation

Schedule to the Borrower at the inception of the Loan Facility, and to provide a copy of each new Country Limitation Schedule (and any amendments, revisions, or updates thereto) to the Borrower within ten (10) Business Days of receipt.

(The Lender does not need to provide a Country Limitation Schedule to the Borrower in connection with Transaction Specific Loan Facilities, however, such Loan Facilities must comply with the Country Limitation Schedule in effect at the time the Loan Documents are executed.)

- 10. Affiliate Guarantee Authorization Agreement** - The Affiliate Guarantee Authorization Agreement (“AGAA”) is made and entered into by the Lender and Ex-Im Bank, and sets forth the terms and conditions governing Affiliate Loan Facilities. The Lender submits a list of its Affiliates whose Loan Facilities will also be guaranteed by Ex-Im Bank under the Lender’s MGA. Each Affiliate extending an Affiliate Loan Facility must employ at least one officer who has completed the Ex-Im Bank Priority Lender/Delegated Authority Lender training course (or equivalent).
- 11. Preliminary Commitment** - The Preliminary Commitment is issued to the Borrower upon Ex-Im Bank's approval of an application for a Loan Facility. It outlines the specific terms and conditions under which Ex-Im Bank is prepared to guarantee a Loan Facility extended by an eligible Lender.

B. WCGP Loan Document Requirements

- 1.** The Loan Documents **may not** contain binding alternative dispute resolution provisions, however, they **may** contain voluntary, non-binding alternative dispute resolution provisions.
- 2.** The Loan Documents **must** be governed by the laws of a state (including the District of Columbia), territory, or commonwealth of the United States of America.
- 3.** The Loan Documents must be valid and enforceable, and must be assignable to Ex-Im Bank.

IX. INQUIRIES

Program information and literature may be obtained through Ex-Im Bank’s web-site at <http://www.exim.gov>. General program inquiries or requests for applications and Working Capital Guarantee Program literature should be directed to the Business Development Group at 1-800-565-EXIM (565-3946).