

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is entered into as of the latest date set forth on the signature page hereto between _____ (the "Borrower"), and _____ (the "Lender").

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lender and the Borrower agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"Dollars" or "\$" means the lawful money of the United States of America.

"Interest Rate" means, with respect to the Loan, an annual rate (computed on the basis of the actual number of days elapsed, but assuming a 360-day year) equal to _____%.

"Loan" means an advance in the amount of _____ and No/100ths Dollars (\$_____.00), made to the Borrower by the Lender pursuant to this Agreement.

"Maturity Date" means _____.

"Obligations" means all of the Borrower's indebtedness, obligations, and liabilities to Lender pursuant to this Agreement.

ARTICLE II THE LOAN

Section 2.1 Commitment. Subject to the terms and conditions set forth herein, the Lender agrees to make the Loan to the Borrower.

Section 2.2 Repayment of the Loan; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to repay to Lender all Obligations outstanding hereunder when due.

(b) The Borrower shall pay interest on the outstanding principal amount of the Loan from the date the Loan is made until the principal amount thereof is paid in full, at the Interest Rate and pursuant to the other terms and provisions set forth herein.

(c) The Lender shall maintain an account evidencing the indebtedness of the Borrower to the Lender resulting from the Loan, including the amounts of principal and interest payable and paid to the Lender hereunder.



ARTICLE III
PRINCIPAL, INTEREST, ACCOUNTS, PAYMENTS,

Section 3.1 Principal and Interest on the Loan.

(a) The Loan shall bear interest on the outstanding principal amount thereof and on any due but unpaid interest, for each day from the date of the making of the Loan until the principal amount thereof, and all interest thereon shall be paid in full. Interest on the Loan shall accrue at a rate per annum equal to the Interest Rate.

(b) The Loan shall be amortized over a _____ year term. Borrower shall make payments to Lender in the amount of \$ _____, on a _____ basis. All principal and accrued and unpaid interest on the Loan not then paid by the Maturity Date shall be due and payable on the Maturity Date. Notwithstanding the foregoing, all principal and accrued and unpaid interest shall be immediately due and payable upon the occurrence of an Event of Default.

(c) If, by the terms of this Agreement, the Borrower at any time is required or obligated to pay interest at a rate in excess of the maximum rate permitted by applicable law, the Interest Rate shall be deemed to be immediately reduced to such maximum rate and the portion of all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments made in reduction of the principal amount due under the Loan.

(d) Interest shall be computed on the basis of the actual number of days elapsed in a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(e) Notwithstanding anything herein to the contrary, Borrower shall have the right to prepay the Loan at any time, whether in whole or in part, without the need for prior notice to or approval by the Lender, without any penalty, yield maintenance, or other fees.

Section 3.2 Payments to Be Made. The Borrower shall make its payments hereunder (including principal and interest) on a monthly basis, quarterly basis, other basis [Describe: _____], in immediately available funds, without setoff, defense or counterclaim. Any such payment shall be made to the Lender at such place as may be designated from time to time by the Lender in writing to the Borrower, by ACH, wire transfer, or as otherwise specified by Lender. Except as otherwise expressly provided herein, whenever any payment hereunder becomes due or otherwise would occur on a day that is not a business day, such payment may be made on the next succeeding business day. For the purpose of clarity, the parties hereto may attach a schedule to this Agreement setting forth the payment amounts and payment dates due hereunder. However, failure to so attach such a schedule shall not render this Loan invalid or otherwise impact Borrower's payment obligations hereunder, and in such event, all payments shall be made by Borrower strictly as set forth herein.



Section 3.3 Taxes. Any and all payments by or on account of any Obligation of the Borrower hereunder shall be made free and clear of and without deduction for any taxes; provided that if the Borrower shall be required to deduct any taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant governmental authority in accordance with applicable law.

ARTICLE IV
CONDITIONS

Section 5.1 Effective Date. The obligation of the Lender to make the Loan hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived by the Lender):

(a) The Lender shall have received from the Borrower a counterpart of this Agreement, signed on behalf of the Borrower.

(b) The Lender shall have received such documents and certificates as the Lender may reasonably request relating to the organization, existence, and good standing of the Borrower, and a copy of the certified resolutions of the Borrower authorizing the Loan, if applicable.

(c) Other. The following additional contingency(ies) shall have occurred to the reasonable satisfaction of Lender: _____

ARTICLE V
AFFIRMATIVE COVENANTS

Until the principal of and interest on the Loan shall have been paid in full, the Borrower covenants and agrees with the Lender that:

Section 6.1 Existence; Conduct of Business. The Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, and franchises material to the conduct of its business.

Section 6.2 Payment of Obligations. Borrower shall pay its indebtedness and other obligations, including tax liabilities, before the same shall become delinquent or in default, except where the validity or amount thereof is being contested in good faith by appropriate proceedings.



Section 6.3 Compliance with Laws. Borrower shall comply with all laws, rules, regulations, and orders of any governmental authority applicable to it or its property, except where the failure to do so could not reasonably be expected to result in a material adverse effect.

Section 6.4 Other Affirmative Covenants: Other. The following additional affirmative covenants shall be performed or undertaken by Borrower, to the reasonable satisfaction of Lender:

ARTICLE VI
NEGATIVE COVENANTS

Until the principal of and interest on the Loan have been paid in full, the Borrower covenants and agrees with the Lender that:

Section 7.1 Change in Control. The Borrower shall not permit, consent to, or acquiesce to any change in the day-to-day management or control of Borrower without the prior written consent of the Lender.

Section 7.2 Limitation on Distributions. Notwithstanding any terms to the contrary set forth in Borrower's limited liability company operating agreement, resolution, articles of incorporation, bylaws, contractual provisions to which Borrower is subject, or applicable law, the Borrower shall not make any distributions to its members until the Loan is repaid in full.

Section 7.3 Limitation on Fundamental Changes. The Borrower shall not, directly or indirectly, enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself, or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all of its property, business or assets, unless approved in advance in writing by Lender.

Section 7.4 Other Negative Covenants: Other. The following additional negative covenants shall apply:



ARTICLE VII
EVENTS OF DEFAULT

Section 8.1 Events of Default. An "Event of Default" shall mean the occurrence and continuation of one or more of the following events or conditions:

(a) Borrower shall fail to observe or perform any covenant, condition or agreement contained herein, or shall fail to make any payment in respect of the Loan (whether of principal or interest, and regardless of amount), and such failure shall continue unremedied for a period of five (5) days after notice thereof from the Lender to the Borrower;

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of Borrower or its debts, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for Borrower and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(c) Borrower shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (c), (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for Borrower, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing.

Section 8.2 Consequences of an Event of Default. If an Event of Default shall occur and be continuing, then the Lender may terminate or suspend the obligation of the Lender to make Loan hereunder or may declare the Obligations to be immediately due and payable in full, or both, in which case the Loan shall immediately terminate, and all Obligations shall immediately become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

ARTICLE VIII
MISCELLANEOUS

Section 9.1 Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail, or sent by electronic mail as follows:

(a) if to Borrower, at the following contact information: _____



(b) if to the Lender, at the following contact information: _____

Any party hereto may change its address or electronic mail for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 9.2 Waivers; Amendments. No failure or delay by the Lender in exercising any right or power hereunder shall operate as a waiver thereof. No waiver of any provision of this Agreement shall, in any event, be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

Section 9.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns, except that Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender (and any attempted assignment or transfer by Borrower without such consent shall be null and void).

Section 9.4 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute a single contract. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Section 9.5 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality, and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.6. Governing Law; Jurisdiction; Arbitration. This Agreement shall be construed in accordance with and governed by the law of the State of _____. Any dispute, to the extent not resolved by negotiation between the parties, shall be resolved by binding arbitration, in accordance with the rules of commercial arbitration of the American Arbitration Association.

Section 9.7 Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of or be taken into consideration in interpreting this Agreement.

Section 9.8 Interpretation. This Agreement is a negotiated agreement. In the event of any ambiguity in this Agreement, such ambiguity shall not be subject to a rule of contract interpretation that would cause the ambiguity to be construed against any of the parties to this Agreement.



Section 9.9 Guarantor.

The Loan shall be guaranteed by _____ (“Guarantor”). Guarantor acknowledges and agrees that Guarantor shall be responsible for performance and satisfaction of all terms hereof (including repayment of the Loan) in the event Borrower defaults hereunder. Guarantor shall promptly execute and deliver such documents or instruments as may be requested by Lender to separately evidence such guaranty obligation.

The Loan shall not have a guarantor.

Section 9.10. Additional Terms and Conditions. _____

IN WITNESS WHEREOF, the undersigned execute this Agreement as of the dates indicated.

Lender's Signature _____ Date _____
Print Name _____

Borrower's Signature _____ Date _____
Print Name _____

If the Loan has a Guarantor:

Guarantor's Signature _____ Date _____
Print Name _____

