



BUSINESS ACCESS LINE OF CREDIT NOTE
(SBA EXPRESS PROGRAM)
Delaware

[Instruction to Preparer: This form is intended for use in documenting lines of credit under the SBA Express Program only. Lines of Credit under any other SBA 7(a) Program must use SBA Form 147 in accordance with SBA requirements.]

_____, 20_____ \$ _____

BORROWER (Name):
 (Organizational Structure):
 (State Law organized under):
 (Address of residence/chief executive office):

BANK: M&T BANK, a New York banking corporation with a banking office at One M&T Plaza, Buffalo, New York 14203 Attention: Office of the General Counsel.

For value received, and intending to be legally bound, Borrower promises to pay to the order of the Bank, ON DEMAND, IN ACCORDANCE WITH THE CONDITIONS REFERENCED BELOW, the principal sum of _____ Dollars (\$_____) or, if less, such amount as may be the aggregate unpaid principal amount of all loans or advances made by the Bank to the Borrower pursuant hereto, together with interest from the date hereof on the unpaid principal balance from time to time outstanding until paid in full. The aggregate principal balance outstanding shall bear interest thereon at the Applicable Rate (as defined below). Borrower further agrees as follows:

1. **Definitions.** Each capitalized term shall have the meaning specified herein and the following terms shall have the indicated meanings:
 - a. **“Account”** means the Business Access Line of Credit established in your name, as evidenced by this Note.
 - b. **“Account Balance”** means the total of the outstanding principal balance, Finance Charges, all other applicable charges and fees, and any other amounts posted to and owing under your Account and/or evidenced by this Note.
 - c. **“Account Opening Date”** means the date this Account is or was created on a Bank loan system.
 - d. **“Applicable Rate”** means the interest rate applicable to the outstanding principal balance on all Loans. Except to the extent otherwise provided herein, the Applicable Rate shall be the Base Rate in effect from time to time. The initial Applicable Rate as of the date hereof shall be _____% per year, which shall adjust at the intervals as set forth herein (see “Base Rate” definition).
 - e. **“Authorized Person”** shall mean, individually, _____. Mention of the Authorized Person’s name is for reference purposes only and we may rely on a person’s title to ascertain whether someone is an Authorized Person.
 - e. **“Base Rate”** means _____ percentage points above the Prime Rate. To the extent the Base Rate is in effect, daily changes in the Prime Rate, if any, shall not alter the Base Rate until the first day of the Billing Period beginning in the month following any such changes in the Prime Rate, at which time the Base Rate shall adjust based on the Prime Rate in effect on the first day of such month, and remain as such for the remainder of that Billing Period. Notwithstanding anything to the contrary set forth herein, to the extent this Account remains guaranteed by the SBA under any applicable SBA program, the Base Rate margin on the Account shall not be subject to change without your consent, except to the extent a Default Rate is imposed, in which case the Default Rate shall not exceed the maximum rate permitted by SBA.
 - f. **“Billing Period”** means any period of approximately one month at the end of which we compute the amount to be billed respecting the Account.
 - g. **“Credit Limit”** means the maximum principal amount available under your Account, which shall be the face amount of this Note, subject to adjustment by the Bank in its sole discretion, without prior notice to Borrower.
 - h. **“Finance Charges”** mean accrued interest charges, as determined for each day by multiplying the outstanding principal balance on all Loans at the end of that day, by the Periodic Rate.
 - i. **“Line of Credit Check”** means any direct loan check that is issued by the Bank for use with your Account.
 - j. **“Linked Checking Account”** means any checking account with us that you have requested (and we have approved) to be linked to the Account for overdraft protection and automatic debit deduction of payments.
 - k. **“Loan”** means any amount of credit or advance obtained in any manner contemplated herein and posted to and owing under your Account.
 - l. **“Maturity Date”** means the date that is ten (10) years from the Account Opening Date.
 - m. **“Periodic Rate”** means the Applicable Rate in effect on the day of calculation, divided by 365.
 - n. **“Prime Rate”** means the highest rate per annum published from time to time by the Wall Street Journal as the Prime Rate or, in the event the Wall Street Journal ceases publication of the Prime Rate, the base, reference or other rate then designated by the Bank, in its sole discretion, for general commercial loan reference purposes, it being understood that such rate is a reference rate, not necessarily the lowest, established from time to time, which serves as the basis upon which effective interest rates are calculated for loans making reference thereto.
 - o. **“Principal Repayment Period”** means a six (6) year principal amortization period during which time (i) no further Loans or advances shall be permitted, and (ii) the Borrower shall be required to make consecutive monthly payments of principal, together with monthly payments of Finance Charges all in accordance with the terms of this Note.

- p. "Revolving Draw Period" means a four (4) year credit access period during which time (i) the Bank may in its discretion make Loans to the Borrower at its request, and the Borrower may continue to borrow, repay and re-borrow, and (ii) the Borrower shall be required to make the minimum payment due each month, all in accordance with the terms of this Note.
- q. "SBA" means Small Business Administration.
- r. "We", "us", "our", and "ours" means the Bank.
- s. "You" and "your" means the Borrower.

2. Credit Line. Subject to the terms and conditions provided herein, during the Revolving Draw Period, the Bank may make Loans to you, and you may borrow, repay and re-borrow such Loans, from time to time in the aggregate principal amount up to but not exceeding the Credit Limit. The Revolving Draw Period shall begin on the Account Opening Date, and end on the fourth anniversary of the Account Opening Date, regardless of Borrower's usage of the Account during that time period. The Principal Repayment Period shall begin on the fourth anniversary of the Account Opening Date, and end on the earlier of the Maturity Date or the date all outstanding amounts due are paid in full, at which time the Account shall be closed.

3. Loans.

a. We may make any Loan to you in reliance upon any oral, telephonic, written, teletransmitted or other request (the "Request(s)") that we in good faith believe to be valid and to have been made by you or on your behalf by an Authorized Person. We may act on the Request of any Authorized Person until we have received from you, and had a reasonable time to act on, written notice revoking the authority of such Authorized Person. We reserve the right to reject any Request that we in good faith (a) determine to be invalid or (b) are unable to validate (including, without limitation, any preauthorized debit draft that is presented to the Bank in the form of a paper draft on the Account that does not bear (i) all numeric codes that appear on a Line of Credit Check, and (ii) the original signature of an Authorized Person). Without limiting the generality of the foregoing, you shall be considered to have made a Request for a Loan by using a Line of Credit Check, or by sending us instructions by using a Business ATM card or Business debit card linked to your Account, together with appropriate PIN for such card, at any Bank electronic facilities, via M&T Online Banking for Business or by other electronic means acceptable to the Bank. If you have a Linked Checking Account, you authorize us to make a Loan and deposit the proceeds of any such Loan into the Linked Checking Account, without notice to you or your consent, if (i) an item is presented against the Linked Checking Account (including, without limitations, checks, fees or services charges) or you withdraw funds or make a transfer from such Linked Checking Account and (ii) the available funds in such Linked Checking Account are not sufficient to pay such item or make the withdrawal or transfer. The amount of such overdraft Loan shall not be less than the difference between (i) the amount of available funds in the Linked Checking Account and (ii) the amount necessary to pay the item presented against the Linked Checking Account or to effectuate the withdrawal or transfer. We can, but will not have to, treat all credits/advances obtained under your Account during any day in ways described in this paragraph as a single Loan. We shall incur no liability to you or to any other person as a direct or indirect result of making any Loan pursuant to this paragraph. All Loans are discretionary and all amounts are due upon demand, in accordance with the terms hereof. You hereby waive protest, presentment and notice of any kind in connection with this Note. A Loan is considered made on the date we post it to the Account.

b. You agree not to Request a Loan: (i) if such Loan would cause your Account Balance to exceed the Credit Limit, or (ii) as a payment on what you owe us on the Account or to pay any other indebtedness you owe us or any of our affiliates existing now or hereafter arising. If your Account Balance ever exceeds your Credit Limit, you shall immediately repay the excess to us.

c. You agree that the proceeds of all Loans shall be used solely for your business or commercial purposes, and specifically not for investing in or financing the purchase of "margin stock" as such term or terms of similar purport and effect shall be defined in Regulation U promulgated by the Board of Governors of the Federal Reserve System, as may now and from time to time hereafter be in effect. You specifically represent and warrant to us that you are not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock and that no part of the proceeds of any Loan will be used for any purpose, which violates or is inconsistent with the provisions of Regulation X promulgated by said Board of Governors. If requested by us, you will furnish to us a statement in conformity with the requirements of Federal Reserve Form U-1 referred to in Regulation U and to the foregoing effect.

4. Payments.

a. **Promise to Pay.** For value received, you promise to pay to the order of the Bank ON DEMAND, IN ACCORDANCE WITH THE TERMS HEREOF, your Account Balance and all other fees, charges and Expenses. You can pay your Account Balance in full at any time without penalty. All payments must be made in United States funds.

b. Bank may only demand payment in full if Borrower does not make a payment when due under this Note, or if Borrower: (i) fails to do anything required by this Note and other loan documents governing the Loan; (ii) defaults on any other loan with Bank; (iii) does not preserve, or account to Bank's satisfaction for, any of the collateral or its proceeds; (iv) does not disclose, or anyone acting on Borrower's behalf does not disclose, any material fact to Bank or the U.S. Small Business Administration ("SBA"); (v) makes, or anyone acting on Borrower's behalf makes, a materially false or misleading representation to Bank or SBA; (vi) defaults on any loan or agreement with another creditor, if Bank believes the default may materially affect Borrower's ability to pay this Note; (vii) fails to pay any taxes when due; (viii) becomes the subject of a proceeding under any bankruptcy or insolvency law; (ix) has a receiver or liquidator appointed for any part of Borrower's business or property; (x) makes an assignment for the benefit of creditors; (xi) has any adverse change in financial condition or business operation that Bank believes may materially affect Borrower's ability to pay this Note; (xii) reorganizes, merges, consolidates, or otherwise changes ownership or business structure without Bank's prior written consent; or (xiii) becomes the subject of a civil or criminal action that Bank believes may materially affect Borrower's ability to pay this Note.

c. **Scheduled Payments.** Absent demand for payment in full, during the Revolving Loan Period, the Borrower shall pay to the Bank, monthly in arrears for each Billing Period, on or before the due date shown on any statement for the Account, all accrued and unpaid Finance Charges, all other applicable charges and fees referenced herein, all costs and expenses incurred by the Bank in connection with the Account, plus any amounts listed on any prior statement for the Account to the extent such amounts remain unpaid. During the Principal Repayment Period, the Borrower shall be required to make seventy-one (71) consecutive monthly payments of the principal, each in an amount equal to 1/72 of the Account Balance outstanding as of the end of the Revolving Draw Period, or in such other amount as may be deemed sufficient to repay the entire Account Balance in full as of the Maturity Date, in an amount equal to the outstanding Account Balance, together with all accrued and unpaid Finance Charges and all other amounts due in connection with the Account. During the Principal Repayment Period, the Bank must adjust the payment amount at least

annually as needed to amortize principal over the remaining term of the Note.

You may make additional payments at your discretion, but doing so will not relieve you of the obligation to pay the full amount due as shown on any future statements for your Account.

Borrower acknowledges and understands that the act of scheduling, charging, deducting and/or accepting the monthly payment each month shall not in any way compromise or impair the Bank's right to demand payment in full of the entire Account Balance in accordance with the terms hereof.

5. Finance Charges. Finance Charges will begin to accrue on any Loan amount on the day such Loan is posted to the Account. The Finance Charge for the Billing Period will be computed by adding up the Finance Charges for all the days in the Billing Period.

6. Default Rate. If you fail to pay any amount under this Note when due, the Bank may in its sole discretion, increase the Applicable Rate to an annual rate equal to 14.90% (the "Default Rate") and any judgment entered hereon or otherwise in connection with any suit to collect amounts due hereunder shall bear interest at such Default Rate. Once applied following any payment default, the Default Rate will generally remain in effect through the end of the fifth full Billing Period following the date such payment default is cured ("Default Rate Period"), provided that no additional payment defaults occur during the Default Rate Period. If another payment default does occur during the Default Rate Period (or any extension thereof, as contemplated herein), such Default Rate Period shall be automatically reset and extended through the end of the fifth full Billing Period following the date that all payment defaults are properly cured. Accordingly, a Default Rate Period may be extended indefinitely by subsequent defaults that occur before that Default Rate Period expires. Upon the expiration of any Default Rate Period, the Applicable Rate shall revert to the Base Rate. Notwithstanding the above, to the extent the Loan evidenced by this Note is guaranteed by the SBA under any applicable loan program, the Default Rate shall not exceed the maximum interest rate permitted by the SBA.

7. Maximum Legal Rate. The maximum interest rate charged under this Note shall in no event exceed the maximum rate permitted by applicable law (the "Maximum Legal Rate"). Solely to the extent necessary to prevent interest under this Note from exceeding the Maximum Legal Rate, any amount that would be treated as excessive under a final judicial interpretation of applicable law shall be deemed to have been a mistake and automatically canceled, and, if received by us, shall be refunded to you, without interest.

8. Fees, Charges and Expenses. You agree to pay on demand all applicable fees and charges (as set forth herein) as may be charged to the Account from time to time at our sole discretion, and all Expenses (as defined below). Except to the extent prohibited by applicable law, we from time to time in our sole discretion may change the amount and method of calculation of any fee or charge described herein, and you acknowledge and agree that disclosure of any such change in any statement of your Account (or other form of notice as contemplated herein) shall be sufficient notice to you of such change. Your use of the Account, in any manner contemplated herein or otherwise, after being provided with such notice, shall be deemed acceptance of the terms and conditions of such change.

a. **Annual Fee.** You shall pay, upon the opening of the Account, and thereafter on or about each anniversary date of this Note, a non-refundable Annual Fee, which will be charged and posted directly to the Account. The amount of the Annual Fee is determined by the type of Linked Checking Account maintained by the Borrower at the time this Account is created. The charges are as follows:

No Linked Checking Account: \$300
M&T Simple Checking for Business: \$250
M&T Corporate Checking, M&T Commercial Checking: \$0
M&T Medical Services Bundle or M&T Professional Services Bundle: \$0
Other Type of Linked Checking Account: \$150

You acknowledge and understand that this Annual Fee will be charged each year for as long as this Account remains open, whether or not any Loan is made under the Account, and that payment of this Annual Fee does not entitle you to any assurances that the Account will remain open, nor otherwise alter or compromise the conditional demand nature of this credit facility or the Bank's right to suspend or cancel this Account at any time in accordance with the terms hereof. Any waiver of the Annual Fee in any particular year, in the Bank's sole discretion, shall not prejudice or compromise the Bank's right to charge and/or reinstate such Annual Fee at any time, without notice to Borrower. The Annual Fee shall be discontinued at the end of the Revolving Draw Period. You acknowledge and understand that this fee is charged for the enhanced access and convenience features associated with this Account.

b. **Late Charges.** If any payment due under this Note is unpaid for 10 days or more, you shall pay, in addition to any other sums due under this Note (and without limiting our other remedies in connection therewith) a late charge equal to either (i) 5% of such unpaid amount, as referenced on any statement of your Account, or (ii) \$20.00, as determined by us in our sole discretion, which will be charged and posted directly to the Account.

c. **Over-the-Limit Charges.** If your Account Balance exceeds your Credit Limit at any time during any Billing Period, you must pay, in addition to any other amounts due, an over-the-limit charge of \$20.00 for such Billing Period, which will be charged and posted directly to the Account.

d. **Charges for Unpaid Line of Credit Checks.** For each Line of Credit Check that we do not pay because you are (or would be if such Line of Credit Check were paid) in violation of any provision of this Note, you shall pay, in addition to any other amounts due, a charge of \$20.00, which will be charged and posted directly to the Account.

e. **Dishonored Check Charges.** If you use a check to pay any amount owing with respect to your Account and the check is not honored by the institution on which it is drawn, you shall pay, in addition to any other amounts due, a dishonored check charge not in excess of the amount permitted by applicable law, which will be charged and posted directly to the Account.

f. **Overdraft Advance Charges.** To the extent the Account is used as an overdraft line of credit, for a Linked Checking Account, you shall pay, in addition to any other amounts due, a service charge of ~~\$105.00~~ for each Loan made for purposes of preventing an overdraft on such Linked Checking Account, which will be charged and posted directly to the Account. At the end of the Revolving Draw Period, the overdraft protection utilizing this Account shall terminate.

g. **Stop Payment Charges.** You shall pay a stop payment charge of \$20 for each Stop Payment Order (as defined below) we process at your

request, which will be charged and posted directly to the Account.

h. Expenses. You shall pay on demand, all costs and expenses incurred by us from time to time in connection with this Note (including without limitation attorneys' fees and disbursements whether for internal or outside counsel), negotiating or documenting a workout or restructuring, or preserving its rights or realizing upon any guaranty or other security for the payment of this Note ("Expenses").

9. Application and Crediting of Payments.

a. Application. Payments may be applied in any order, in the Bank's sole discretion, but, prior to demand, the Bank will apply any payment posted to the Account during any Billing Period to the Account Balance at the beginning of the Billing Period in the following order: (1) any past due amounts (excluding late charges); (2) current Finance Charges for Loans; (3) current principal due (if any) as shown on the most recent statement for the Account; (4) charges for unpaid Line of Credit Checks, dishonored check charges and overdraft advance charges; (5) annual fees; (6) late charges and current over-the-limit charges; (7) total Loans shown on the statement for the Account for the preceding Billing Period; and (8) new Loans.

b. Crediting. Any payment received by the Bank for application to the Account Balance, depending on the method of payment and the time, date, place and manner it is received, need not be posted to the Account or considered to have been made (for purposes of determining ongoing availability under Borrower's Credit Limit) for up to six business days after the date such payment is received. Notwithstanding the above, for purposes calculating Finance Charges, the Account Balance will be credited by the amount of any payment within one business day following the Bank's receipt of such payment. Generally speaking, a business day is any day other than Saturday, Sunday or a federal holiday.

10. Bank Records Conclusive. We will maintain an electronic record of the date and original principal amount of each Loan and your Account Balance. The Account Balance so maintained shall be presumptive evidence of the Account Balance under this Note. No failure by the Bank to make, and no error by the Bank in making, any annotation on any electronic record shall affect your obligation to pay the Account Balance or any other obligation hereunder.

11. Setoff. We shall have the right to set off against the amounts owing under this Note any property held in a deposit or other account with us or any of our affiliates or otherwise owing by us or any of our affiliates in any capacity to you or any guarantor or endorser of this Note. Such set-off shall be deemed to have been exercised immediately at the time the Bank or such affiliate elects to do so.

12. Financial and Other Information. If you plan to change your address or mailing address, or the name, organization or ownership of the business, or if there is any unfavorable change in your financial condition, you agree to notify us in writing, in advance of the change whenever reasonably possible. You agree to submit to us business and/or personal financial statements in a form satisfactory to us, in our sole discretion, whenever we request delivery of any such business and/or personal financial statements.

13. Suspension and Cancellation. You may cancel your Account at any time by delivering to us a written notice specifically requesting cancellation. Such notice will not be effective until such time as we have had a reasonable time to process the request and implement the cancellation. You hereby acknowledge and understand that the Account is available subject to our continuing review, and that we may temporarily suspend or permanently cancel the Account at any time in our sole discretion, without notice to you. Upon suspension or cancellation, you shall no longer be permitted to use the Account in any manner contemplated herein or otherwise, including, without limitation, the making of any Request for a Loan. You further acknowledge and understand that, following any suspension or cancellation, overdraft protection (if any) provided by the Account to any Linked Checking Account shall terminate immediately, and we will not honor any Line of Credit Check presented to the Bank for payment (including any Line of Credit Check that may have been previously issued by you and is then in circulation). By signing below, you agree to indemnify and hold us harmless with respect to any claim by you or any third party related to the termination of any such overdraft protection, or our refusal to honor any such Line of Credit Checks. Any suspension or cancellation of the Account shall not affect in any way your obligation to pay the Account Balance or any other obligation hereunder when due.

14. Property Rights to Line of Credit Checks. Each Line of Credit Check is and will remain our property and, upon our request, must be returned to us.

15. Stopping Payment of Line of Credit Check. For a reasonable fee (as specified above), you may order us not to pay any Line of Credit Check ("Stop Payment Order"). We shall have no obligation to follow any such Stop Payment Order unless it includes (i) your Account number, (ii) the exact amount, date and number (if any) of the Line of Credit Check, (iii) the name, exactly as it appears on the Line of Credit Check, of everyone to whose order the Line of Credit Check is payable and (iv) the name, exactly as it appears on the Line of Credit Check, of the person who signed the Line of Credit Check. We shall have no obligation to follow any such Stop Payment Order until we have had a reasonable period of time to record it against your Account. We shall have no obligation to accept and process any Stop Payment Order if there are three or more Stop Payment Orders currently effective. You may cancel any Stop Payment Order, but we shall have no obligation to accept the cancellation unless it is in writing and until we have had a reasonable period of time to record it against your Account. We will in good faith try (a) not to pay any Line of Credit Check that we have been properly ordered not to pay and (b) to pay any Line of Credit Check for which an order not to pay has been properly canceled. We shall not be liable for any damages in connection herewith, except to the extent we fail to exercise ordinary care to (i) avoid paying any Line of Credit Check that we have been properly ordered not to pay or (ii) follow the proper cancellation of any order not to pay a Line of Credit Check. We will be deemed to have exercised that ordinary care if (a) we act in good faith, (b) we have a reasonable system for communicating orders of that type and cancellation of orders of that type to our employees and agents who would be likely to receive the Line of Credit Check and (c) we reasonably follow the system as a matter of routine.

16. Statements; Lost Line of Credit Checks. Any statement for your Account will be sent to your current mailing address shown in our records concerning your Account. Any notice you send us concerning any loss, theft or possible unauthorized use of any Line of Credit Check must be sent to M&T Bank, P.O. Box 1303 Buffalo, New York 14240-4091.

17. Notices. Any demand or notice hereunder or under any applicable law pertaining hereto shall be in writing and duly given if delivered to Borrower (at its address on the Bank's records) or to the Bank (at the address on page one and separately to the Bank officer responsible for Borrower's relationship with the Bank). Such notice or demand shall be deemed sufficiently given for all purposes when delivered (i) by personal

delivery and shall be deemed effective when delivered, or (ii) by mail or courier and shall be deemed effective three (3) business days after deposit in an official depository maintained by the United States Post Office for the collection of mail or one (1) business day after delivery to a nationally recognized overnight courier service (e.g., Federal Express). Notice by e-mail is not valid notice under this or any other agreement between Borrower and the Bank.

18. Changes In Terms. Except as otherwise provided herein, no change in the terms of this Note or waiver of any right or remedy hereunder can be made except in a writing signed by us. We retain the right to make changes to the terms of this Note, at any time and from time to time, to accommodate operational, technological or other requirements, in our sole discretion. You will be provided with notice of such changes and your use of the Account, in any manner contemplated herein or otherwise, after being provided with such notice, shall be deemed acceptance of the terms and conditions of such change. No course of dealing or other conduct, no oral agreement or representation made by us, and no usage of trade, shall operate as a waiver of any right or remedy of the Bank. No waiver of any right or remedy of the Bank shall be effective unless made specifically in writing by the Bank.

19. USA PATRIOT Act Notice. Bank hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act ("Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow Bank to identify the Borrower in accordance with the Patriot Act. The Borrower agrees to, promptly following a request by Bank, provide all such other documentation and information that Bank requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

20. Miscellaneous. This Note, together with any related loan and security agreements and guaranties, contains the entire agreement between you and the Bank with respect to the Note, and supersedes every course of dealing, other conduct, oral agreement and representation previously made by us. All rights and remedies of the Bank under applicable law and this Note or amendment of any provision of this Note are cumulative and not exclusive. No single, partial or delayed exercise by the Bank of any right or remedy shall preclude the subsequent exercise by the Bank at any time of any right or remedy of the Bank without notice. You agree that in any legal proceeding, a copy of this Note kept in the Bank's ordinary course of business may be admitted into evidence as an original. This Note is a binding obligation enforceable against Borrower and its successors and assigns and shall inure to the benefit of the Bank and its successors and assigns, except that Borrower may not transfer or assign any of its rights or interest hereunder without the prior written consent of the Bank. If a court deems any provision of this Note invalid, the remainder of the Note shall remain in effect. Section headings are for convenience only. Singular number includes plural and neuter gender includes masculine and feminine as appropriate.

21. Joint and Several. If there is more than one Borrower, each of them shall be jointly and severally liable for all amounts that become due under this Note and the term "Borrower", "you" and "your" shall include each as well as all of them.

22. Governing Law; Jurisdiction. This Note has been delivered to and accepted by the Bank and will be deemed to be made in the State of Delaware. Except as otherwise provided under federal law, this Note will be interpreted in accordance with the laws of the State of Delaware excluding its conflict of laws rules. **BORROWER HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN THE STATE OF DELAWARE IN A COUNTY OR JUDICIAL DISTRICT WHERE THE BANK MAINTAINS A BRANCH, AND CONSENTS THAT THE BANK MAY EFFECT ANY SERVICE OF PROCESS IN THE MANNER AND AT BORROWER'S ADDRESS SET FORTH ABOVE FOR PROVIDING NOTICE OR DEMAND; PROVIDED THAT NOTHING CONTAINED IN THIS NOTE WILL PREVENT THE BANK FROM BRINGING ANY ACTION, ENFORCING ANY AWARD OR JUDGMENT OR EXERCISING ANY RIGHTS AGAINST BORROWER INDIVIDUALLY, AGAINST ANY SECURITY OR AGAINST ANY PROPERTY OF BORROWER WITHIN ANY OTHER COUNTY, STATE OR OTHER FOREIGN OR DOMESTIC JURISDICTION.** Borrower acknowledges and agrees that the venue provided above is the most convenient forum for both the Bank and Borrower. Borrower waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Note.

When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. Bank or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

23. Waiver of Jury Trial. **YOU AND THE BANK HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY YOU AND THE BANK MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THIS NOTE OR THE TRANSACTIONS RELATED HERETO. YOU REPRESENT AND WARRANT THAT NO REPRESENTATIVE OR AGENT OF THE BANK HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE BANK WILL NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS JURY TRIAL WAIVER. YOU ACKNOWLEDGE THAT THE BANK HAS BEEN INDUCED TO ENTER INTO THIS NOTE BY, AMONG OTHER THINGS, THE PROVISIONS OF THIS SECTION.**

24. Power to Confess Judgment. **BORROWER HEREBY EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR BORROWER AND, WITH OR WITHOUT COMPLAINT FILED, CONFESS JUDGMENT, OR A SERIES OF JUDGMENTS, AGAINST BORROWER IN FAVOR OF THE BANK OR ANY HOLDER HEREOF FOR THE ENTIRE PRINCIPAL BALANCE OF THIS NOTE, ALL ACCRUED INTEREST AND ALL OTHER AMOUNTS DUE HEREUNDER, TOGETHER WITH COSTS OF SUIT AND AN ATTORNEY'S COMMISSION OF TWENTY PERCENT (20%) OF SUCH PRINCIPAL AND INTEREST AS A REASONABLE ATTORNEY'S FEE, AND FOR DOING SO THIS NOTE OR A COPY VERIFIED BY AFFIDAVIT SHALL BE A SUFFICIENT WARRANT. BORROWER HEREBY FOREVER WAIVES AND RELEASES ALL ERRORS IN SAID PROCEEDINGS AND ALL RIGHTS OF APPEAL AND ALL RELIEF FROM ANY AND ALL APPRAISEMENT, STAY OR EXEMPTION LAWS OF ANY STATE NOW IN FORCE OR HEREAFTER ENACTED. INTEREST ON ANY SUCH JUDGMENT SHALL ACCRUE AT THE DEFAULT RATE. NO SINGLE EXERCISE OF THE FOREGOING POWER TO CONFESS JUDGMENT, OR A SERIES OF JUDGMENTS, SHALL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD BY ANY COURT TO BE INVALID, VOIDABLE, OR VOID, BUT THE POWER SHALL CONTINUE UNDIMINISHED AND IT MAY BE EXERCISED**

FROM TIME TO TIME AS OFTEN AS THE BANK SHALL ELECT UNTIL SUCH TIME AS THE BANK SHALL HAVE RECEIVED PAYMENT IN FULL OF THE DEBT, INTEREST AND COSTS.

Amended and Restated Note. The Borrower acknowledges, agrees and understands that this Note is given in replacement of and in substitution for, but not in payment of, a prior note dated on or about _____, _____, in the original principal amount of \$ _____, given by Borrower in favor of the Bank (or its predecessor-in-interest), as the same may have been amended or modified from time to time ("Prior Note"), and further, that: (a) the obligations of the Borrower as evidenced by the Prior Note shall continue in full force and effect, as amended and restated by this Note, all of such obligations being hereby ratified and confirmed by the Borrower; (b) any and all liens, pledges, assignments and security interests securing the Borrower's obligations under the Prior Note shall continue in full force and effect, are hereby ratified and confirmed by the Borrower, and are hereby acknowledged by the Borrower to secure, among other things, all of the Borrower's obligations to the Bank under this Note, with the same priority, operation and effect as that relating to the obligations under the Prior Note; and (c) nothing herein contained shall be construed to extinguish, release, or discharge, or constitute, create, or effect a novation of, or an agreement to extinguish, the obligations of the Borrower with respect to the indebtedness originally described in the Prior Note or any of the liens, pledges, assignments and security interests securing such obligations.

Preauthorized Transfers from Deposit Account. If a deposit account number is provided in the following blank Borrower hereby authorizes the Bank to debit available funds in Borrower's deposit account # _____ with the Bank automatically for any amount which becomes due under this Note or as directed by an Authorized Person, by telephone.

Acknowledgment. Borrower acknowledges that it has read and understands all the provisions of this Note, including the **Confession of Judgment, Governing Law, Jurisdiction, and Waiver of Jury Trial**, and has been advised by counsel as necessary or appropriate.

Witness: _____ (SEAL)
BORROWER _____ (SEAL)

Signature of Witness _____ (SEAL)

Typed Name of Witness _____ (SEAL)

ACKNOWLEDGMENT

STATE OF _____)
: SS.
COUNTY OF _____)

On the _____ day of _____, in the year 20_____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

FOR BANK USE ONLY

Authorization Confirmed: _____