

PROMISSORY NOTE

[\$_____00]

[_____, 20__]

For value received, [Borrower, a _____] ("Borrower"), with an address of [_____] , promises to pay to the order of **SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION**, a New York nonprofit corporation ("Lender") at 100 Veterans Memorial Highway, Hauppauge, NY 11788, or at such other address as Lender shall from time to time specify in writing, in legal and lawful money of the United States of America, the principal sum of [_____] AND NO/100 DOLLARS (\$[_____]00) with interest on the principal balance outstanding from time to time as hereinafter provided in this promissory note (the "Note") from the date advanced until paid at the rate set out below. Interest shall be computed on a per annum basis of a year of 360 days and for the actual number of days elapsed, unless such calculation would result in a rate greater than the highest rate permitted by applicable law, in which case interest shall be computed on a per annum basis of a year of 365 days or 366 days in a leap year, as the case may be.

1. Payment Terms. This Note, and all accrued and unpaid interest, shall be due and payable on [_____] (the "Maturity Date"); interest being calculated on the unpaid principal balance each day principal is outstanding and all payments made, scheduled or unscheduled, credited to any collection costs and late charges, to the discharge of interest accrued and to the reduction of the principal, in such order as Lender shall determine. If any payment of principal or interest on this Note shall become due on a day which is not a Business Day (as hereinafter defined), such payment shall be made on the next succeeding Business Day and any such extension of time shall be included in computing interest in connection with such payment. As used herein, the term "Business Day" shall mean any day other than a Saturday, Sunday or any other day on which commercial banks in the State of New York are authorized to close or are in fact closed. All payments and permitted prepayments on this Note shall be made in lawful money of the United States of America in immediately available funds, at the address of Lender indicated above, or such other place as the holder of this Note shall designate in writing to Borrower.

2. Late Charge. If a payment is made ten (10) days or more after it is due, Borrower will be charged, in addition to interest, a delinquency charge of five percent (5%) of the unpaid portion of the regularly scheduled payment. Additionally, upon maturity of this Note, if the outstanding principal balance (plus all accrued but unpaid interest) is not paid within 10 days of the Maturity Date, Borrower will be charged a delinquency charge of five percent (5%) of the sum of the outstanding principal balance (plus all accrued but unpaid interest). Borrower agrees with Lender that the charges set forth herein are reasonable compensation to Lender for the handling of such late payments.

3. Interest Rate. The unpaid principal balance of this Note shall bear interest at a fixed rate of [___]% per annum (the "Interest Rate").

4. Default Rate. For so long as any event of default exists under this Note or under any of the other Loan Documents (as defined herein), regardless of whether or not there has been an

acceleration of the indebtedness evidenced by this Note, and at all times after the maturity of the indebtedness evidenced by this Note (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue at the Interest Rate plus five percent (5%) per annum, but in no event in excess of the highest rate permitted by applicable law, and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any event of default, and such accrued interest is a reasonable estimate of those damages and does not constitute a penalty.

5. Prepayment. Borrower may prepay this Note at any time without penalty or premium.

6. Default. It is expressly provided that upon default in the punctual payment of any indebtedness evidenced by this Note or any part hereof, principal or interest, as the same shall become due and payable, or upon the occurrence of any other default hereunder or any event of default specified in any of the other Loan Documents (as defined herein), the holder of this Note may, at its option, without further notice or demand, (i) declare the outstanding principal balance of and accrued but unpaid interest on this Note at once due and payable, (ii) refuse to advance any additional amounts under this Note, (iii) foreclose all liens securing payment hereof, (iv) pursue any and all other rights, remedies and recourses available to the holder hereof, including but not limited to any such rights, remedies or recourses under the Loan Documents, the Uniform Commercial Code, at law or in equity, or (v) pursue any combination of the foregoing; and in the event default is made in the prompt payment of this Note when due or declared due, and the same is placed in the hands of an attorney for collection, or suit is brought on same, or the same is collected through probate, bankruptcy or other judicial proceedings, then the Borrower agrees and promises to pay all costs of collection, including reasonable attorney's fees.

7. Financial Reports. In regards to any financial statements delivered to Lender with respect to Borrower, Borrower represents that the same are true and correct in all material respects and fairly present the financial condition of Borrower as of the date thereof, no material adverse change has occurred in the financial condition reflected therein since the date thereof, and no additional borrowings have been made by Borrower since the date thereof other than borrowing contemplated hereby or approved by Lender. Borrower has delivered to Lender any requested information evidencing costs and expenses incurred or to be incurred by Borrower, and any such information is true and correct in all material respects and fairly presents the costs and expenses to be paid or reimbursed with the proceeds of this Note. Borrower shall provide the following to Lender at Borrower's expense: within ninety (90) days following the end of each fiscal year, drafts of its annual financial statements of Borrower, which statements shall include balance sheets, statements of income and retained earnings, and which shall be prepared by a Certified Public Accountant acceptable to Lender, with the audited annual financial statements being delivered within one hundred and twenty (120) days following the end of each fiscal year.

8. Successors and Assigns Liable. Borrower's obligations and agreements under this Note will be binding upon Borrower's successors and assigns. The rights and remedies granted to Lender under this Note will inure to the benefit of Lender's successors and assigns, as well as to any subsequent holder or holders of this Note.

9. *Caption Headings.* Caption headings of the sections of this Note are for convenience purposes only and are not to be used to interpret or to define their provisions. In this Note, whenever the context so requires, the singular includes the plural and the plural also includes the singular.

10. *Severability.* If any provision of this Note is held to be invalid, illegal or unenforceable by any court, that provision will be deleted from this Note and the balance of this Note will be interpreted as if the deleted provision never existed.

11. *Waiver.* Time is of the essence with respect to this Note. Borrower, all endorsers and guarantors of this Note, and all others who may become liable for all or any part of the obligations evidenced by this Note and their respective heirs, successors and assigns agree to be jointly and severally bound by this Note, and jointly and severally (a) waive and renounce to the extent permitted by law any and all homestead exemption rights and the benefits of all valuation appraisement, stay, redemption and moratorium privileges as against this debt or any renewal or extension hereof; and (b) waive presentment, demand, protest, notice of nonpayment, notice of dishonor, and any and all lack of diligence or delays in the collection or enforcement hereof and any such privileges and defenses as may now be in effect or which may hereafter become law. Borrower and all endorsers and guarantors of this Note further jointly and severally agree that Lender may, without notice, in such manner, on such terms and for such time(s) as Lender may see fit, extend, or renew this Note, and/or release any maker, endorser, or guarantor of this Note, and/or substitute or add guarantors, and provide any other indulgence or forbearance to Borrower, all without in any way affecting, releasing, or foregoing the joint and several liability of Borrower and all endorsers and guarantors of this Note.

12. *No Usury Intended; Usury Savings Clause.* In no event shall interest contracted for, charged or received hereunder, plus any other charges in connection herewith which constitute interest, exceed the maximum interest permitted by applicable law. The amounts of such interest or other charges previously paid to the holder of the Note in excess of the amounts permitted by applicable law shall be applied by the holder of the Note to reduce the principal of the indebtedness evidenced by the Note, or, at the option of the holder of the Note, be refunded. To the extent permitted by applicable law, determination of the legal maximum amount of interest shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the loan and indebtedness, all interest at any time contracted for, charged or received from the Borrower hereof in connection with the loan and indebtedness evidenced hereby, so that the actual rate of interest on account of such indebtedness is uniform throughout the term hereof.

13. *Governing Law.* This Note is being executed and delivered, and is intended to be performed in the State of New York. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of New York shall govern the validity, construction, enforcement and interpretation of this Note.

14. *Security.* This Note is secured by the Security Agreement. This Note, the Security Agreement, and all other documents evidencing, securing, governing, guaranteeing and/or pertaining to

this Note, are collectively referred to as the "Loan Documents." The holder of this Note is entitled to the benefits and security provided in the Loan Documents.

15. **FINAL AGREEMENT. THIS WRITTEN NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES**

[Signature page follows]

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed as of the date stated above.

BORROWER: [_____], a [_____]

By: _____
Name:
Title: