

FORM 1B.18 SHORT FORM LETTER LOAN AGREEMENT

Comment: This agreement is for a single bank, is unsecured, includes term and revolver options, and includes optional guaranty provisions.

[date]

[name and address of lender]

Ladies and Gentlemen:

The undersigned applicant (Borrower) has applied to you (Lender) for a loan in the principal amount [Optional: not to exceed at any date outstanding] of \$_____ (Loan). Lender, by signing this letter, agrees to grant Borrower the Loan subject to the following terms and conditions, to which Borrower hereby agrees:

1. The Loan shall be advanced in one disbursement [or in _____ disbursements of not less than \$_____ each or from time to time in disbursements of not less than \$_____ each, each of which advances may be prepaid at any time and reborrowed] on or before [date]. As a condition precedent to any obligation of Lender to make any disbursement of the Loan, there shall not at the proposed funding date exist an Event of Default (as defined in this paragraph 6).
2. The Loan shall be evidenced by a promissory note (Note) in form acceptable to Lender. The principal amount of the Loan or so much of the Loan as may be advanced by the Lender hereunder and interest thereon, calculated as provided in the Note, shall be payable as set forth more particularly therein. [Optional: The Loan shall be guaranteed by a guaranty (Guaranty) executed by [name] (the Guarantor), in form acceptable to Lender.] Borrower shall, at request of Lender, cause such other indebtedness of Borrower to be subordinated to the Loan as Lender may require.
3. To induce Lender to make [optional: advances under] the Loan, Borrower hereby warrants and represents to Lender that at and as of the date hereof [optional: and at and as of the date of each advance under the Loan]:
 - a. Borrower is duly organized under applicable law, is qualified to do business and in good standing in each jurisdiction where required, and has complied with all law necessary to conduct its business as presently conducted.
 - b. Borrower has authority, and has completed all proceedings and obtained all approvals and consents necessary, to execute, deliver, and perform this Agreement, the Note, and the transactions contemplated hereby and thereby.
 - c. Such execution, delivery, and performance will not contravene, or constitute a default under or result in a lien upon assets of Borrower pursuant to, any applicable law or regulation, any charter document of Borrower, or any contract, agreement, judgment, order, decree, or other instrument binding upon or affecting Borrower or its properties.
 - d. This Agreement and the Note constitute the legal, valid, and binding obligations of Borrower enforceable in accordance with their respective terms.
 - e. Except as previously disclosed to Lender in writing, there is no action, suit, or proceeding pending or threatened against Borrower or its properties that might adversely affect Borrower in any material respect.
 - f. Borrower has furnished Lender with balance sheets and income statements as requested by Lender that are accurate and which fairly present the financial position and results of operations of Borrower for the periods covered thereby.
 - g. Borrower has marketable title to its properties reflected in such balance sheets and related notes, subject to no mortgage, lien, or security interest other than those heretofore disclosed in writing to Lender, and no event has occurred since the date of such financial statements that could materially adversely affect Borrower.
 - h. Borrower is not an "investment company" within the meaning of the Investment Company Act of 1940.
 - i. All tax returns required of Borrower have been filed, there is no proposed material tax assessment or liability against Borrower or its property, and no extension of time for the assessment of any tax of Borrower is in effect or has been requested, except as disclosed in financial statements previously furnished to Lender.
 - j. The proceeds of the Loan shall be used by Borrower solely for the purpose [designated use], and shall not be used for any purpose which violates Federal Reserve Board Regulation U or X.
 - k. Borrower is presently engaged in the business of [specified business].
4. So long as any part of the indebtedness contemplated hereby shall remain unpaid [optional: or Lender has any obligation to make advances to Borrower hereunder], Borrower will:
 - a. Maintain accurate books and records in accordance with generally accepted accounting principles, and permit inspection of same and any properties of Borrower by Lender at Lender's request and permit Lender to make abstracts and copies of Borrower's books and records.

- b. Furnish to Lender such financial statements and information, in form satisfactory to Lender, as Lender may from time to time request.
 - c. Maintain in form, with companies and with loss payable acceptable to Lender, adequate fire with extended coverage, public liability, "key-man" life, and other insurance of a type and in amounts customarily carried by others engaged in a like or similar business and such additional insurance as Lender from time to time may reasonably require, and upon demand, deliver to Lender the policies concerned or a schedule of all insurance in force.
 - d. Pay all liens, taxes, assessments, and other governmental charges; provided, however, that nothing herein contained shall require Borrower to pay any tax or other lien so long as its validity is contested in good faith and adequate provision, acceptable to Lender, has been made therefor.
 - e. Maintain with Lender during each calendar month [*or* quarter] average daily noninterest-bearing deposits having net collected balances, after activity charges, equal to at least _____ percent of the average daily principal balance of the Loan outstanding during that month [*or* quarter] or, if Borrower fails to so maintain such deposits, pay to Lender within ten days from the end of such month [*or* quarter] a fee equal to the amount of such deficit multiplied by the average rate of interest in effect under the Note during such quarter.
 - f. Promptly notify Lender in writing of the occurrence of an Event of Default or of any event that might materially adversely affect Borrower or its ability to repay the Loan.
5. So long as any part of the indebtedness contemplated hereby shall remain unpaid [*optional: or* Lender shall have any obligation to make advances to Borrower hereunder], Borrower will not, directly or indirectly, without the prior written consent of Lender;
- a. Create or permit to exist against any of Borrower's assets, now or hereafter acquired, any lien other than liens heretofore disclosed to Lender and approved by in writing and liens for taxes due but not delinquent.
 - b. Purchase or acquire all or substantially all of the assets of any person or entity.
 - c. Merge or consolidate with or into any other person or entity, or convey, lease, or sell all or substantially all of its assets to any person or entity, whether in one transaction or a series of transactions;
 - d. Create or incur any indebtedness for borrowed money except as provided under this Agreement and indebtedness disclosed to and approved by Lender in writing.
 - e. Sell, assign, transfer, or dispose of any of its accounts receivable or any substantial portion of its other assets;
 - f. Make loans to others;
 - g. Become liable in any manner for the debts or obligations of others, except in the ordinary course of business as currently conducted;
 - h. Pay any dividends on any of its outstanding shares, purchase or retire any of its shares, set aside any sum for such purposes, or alter or amend its capital structure;
 - i. Invest in, or purchase securities of any person or entity; or
 - j. Engage in any business other than that in which it is currently engaged.
6. Upon the occurrence of any of the following (an Event of Default):
- a. Failure by Borrower to make any payment of principal or interest on the Note when due;
 - b. Failure by Borrower to observe or perform any other term or provision of this Letter Agreement or the Note;
 - c. Any representation made or information furnished to Lender by or on behalf of Borrower shall be inaccurate or incomplete in any material respect;
 - d. Borrower [*optional: or* any Guarantor] shall admit in writing its inability to pay its debts as they become due or shall become insolvent (however otherwise evidenced) or there shall be commenced any bankruptcy, insolvency, arrangement, reorganization, or other debtor-relief proceedings by or against, or the death, dissolution, termination of existence or insolvency of, Borrower [*optional: or* any Guarantor];
 - e. The happening of any event under any agreement involving the borrowing of money by, or advance of credit to, Borrower, which gives to the holder of such obligation the right to accelerate its maturity, whether or not such right is exercised;
 - f. Entry of any judgment against Borrower unless satisfaction of such judgment, or provision for satisfaction acceptable to Lender, is effected within thirty (30) days from the date of entry;
 - g. The occurrence of any "reportable event" under the Employee Retirement Income Security Act of 1974 (ERISA) which Lender in good faith determines constitutes grounds for the imposition of liability against Borrower under part IV, subtitle D of ERISA;

[*Optional: h.* Failure by Guarantor to perform any of its obligations under the Guaranty or Guarantor's attempt to rescind or revoke its Guaranty, with respect to future transactions or otherwise;]

THEN, Lender may, at its election and without demand or notice of any kind, which are hereby waived, declare the unpaid balance of the Note, and accrued interest thereon, immediately due and payable [*Optional: refuse to*

make additional advances hereunder], proceed to collect same, and exercise any and all other rights, powers and remedies given it by this Agreement, the Note [*optional*: the Guaranty] or otherwise at law or in equity.

7. The representations and warranties of Borrower contained herein shall survive the making of the Loan and shall remain effective until all indebtedness contemplated hereby shall have been paid by Borrower in full.
8. This Letter Agreement shall be governed by and construed in accordance with the laws of [*state*]. Any forbearance, failure, or delay by Lender in exercising any right, power, or remedy shall not preclude the further exercise thereof, and all of Lender's rights, powers, and remedies shall continue in full force and effect until specifically waived in writing by Lender.
9. [*Optional*: **Other terms and conditions and financial covenants.** *Specify.*]

Very truly yours,
[*name of borrower*]
By: [*signature*]
[*name*]
[*title*]

[*name of lender*]
By: [*signature*]
[*name*]
[*title*]