



**BANCO PICHINCHA C.A.**

**MIAMI AGENCY**

\$U.S.

Miami, Florida

**PROMISSORY NOTE**

FOR VALUE RECEIVED, the undersigned, jointly and severally if more than one (hereinafter called the "Maker"), promises to pay to the order of BANCO PICHINCHA C.A., MIAMI AGENCY, and its successors and assigns (the "Bank"), in lawful money of the United States, the sum of

(\$ \_\_\_\_\_), at the office of the Bank at 396 Alhambra Circle, Penthouse2, Coral Gables, Florida 33134, or at such other address as the Bank may designate from time to time, with interest on the unpaid principal balance thereof from time to time outstanding from the date hereof until maturity at the interest rate set forth below.

1. **INTEREST RATE.** Prior to the maturity of this Note (by acceleration, demand or otherwise), the unpaid principal balance of this Note outstanding from time to time shall bear interest (check and complete the applicable section):

(FIXED RATE) at the fixed rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum.

(FLOATING WITH PRIME) at the variable rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %), plus the floating Bank Prime Rate (as hereinafter defined) charged by Bank from time to time, per annum.

(VARIABLE WITH PRIME) at the variable rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %), plus the Bank Prime Rate (as hereinafter defined) charged by Bank from time to time, per annum. The BDP Prime Rate shall be set initially as of the date of this Note, and shall be adjusted every \_\_\_\_\_ thereafter.

(VARIABLE WITH LIBOR) at the variable rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %), plus Libor (as hereinafter defined), per annum. Libor shall be set initially as of the date of this Note, and shall be adjusted every \_\_\_\_\_ thereafter.

2. **TIME OF PAYMENT.** Principal and interest shall be payable as follows (check complete applicable sections):

(INTEREST ONLY) Interest only shall be payable on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and on the \_\_\_\_\_ day of each succeeding period of \_\_\_\_\_ month(s) thereafter until the maturity of this Note. No principal shall be payable hereunder until the maturity of this Note.

(INSTALLMENT INTEREST AND PRINCIPAL) Principal and interest shall be payable in equal installments of \$ \_\_\_\_\_ each, commencing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and on the \_\_\_\_\_ day of each succeeding period of month(s) thereafter until the maturity of this Note.

(VARIED INTEREST AND PRINCIPAL) Principal shall be payable \_\_\_\_\_ until the maturity of this Note. Interest shall be payable \_\_\_\_\_ until maturity of this Note.

(ACCRUAL) No principal or interest shall be payable hereunder until the maturity of this Note.

3. **VARIABLE RATE DETERMINATION.** If the rate of interest hereunder is variable: (i) it shall be determined by the Bank daily, or monthly as of the last day of each month, as the Bank may elect, at its sole discretion; and (ii) the Bank shall provide reasonable notices to the Maker of changes in the variable rate, but the failure to render such notice shall not impair the Bank's right to receive interest hereunder at the agreed rate.

4. **INTEREST CALCULATION.** Interest on this Note shall be calculated daily or monthly, as the Bank may elect, upon the daily or average monthly (as applicable) unpaid principal balance outstanding hereunder from time to time, on the basis of a \_\_\_\_\_ day year.

5. **LIMITATION OF INTEREST.** All payments made hereunder shall be credited first to interest and then to principal; however, in the event of default, the Bank may, in its sole discretion, apply any payment to interest, principal and/or any lawful charges then accrued. It is the intention of the parties hereto that the provisions herein and all agreements between the Maker or any guarantor, endorser, surety or accommodation party of this Note (hereinafter referred to as the "Obligors") and the Bank shall not provide directly or indirectly for the payment of a greater rate of interest or the retention of any other charge than is allowed by governing law. If, from any circumstances whatsoever, the fulfillment of any obligation hereunder, or of any other agreement between Maker or Obligor and the Bank, at the time performance of such obligation shall be due, shall cause the effective rate of interest upon the sums evidenced hereby to exceed the maximum rate of interest allowed by governing law, then the obligation to be fulfilled shall be automatically reduced to the extent necessary to prevent the effective rate of interest hereunder from exceeding the maximum rate allowable by governing law, and to the extent that the Bank shall receive any sum which would constitute excessive interest, such sum shall be applied to the reduction of the unpaid principal balance due hereunder and not the payment of interest or, if such excessive interest exceeds the unpaid balance of principal, the excess shall be refunded to the Maker and Maker agrees to accept such refund. This provision shall control every other provision of all agreements between the Maker or Obligors and the Bank.

"Bank Prime Rate" is the rate of interest announced by Banco Pichincha C.A., Miami Agency at its Bank Prime Rate from time to time, which rate may increase or decrease from time to time. Maker and Obligors understand that the Bank Prime Rate offered by Bank does not necessarily mean the only prime rate or the lowest or best rate of interest offered by Bank for loans of the kind evidenced by this Note, or loans of any other kind.

"Libor" is the rate of interest at which deposits of United States Dollars (in amounts and maturities substantially equal to the principal amount and maturity of this Note) are offered to prime international banks from time to time by other prime international banks in the London Interbank Market.

6. **MATURITY.** Unless extended in writing by the Bank, and unless accelerated pursuant to Paragraph 2 of this Note, all outstanding interest, principal and all other sums due under this Note shall be due and payable in full on \_\_\_\_\_ . (Insert date, or demand)

7. **DEFAULT RATE.** From and after any default in payment when due (whether by maturity, demand, acceleration or otherwise) the unpaid principal of this Note and all accrued and unpaid interest shall bear interest at the maximum rate allowed by governing law, from the date of maturity, demand or acceleration, until fully paid.

8. **PAYMENT.** The Maker represent(s) and warrants to the Bank that this Note constitutes a valid and legal obligation of the undersigned, which may be enforced and collected by via any applicable summary process pursuant to its terms. The Maker agrees to pay or to

cause to be paid taxes, duties honoraria and other charges of whatever nature, if any, whether present or future, which may now or in the future be levied or assessed by any government or by any department, agency, political subdivision, fiscal authority or any other authority on the granting or delivery of this Note or on the payment of any or all of the sums owed hereunder. All payments of principal and interest hereunder shall be made only in United States Dollars and without any deduction, setoff or counterclaim, for or on account of any present or future taxes, levies, duties, deductions, withholdings or other charges of whatsoever nature imposed, levied, collected, withheld or assessed by any governmental authority and the Maker will pay and reimburse the Bank upon request for any payment made by the Bank for, and indemnify and hold the Bank harmless against, any liability for any such charges. If the Maker is required by law to make any deduction or withholding with respect to any taxes from any amounts payable under this Note, the Maker agrees to pay, on the date such amounts are payable, such additional amounts as may be necessary so that the net amounts received by the Bank, after all applicable deductions or withholdings, shall equal the amounts that the Bank would have been entitled to receive if no deductions or withholdings were made.

9. **SECURITY INTEREST.** The Bank is given a lien upon and security interest in all "Collateral" of the Maker and the Obligors as security for any and all "Liabilities". The term "Liabilities" shall include the liability evidenced by this Note and all other indebtedness or liability of Maker, direct or indirect, absolute or contingent, joint, several or independent, of the Maker, now existing or hereafter arising, due or to become due to, or held or to be held by, the Bank for its own account or as agent for another or others, whether created directly or acquired by assignment or otherwise. The term "Collateral" shall include all property of every description, now or hereafter in the possession or custody of or in transit to the Bank for any purpose, including safekeeping, collection or pledge, for account of the Maker or any of the Obligors, or as to which the Maker or any of the Obligors may have any right or power. The balance of any account maintained with the Bank by the Maker or any, of the Obligors, and each claim of the Maker against the Bank existing from time to time, shall be subject to a lien and a security interest in favor of the Bank as security for any and all Liabilities and shall be subject to set off against any and all Liabilities and the Bank may at any time or from time to time at its option and without notice appropriate and apply toward the payment of any such Liabilities the balance of each such account with, and each such claim against, the Bank.

This Note shall be construed to be a Security Agreement under the Uniform Commercial Code, as adopted by the State of Florida, and the Maker and each of the Obligors agrees to execute, as such time as the Bank shall require, such documents as the Bank may deem appropriate and necessary to perfect its security interest.

10. **SECURITY DOCUMENTS.** The obligations of this Note may be secured by one or more guarantees or other security instruments (the "Security Documents"), which shall be included within the term "Liabilities" as used hereunder.

11. **DEFAULTS, ACCELERATION.** If the Bank deems itself insecure or upon the happening of any of the following events, each of which shall constitute a default, all liabilities of Maker to the Bank, including the entire unpaid principal of this Note and accrued interest, less any unearned interest and any interest in excess of the maximum allowed by governing law and any rebates required by law, shall immediately or thereafter, at the option of the Bank, become due and payable: (a) the failure of any Obligor to perform any obligation, liability or claim to the Bank, to pay interest hereon within ten (10) days after it is due, or if there is no due date, after it is billed or otherwise requested or demanded, or to pay any other liability whatsoever to the Bank when due; (b) the death of any individual Obligor, the dissolution of any partnership Obligor or the dissolution, merger or consolidation without the Bank's prior written consent of any corporate Obligor; (c) the filing of a petition in bankruptcy or the adjudication of insolvency or bankruptcy under any reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding under any federal or state statute, by or against any Obligor; (d) an application for the appointment of receiver for, or the making of a general assignment for the benefit of any creditors of any Obligor; (e) the issuing of any attachment or garnishment, or the filing of any lien, against any property of any Obligor; (f) the taking of possession of any substantial part of the property of any Obligor at the instance of any governmental authority; (g) the determination by the Bank that a material adverse change has occurred in the financial condition of any Obligor from the conditions set forth in the most recent financial statement of such Obligor heretofore furnished to the Bank, or from the condition of such Obligor as heretofore most recently disclosed to the Bank, or that any warranty, representation, certificate or statement of any Obligor (whether contained in this Note or not) pertaining to or in connection with this Note or the loan evidenced by this note contains an untrue statement of material fact or omits to state material facts necessary in order to make the statements made not misleading; (h) the assignment by any Maker of any equity in the collateral for this Note without the prior written consent of the Bank; or (i) the failure of Maker or any Obligor to promptly provide Bank with any information and/or documentation requested by Bank in order for Bank to comply with any applicable law or regulation.

Upon occurrence of an event of default, the Bank may institute appropriate legal proceedings against the Obligors (as hereinafter) to obtain judgment on the Note and/or to exercise its rights and remedies as a secured party under Florida's Uniform Commercial Code or other applicable law. If the Bank shall deem itself insecure or upon the occurrence of an event of default, the Bank shall have the right, at its option, immediately and without further action by it, to setoff against the Note all money owed by the Bank in any capacity to any of the Obligors (as hereinafter defined) and also to setoff against the Note all other liabilities of each Maker to the Bank all monies owed by the Bank in any capacity to any Maker, and the Bank shall be deemed to have exercised such right of setoff and to have made a charge against any such monies, immediately upon the occurrence of such default even though such charge is made or entered on the books of the Bank subsequent thereto.

12. **COLLECTION COSTS.** Maker and each of the Obligors agrees, jointly and severally, to pay all costs of collections, including reasonable attorney's fees and attorney's fees on appeal, incurred by Bank by reason of Maker's failure to promptly pay any principal, interest or other sums due on this Note or in case of non-payment of any other Liabilities, or should there be a failure to comply with any of the terms contained herein, or in case it becomes necessary to protect any Collateral or other security for this Note or to enforce the terms of this Note, whether suit be brought or not.

13. **COVENANTS.** The Maker and each of the Obligors hereby (a) waive demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, and all other notice or (b) agree to any substitution, exchange, addition or release of any of the Collateral or the addition or release of any party or person primarily or secondarily liable hereon; (c) agree that Bank shall not be required first to institute any suit, or to exhaust any of its remedies against the Maker or any Obligor in order to enforce payment of this Note or any other Liabilities; (d) consent to any extension, rearrangement, renewal or postponement of time of payment of this Note or any other Liabilities and to any other indulgency with respect hereto without notice, consent or consideration to any of the foregoing; and (e) agree that, notwithstanding the occurrence of any of the foregoing (except for the express written release by Bank of any Obligor), Maker and the Obligors shall be and remain, jointly and severally, directly and primarily liable for all sums due under this Note and all other Liabilities until all monies due on this Note have been fully paid.

14. **CONTINUING ENFORCEMENT.** If, after receipt of any payment of all or any part of this Note, Bank is compelled or agrees, for settlement purposes, to surrender such payment to any person or entity for any reason (including, without limitation, a determination that such payment is void or voidable as a preference or fraudulent conveyance, an impermissible setoff, or a diversion of trust funds), then this Note shall continue in full force and effect or be reinstated, as the case may be, and Maker shall be liable for, and shall indemnify, defend and hold harmless Bank with respect to, the full amount so surrendered. The provisions of this Section shall survive the cancellation or termination of this Note and shall remain effective notwithstanding the payment of the obligations evidenced hereby, the release of any security interest, lien or encumbrance securing this Note or any other action which Bank may have taken in reliance upon its receipt of such payment. Any cancellation, release or other such action shall be deemed to have been conditioned upon any payment of the obligations evidenced hereby having become final and irrevocable.

15. **NOTICES.** The Maker has designated its domicile and address at the place set forth by its signature below. Maker agrees that all process or notice shall be effective for all purposes against the Maker upon delivery, or five (5) days after mailing, to the address noted below Maker's signature, regardless of whether such process or notice is actually received by the Maker. Notice upon all Obligors shall be sufficiently served if placed in the mail, postage prepaid, addressed to, or left upon the premises of any Obligor at any address shown on the Bank's records.

16. **BINDING EFFECT; SUCCESSORS AND ASSIGNS.** The covenants, conditions, waivers, releases and agreements contained in this Note shall bind, and the benefits thereof shall inure to, the parties hereto and their respective successors and permitted assigns; provided, however, that this Note cannot be assigned by Maker without the prior written consent of Bank, and any such assignment or attempted assignment by Maker shall be void and of no effect with respect to Bank.

17. **JURISDICTION.** Maker agrees that the Bank may bring any action to enforce this Note or any Security Document in the courts of the State of Florida, or, at Bank's sole option and discretion, in the courts of the country of domicile and/or residence of the Maker or of any of the Obligor.

18. **GOVERNING LAW.** This Note is executed and delivered in the State of Florida, U.S.A., and shall in all instances be construed and enforced in accordance with the laws of the State of Florida, U.S.A., irrespective of any conflict of laws rules.

19. **PERSONAL JURISDICTION OF FLORIDA COURTS.** For purposes of facilitating the personal jurisdiction of the courts of the State of Florida over the Maker and each of the Obligors, Maker and each of the Obligors, jointly and severally, do hereby irrevocably appoint and constitute the Secretary of State of Florida, or his successors in that office, The Capitol, Tallahassee, Florida 32304, as the agent of the Maker and each of the Obligors on whom all process in any action or proceeding may be served. The Maker and each of the Obligors, jointly and severally, hereby covenant and agree that such person, or his successors in that office, shall continue to serve as their agent for service of process until this Note is paid in full, and, that service of process by the Bank upon such agent at the address shown above (or such other address as shall be employed by the office of the Secretary of the State of Florida) shall constitute good and effective service upon Maker and each of the Obligors, at all times prior to the payment of the Note in full, sufficient to grant the courts of the State of Florida full and complete personal jurisdiction over the Maker and each of the Obligors.

20. **MAKER'S CONSENT.** Each Maker and Obligor hereby consents to any modifications, extensions or renewals of this Note or any part thereof without need of notice, and agrees that it will remain liable as such during any modifications, extension or renewal hereof until the debt represented hereby is fully paid. Each Maker and Obligor consents to and waives notice of any and all waivers notice of any and all waivers and modifications that may be granted by the Bank with respect to the payment or other provisions of this Note, or to the release of any Obligor or any collateral or any part thereof with or without substitution.

21. **WAIVERS OF RIGHTS.** The Bank shall not by any act of omission or commission be deemed to waive any of its rights or remedies hereunder unless such waiver shall be in writing and signed by the Bank and then only to the extent specifically set forth therein. A waiver in one event shall not be construed as continuing or as a bar to or waiver of such right or remedy on a subsequent event.

22. **WAIVER OF JURY TRIAL. MAKER AGREES THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY BANK, ON OR WITH RESPECT TO THIS NOTE OR ANY SECURITY DOCUMENT OR THE DEALINGS OF THE PARTIES WITH RESPECT HERETO, SHALL BE TRIED ONLY BY A COURT AND NOT BY A JURY. BANK AND MAKER EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND INTELLIGENTLY AND WITH THE ADVICE OF THEIR RESPECTIVE COUNSEL, WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. FURTHER, MAKER WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER, IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. MAKER ACKNOWLEDGES AND AGREES THAT THIS SECTION IS A SPECIFIC AND MATERIAL ASPECT OF THIS NOTE AND THAT BANK WOULD NOT EXTEND CREDIT TO BORROWER IF THE WAIVERS SET FORTH IN THIS SECTION WERE NOT A PART OF THIS NOTE.**

23. **PARTIES.** Whenever used in this Note, the singular number shall include the plural, the singular, and the masculine shall include the feminine and the neuter, and the words "Maker" and "Bank" shall be deemed to include Maker and Bank as defined herein and their respective successors and assigns.

MAKERS NAME:

MAKERS NAME:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

(If a corporation, complete below)

(If a corporation, complete below)

By:

By:

\_\_\_\_\_, President  
Sign

\_\_\_\_\_, President  
Sign

Attest: \_\_\_\_\_, Secretary  
Sign

Attest: \_\_\_\_\_, Secretary  
Sign

MAKER'S ADDRESS:

MAKER'S ADDRESS:

\_\_\_\_\_  
Witness Print Name Sign

\_\_\_\_\_  
Witness Print Name Sign

IDENTIFICATION: \_\_\_\_\_

IDENTIFICATION: \_\_\_\_\_

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Witness Print Name Sign

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Witness Print Name Sign

IDENTIFICATION: \_\_\_\_\_

IDENTIFICATION: \_\_\_\_\_

JOINT MAKERS:

NAME

IDENTIFICATION

SIGNATURE