

JANE E. LAWTON CONSERVATION LOAN PROGRAM**COMMERCIAL PROMISSORY NOTE
(Secured)**\$[____.____]
(Financed Amount)_____, ____
Baltimore, Maryland

FOR VALUE RECEIVED, [BORROWER] (the “Borrower”), promises to pay to the order of the **MARYLAND ENERGY ADMINISTRATION**, an independent agency of the State of Maryland (the “Administration”), the principal sum of \$[____.____] (the “Loan”), or so much as has been disbursed to the Borrower under the terms of a certain Loan Agreement of even date herewith between the Borrower and the Administration (the “Loan Agreement”), together with interest thereon at the rate or rates hereafter specified and all other sums that may be payable to the Administration by the Borrower pursuant to this Promissory Note (the “Note”). All capitalized terms used in this Note, if not defined in this Note, have the meanings given in the Loan Agreement. This Note is issued in connection with the Loan Agreement and is secured by the liens granted by the Security Agreement, is entitled to the benefits of the Financing Documents and is subject to all of the agreements, terms and conditions therein contained.

The following terms shall apply to this Note.

1. Interest.

(a) Interest Rate. Prior to a Default, as defined in Section 8 below, the unpaid principal balance outstanding pursuant to this Note shall bear interest at the rate of **two and one-half percent (2.0%)** per annum.

(b) Default Rate. Upon the occurrence of a Default, the unpaid principal balance outstanding pursuant to this Note shall bear interest at the rate of **five percent (5%)** per annum.

2. Calculation of Interest. All interest payable under the terms of this Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

3. Repayment.

(a) Beginning on the day that is thirteen (13) months after initial disbursement of the Loan proceeds under the Loan Agreement (“Initial Disbursement”), and continuing on the same day of each succeeding sixth month to and including the day that is [____] months after Initial Disbursement (the “Maturity Date”), the Borrower shall repay the principal amount of the Loan, together with any accrued interest thereon. Payments shall be in equal, consecutive installments, each consisting of a payment of principal and a payment of accrued interest in the amounts set forth in an amortization schedule to be provided to the Borrower by the Administration, attached as Exhibit E to the Loan Agreement; and

(b) The Borrower shall pay any remaining principal balance, accrued and unpaid interest and any other amounts outstanding under the Financing Documents on the Maturity Date, on which date this Note shall mature, and on which date the entire unpaid principal balance and accrued and unpaid interest thereon shall be due and payable.

4. Late Payment Charge. If any payment due hereunder is not received by the Administration within thirty (30) calendar days after its due date, the Administration may require the Borrower to pay a late payment charge equal to **five percent (5%)** of the amount then due.

5. Application of Payments.

(a) Scheduled Payments. All scheduled payments made pursuant to this Note shall be applied first to accrued interest, then to principal, and then to late payments, charges or other sums owed to the Administration, or in any other manner that the Administration, in its sole discretion, may determine.

(b) Prepayments. The Administration may apply any prepayment, whether voluntary or involuntary, first to late charges and fees, then to accrued interest and default interest, and then to principal in the inverse order of scheduled maturities, or in any other manner that the Administration, in its sole discretion, may determine.

6. Prepayment. The Borrower may prepay all or part of this Note at any time without premium or penalty.

7. Place of Payment. All payments due under this Note, and all prepayments, shall be delivered to: Maryland Energy Administration, Attention: Loan Administration Division, 60 West Street, Suite 300, Annapolis, MD 21401, or to any other place that the Administration may designate in writing, and shall be made in immediately available funds in a manner acceptable to the Administration.

8. Default. The occurrence of any of the following events shall constitute a default (a “Default”) under the terms of this Note:

(a) **The failure of the Borrower to pay the Administration when due any amounts payable by the Borrower to the Administration under the terms of this Note and continues to fail to make such payment thirty (30) days after written notice from the Administration; or**

(b) **The occurrence of a default under the terms of the Loan Agreement or any of the other Financing Documents, which default remains uncured beyond any applicable grace or cure period.**

9. Acceleration. Upon the occurrence of a Default pursuant to Section 4.01(k) of the Loan Agreement, the entire unpaid principal balance of this Note plus accrued interest and all other sums due under this Note shall be immediately due and payable. Upon the occurrence of any of the other Defaults, the Administration, in its sole discretion and without further notice or demand,

may declare the entire unpaid principal balance of this Note plus accrued interest and all other sums due under this Note to be immediately due and payable and may exercise any rights and remedies available under any of the Financing Documents. The Administration shall have the right, in its sole discretion, to determine which rights or remedies the Administration may at any time pursue, relinquish, subordinate, modify or take any other action with respect thereto and such determination will not in any way modify or affect any of them or any of the Administration's rights. The enumeration of the foregoing rights and remedies is not intended to be exhaustive and the exercise of any right or remedy shall not preclude the exercise of any other right or remedies, all of which shall be cumulative and not alternative.

10. Confession of Judgment. UPON A DEFAULT, THE BORROWER AUTHORIZES THE CLERK OR ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR IT AND ENTER JUDGMENT BY CONFESSION, WITHOUT PRIOR NOTICE OR OPPORTUNITY FOR PRIOR HEARING FOR THE OBLIGATIONS THEN OUTSTANDING, TOGETHER WITH INTEREST, COURT COSTS, AND ATTORNEYS' FEES EQUAL TO THE GREATER OF, AS PERMITTED BY LAW, (A) 15% OF THE SUM OF THE OBLIGATIONS THEN OUTSTANDING AND INTEREST THEN DUE HEREUNDER, OR (B) THE ADMINISTRATION'S ACTUAL ATTORNEYS' FEES. THE BORROWER WAIVES AND RELEASES, TO THE EXTENT PERMITTED BY LAW, ALL ERRORS AND ALL RIGHTS OF EXEMPTION, APPEAL, STAY OF EXECUTION, INQUISITION, AND EXTENSION UPON ANY LEVY ON REAL ESTATE OR PERSONAL PROPERTY TO WHICH THE BORROWER MAY OTHERWISE BE ENTITLED UNDER ANY LAW. THE AUTHORITY TO APPEAR FOR AND ENTER JUDGMENT AGAINST THE BORROWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO. THIS AUTHORITY MAY BE EXERCISED IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS THE ADMINISTRATION DETERMINES TO BE NECESSARY OR DESIRABLE.

11. Consent to Jurisdiction. The Borrower irrevocably submits to the jurisdiction of any state or federal court sitting in the State of Maryland over any proceeding arising out of, or relating to, this Note. The Borrower irrevocably waives, to the fullest extent permitted by law, any objection that the Borrower may now or hereafter have to the setting of venue of any proceeding brought in any such court and any claim that any proceeding brought in any such court was brought in an inconvenient forum.

12. Service of Process. The Borrower hereby consents to process being served in any proceeding instituted in connection with this Note by any manner permitted by Maryland law.

13. Notices. Any notice or other communication to the Borrower or the Administration shall be deemed properly given when delivered in accordance with Section 5.02 of the Loan Agreement.

14. Expenses of Collection. Pursuant to Code of Maryland Regulations 17.01.01.07, if this Note is referred to the Central Collections Unit of the Maryland Department of Budget and Management after a Default, the Borrower shall pay all costs of collection, including administrative fees equal to 17% of the sum of the principal balance then outstanding and interest

then due hereunder. If this Note is referred to an attorney for collection after a Default, the Borrower shall pay all costs of collection, including attorneys' fees equal to the greater of, as permitted by law, 15% of the sum of the principal balance then outstanding and interest then due hereunder, or the Administration's actual attorneys' fees.

15. Subsequent Holder. The Administration may pledge, transfer, or assign this Note and its rights under the Financing Documents. Any pledge, transfer, or assignment of rights shall also apply to any renewals, extensions or modifications. A transferee, pledgee, or assignee shall have the same rights as the Administration hereunder with respect to this Note.

16. Waiver of Protest. The Borrower, and all others who may become liable as makers, endorsers, guarantors or accommodation parties for all or any part of this Note, waive valuation and appraisal, presentment, demand, protest, notice of dishonor and protest.

17. Choice of Law; Modifications; Cumulative Rights; Extensions of Maturity.

(a) **The Borrower acknowledges that the Administration is an independent agency of the State of Maryland, that final credit decisions with respect to the making of the Loan are made in Maryland and, that those credit decisions assume that the substantive laws of Maryland apply. Therefore, the Borrower agrees that this Note shall be governed by the laws of the State of Maryland.**

(b) **No modification or amendment of this Note shall be effective unless in writing signed by the Administration and the Borrower, and any modification or amendment shall apply only with respect to the specific instance involved.**

(c) **No waiver of any provision of this Note shall be effective unless in writing signed by the Administration. Any waiver shall apply only with respect to the specific instance involved. The Administration may, without notice to or further consent of the Borrower and without in any manner releasing, lessening or affecting the Obligations of the Borrower: (a) release, surrender, waive, add, substitute, settle, exchange, compromise, modify, extend or grant indulgences with respect to: (i) this Note, (ii) the Loan and (iii) the Financing Documents; (b) complete any blank in this Note; and (c) grant any extension or other postponements of the time of payment hereof.**

(d) **By accepting partial payment of any amount due and payable under this Note, the Administration does not waive the right either to require prompt payment when due of all other amounts due and payable under this Note or to exercise any rights and remedies available to it in order to collect all other amounts due and payable under this Note. If the Administration accepts any payment after its due date, this does not constitute a waiver of the Administration's right to receive timely payment of all other amounts or to declare a Default for the failure to make any other payment when due.**

(e) **Each right, power, and remedy of the Administration under this Note or under law shall be cumulative and concurrent, and the exercise of any one of them shall not preclude the simultaneous or later exercise by the Administration of any other.**

(f) No failure or delay by the Administration to insist upon the strict performance of any provision of this Note or to exercise any right, power, or remedy consequent upon a breach thereof shall constitute a waiver thereof, or preclude the Administration from exercising any such right, power, or remedy.

18. Illegality. If any provision of this Note is found to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision of this Note, but this Note shall be construed as if the invalid, illegal, or unenforceable provision had never been part of this Note, but only to the extent it is invalid, illegal, or unenforceable.

19. General Obligation. The indebtedness evidenced by this Note is an unconditional general obligation of the Borrower, to the repayment of which its full faith and credit are pledged, and the indebtedness can be collected in any lawful manner including offset against the funds otherwise payable by the State of Maryland to the Borrower, including income tax distributions. The Borrower warrants that all of the proceeds of the Loan evidenced by this Note shall be used for a business or commercial enterprise as contemplated under the Loan Agreement.

FOR INFORMATIONAL PURPOSES ONLY

IN WITNESS WHEREOF, the undersigned, with full power and authority to do so and intending to be legally bound hereby, executes and delivers this Note under seal on behalf of and as the Borrower on the date first written above.

ATTEST:

[BORROWER]

By: _____

Name: _____

Name:
Title:

STATE OF MARYLAND, _____ OF _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, _____, before me, a Notary Public in the State of Maryland, personally appeared _____ who acknowledged [__]self to be the _____ of **[BORROWER]** known or satisfactorily proven to me to be the person whose name is subscribed to this document, and acknowledged that she executed it on behalf of the Borrower, as its duly authorized signatory.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission expires: _____