

STANDBY LETTER OF CREDIT AGREEMENT

IN CONSIDERATION OF CENTER BANK ("Bank") issuing one or more of its irrevocable standby letters of credit (each a "Credit") for the account of the undersigned ("Applicant") in the amount and on terms set forth in the corresponding Standby Letter of Credit Application to which this Agreement is attached or may in the future be attached (each an "Application"), and in favor of the party named as beneficiary in each such Application (each a "Beneficiary"), Applicant hereby agrees as follows:

1. OBLIGATIONS OF APPLICANT TO BANK

1.1 Repayment of Advances. Applicant promises to pay to Bank or order the principal amount of each disbursement of funds of any kind or character made by Bank or Bank's correspondents under or in respect to any Credit or any amount otherwise due to Bank under this Agreement or any of the hereafter defined Letter of Credit Documents ("Advance"), together with interest thereon from the date of the Advance until the date such amount is repaid in full, in accordance with the following terms:

1.1.1 Payment. Applicant shall pay to Bank the principal amount of any Advance, together with interest thereon:

- Immediately upon demand by Bank.
- On or before the date which is _____ days after Bank has given written notice that it has paid an Advance.
- From an advance under that certain line of credit or other credit facility extended to Applicant by Bank pursuant to that certain agreement dated _____, 200____, between Applicant and Bank, and evidenced by that certain promissory note dated _____, 200____, in the original principal amount of Dollars (\$_____). Applicant hereby expressly and irrevocably authorizes Bank to advance funds under the line of credit or other credit facility without further notice or demand for the purpose of reimbursing Bank any amount payable under this Section 1.1.1. Applicant acknowledges and agrees that notwithstanding anything contained in this Agreement to the contrary, the advance by Bank of proceeds under the line of credit or other credit facility referred to in the preceding sentence shall be made only in accordance with the terms and conditions of documents evidencing such line of credit or other credit facility.
- By debiting that certain deposit account maintained by Applicant with Bank which is referred to by Bank as account numbered _____ ("Reimbursement Account"). Applicant hereby expressly and irrevocably authorizes Bank to debit the Reimbursement Account without notice to or demand on Applicant for the principal amount of any Advance made by Bank under any Credit.

1.1.2 Interest. Applicant shall pay to Bank interest on the amount of each Advance from the date of the Advance until such Advance is repaid in full. Subject to Section 6.2 below, interest payable by Applicant on any Advance shall accrue at a rate that is the lesser of (a) the maximum rate permitted by applicable law, as amended or modified from time to time (the "Maximum Rate") or (b) a rate, expressed as an annual percentage rate, equal to:

- _____ percent (_____%);
- The sum of (i) the "Base Rate," plus (ii) _____ percent (_____%), provided that such interest rate shall change from time to time as the Base Rate changes. As used herein, the term "Base Rate" shall mean the rate of interest used as the reference or base rate to establish the actual rates charged on commercial loans and which is publicly announced or reported from time to time by _____.

1.2 Letter of Credit Fee.

1.2.1 Payment of Initial Fee. Prior to Bank's issuance of any Credit, Applicant shall pay to Bank a letter of credit fee in an amount equal to _____ percent (____%) of the face amount of such Credit ("Letter of Credit Fee"). Applicant acknowledges and agrees that a Letter of Credit Fee shall be deemed fully earned by Bank upon payment of such Letter of Credit Fee to Bank and Applicant shall not be entitled to a refund of all or any portion of such Letter of Credit Fee should Bank's obligations under the Letter of Credit terminate for any reason prior to the expiration date indicated thereon.

1.2.2 Annual Fee. So long as Bank is liable to Beneficiary for all or any portion of the amount of any Credit, then on the anniversary of the issuance date of such Credit, Applicant shall pay to Bank in advance an annual fee in an amount equal to _____ percent (____%) of that portion of the Credit amount for which Bank remains liable to Beneficiary ("Annual Fee"). Applicant acknowledges and agrees that any Annual Fee shall be deemed fully earned by Bank upon payment of such Annual Fee to Bank and Applicant shall not be entitled to a refund of all or any portion of such Annual Fee should Bank's obligations under any Credit terminate for any reason prior to the expiration date indicated thereon (or as may be extended or modified).

1.3 Commissions and Fees. Applicant shall pay Bank, on demand, all commissions, fees and other charges (including, where applicable, interest or discount, negotiation fees, amendment fees, non-usage fees and cancellation fees) arising out of or in connection with any Credit. If such amounts are not paid within ten (10) calendar days after demand is made by Bank, Applicant shall pay interest on such amount at the rate of interest set forth in Section 1.1.2.

1.4 Bank Expenses. Applicant shall reimburse Bank immediately upon demand for all expenses which Bank or Bank's correspondents may incur under or in respect of any Credit, which may include without limitation fees, charges and other amounts payable by Bank or Bank's correspondents to any other bank or third party. If such amounts are not paid within ten (10) calendar days after demand is made by Bank, Applicant shall pay interest on such amount at the rate of interest set forth in Section 1.1.2.

1.5 Applicant Obligated to Pay. Applicant shall timely pay all fees, charges, expenses and other amounts arising out of or in connection with any Credit if the Letter of Credit Documents or any of them, provide that Applicant is obligated to pay, are silent as to who is to pay, or provide that any Beneficiary is obligated to pay and such Beneficiary fails to make timely payment.

2. GRANT OF SECURITY INTEREST. As security for the performance by Applicant of all of Applicant's obligations under this Agreement and all other agreements, documents and instruments heretofore, concurrently or hereafter executed by Applicant in connection with any Credit (collectively, "Letter of Credit Documents," with Applicant's obligations under the Letter of Credit Documents sometimes referred to herein as the "Obligations"), whether now owing or hereafter incurred or created, whether due or to become due and whether absolute or contingent, Applicant hereby assigns, conveys and grants to Bank a security interest in all of Applicant's now existing

and hereinafter acquired:

deposit accounts, including, without limitation, the Reimbursement Account and that certain deposit account maintained by Applicant with Bank, referred to as account no. _____; accounts inventory; equipment; chattel paper; farm products; general intangibles; instruments; investment property (collectively, and together with all of the proceeds thereof, the "Collateral").

3. CONDITIONS PRECEDENT TO ISSUANCE OF EACH CREDIT. Bank's obligation to issue each Credit is subject to the full satisfaction of each and all of the following conditions:

3.1 Application and Agreement. Applicant shall have executed and delivered to Bank an original counterpart of the Application for a specific Credit, this Agreement and all other documents, instruments and agreements required by Bank, including without limitation any security agreement, deed of trust and financing statement;

3.2 Approval. The Application for such Credit shall have been approved by Bank in its sole and absolute discretion accordance with the internal standards and procedures established by Bank for transactions of this nature; Applicant acknowledges and agrees that the execution and delivery by Applicant and the acceptance by Bank of an original of the Application for such Credit and this Agreement shall not be construed as a commitment or obligation of Bank to issue such Credit;

3.3 Letter of Credit Fee. Applicant shall have paid to Bank, and Bank shall have received, the Letter of Credit Fee for such Credit in accordance with Section 1.2.1; and

3.4 Form of Letter of Credit. Bank shall have reviewed and approved any special requirements by Beneficiary as to the form and content of such Credit.

3.5 Due Performance by Applicant. No Event of Default hereafter defined, or other event which with the passage of time would constitute or result in an Event of Default, shall have occurred.

4. REPRESENTATIONS AND WARRANTIES OF APPLICANT. Applicant hereby represents and warrants to Bank, as of the date of this Agreement, the date of each Application, the date of each Credit and throughout the period in which Applicant has any outstanding obligations under this Agreement, as follows:

4.1 Identity. Applicant is:

- an individual.
- a [specify type of entity] organized and existing under the laws of the State of _____ and is duly qualified to do business in the State of California and any other jurisdiction that is material for purposes of this Agreement.
- _____.

4.2 Authority. Applicant has all requisite power and authority to enter into this Agreement and, if applicable, to grant to Bank a security interest in the Collateral. The execution and delivery by Applicant of and the performance by Applicant of all of its obligations under the Letter of Credit Documents have been duly authorized by all necessary action and do not and will not require any consent not heretofore obtained or violate any of Applicant's organizational documents or any other agreements or instruments to which Applicant is a party or is otherwise bound.

4.3 Compliance with Laws. The transaction(s) contemplated by each Credit, individually and in the aggregate, comply in all respects with all applicable domestic and foreign laws, rules and regulations.

4.4 Binding Obligation. This Agreement constitutes a legally valid and binding obligation of Applicant, enforceable against Applicant in accordance with its terms, except as limited by applicable bankruptcy or similar laws affecting the enforcement of creditors' rights generally.

4.5 No Action or Proceeding. There is no action or proceeding pending by or against Applicant or any guarantor of Applicant's obligations under any Letter of Credit Document before any court or administrative agency, and Applicant has no knowledge of any pending, threatened or imminent litigation, governmental investigation or claim, complaint, action or prosecution involving Applicant, or any guarantor of Applicant's obligations under any Letter of Credit Document, in which the amount in controversy exceeds Twenty Five Thousand Dollars (\$25,000.00), except as heretofore disclosed in writing to Bank. If any of the foregoing arises during the term of this Agreement, Applicant shall immediately notify Bank in writing.

4.6 Solvency; Financial Statements. Applicant is and shall continue to be able to pay its debts as they mature and the realizable value of its assets is, and at all times that it may have obligations hereunder shall continue to be, sufficient to satisfy any and all obligations hereunder. All financial statements of Applicant which have heretofore been submitted to Bank fairly present the financial positions of Applicant at the dates of their preparation, in conformity with sound and accepted accounting principles consistently maintained and applied throughout the period indicated and consistent with Applicant's prior financial reporting practice. Since the dates of such financial statements, there have been no material adverse changes in the financial conditions of Applicant.

5. WAIVERS

5.1 Defenses. Applicant acknowledges and understands that Applicant may have the right to assert certain defenses to the enforcement of Applicant's obligations hereunder that may arise by reason of certain actions of a party to any Credit transaction or by reason of the occurrence of certain events. Applicant hereby knowingly and voluntarily waives any defense to enforcement of Applicant's Obligations that may arise or be created by reason of any of the following and agrees to pay all monies due hereunder notwithstanding the occurrence of any of the following events: (i) the existence of any claim, setoff, defense or other rights which Applicant may have at any time against Bank, any Beneficiary or any other person, whether in connection with any Credit, this Agreement or any other document or agreement between Beneficiary and Applicant executed in connection with any Credit; (ii) any demand, statement or any other document presented under any Credit proving to be forged, fraudulent, invalid, or insufficient in any respect or any statement therein proving to be untrue or inaccurate in any respect whatsoever; (iii) any claim by Applicant or a third party that the presentation by any Beneficiary is deficient; (iv) the solvency of any party issuing any documents that may be presented in connection with a draw under any Credit; (v) the failure of any draft presented under any Credit to bear any reference or adequate reference to the related Credit, or the failure to note the amount of any draft on the reverse side of any Credit; (vi) the presentation of a draft by an assignee, transferee or successor-in-interest of Beneficiary; (vii) any errors, omissions, neglect or default by any correspondent bank of Bank or any advising bank in connection with any Credit; or (viii) the occurrence or existence of any dispute or disagreement of any kind between Applicant and Beneficiary.

5.2 **Notice of Acceptance.** Applicant hereby waives any notice of acceptance by Bank of this Agreement.

5.3 **Notice, Presentation, Demand and Protest.** Applicant hereby waives any right to notice, presentation, demand of payment or protest.

6. **DEFAULTS AND REMEDIES.**

6.1 **Events of Default.** Any one or more of the following shall constitute an "Event of Default" by Applicant under this Agreement: (i) Applicant fails to pay when due any amount due in connection with any Advance or other amount payable hereunder; (ii) any representation or warranty made by Applicant, whether made in this Agreement, or any other document, certificate, agreement, instrument, report or other statement heretofore or hereafter furnished by Applicant to Bank in connection with any Credit, shall prove to be false or misleading in any material respect, or if any such representation or warranty is withdrawn or altered by Applicant without the prior written consent of Bank; (iii) Applicant has committed any act or has engaged in any conduct which now or in the future may expose any asset of Applicant to a claim by the federal or state government under asset forfeiture laws or Applicant has received any notice of seizure or the government has commenced forfeiture proceedings against Applicant or any guarantor or any of their assets applicable to Applicant including, but not limited to, any Collateral; (iv) Applicant assigns or attempts to assign all or any of its rights or obligations in connection with this Agreement or any Credit or any of the Letter of Credit Documents without the prior written consent of Bank; (v) Applicant defaults in the due performance or observance of any term, provision, condition, covenant, warranty or representation contained in this Agreement or any other document executed by Applicant in connection with any Credit or any other agreement or instrument to which Bank is a party or which is for Bank's benefit, and such default shall not have been cured within 5 business days after notice thereof is given to Applicant by Bank; (vi) a petition in bankruptcy or for reorganization or for an arrangement or any composition, readjustment, liquidation, dissolution or similar relief pursuant to the federal bankruptcy law or under similar present or future federal or state bankruptcy or insolvency law, is filed by or against Applicant, and such petition is not dismissed within 60 calendar days thereafter; and (vii) Applicant ceases to exist, or any guarantor of Applicant's obligations under this Agreement or any other document related to any Credit, revokes or attempts to revoke his/her/its guaranty, dies or is declared incompetent by a court of appropriate jurisdiction.

6.2 **Remedies.** Upon the occurrence of an Event of Default, Bank shall have all rights available to Bank under this Agreement, any other documents related to any Credit, at law and in equity, including without limitation the right to file an action to enforce this Agreement or the right to exercise any rights under any documents securing Applicant's obligations hereunder. If, at the time any Event of Default shall have occurred, Bank remains liable under any Credit, whether because such Credit has not yet expired and amounts remain available to be drawn thereunder, because drafts which have been accepted thereunder, or deferred payment obligations which have been incurred thereunder, have not yet matured, or otherwise, then Applicant shall provide Bank, on demand, sufficient funds from which to pay all amounts for which Bank may become liable as if each such Credit is thereafter fully drawn and all amounts for which Bank will become liable under drafts and deferred payment obligations which have theretofore been accepted or incurred but have not yet matured. All amounts which Applicant is required to provide Bank pursuant to this Section shall be deposited in an account to be maintained with Bank as additional Collateral for Applicant's obligations hereunder and the unused portion thereof, if any, shall be returned, without interest, to the persons legally entitled thereto when it is finally determined by Bank that Applicant has fully discharged its obligations under this Agreement. Upon the occurrence of an Event of Default, interest on the Advance shall accrue at the rate specified in Section 1.1.2 plus _____% per annum, but not exceeding the Maximum Rate.

7. **GENERAL PROVISIONS**

7.1 **Time of the Essence.** Time is hereby declared to be of the essence of this Agreement and of every part hereof.

7.2 **Transferable Credit.** If any Credit is transferable, Applicant acknowledges and agrees that Bank may take such actions as Bank deems necessary or desirable to assure itself that neither such Credit nor any portion thereof is transferred in violation of applicable laws, rules or regulations and, in connection therewith (but not by way of limitation), authorizes Bank to include as a condition precedent for the transfer of any Credit a requirement that the identity of any proposed transferee (whether of all or any portion of such Credit) be disclosed to Bank, and that Bank's consent to transfer to such transferee be obtained before such Credit or any portion thereof is transferred. Bank's consent to any such transfer shall not, however, constitute a representation or warranty by Bank to Applicant or any other person that such transfer is, in fact, legally permissible.

7.3 **Notices.** Except as otherwise provided herein, any notice or other communication required or permitted to be given under this Agreement in writing shall be personally served by messenger, or sent by a commercial overnight delivery service, or by certified mail, return receipt requested, and shall be deemed given on the date actually received if served by messenger, or on the next business day after deposit with an overnight delivery service, or on the date of receipt as shown on the return receipt if sent by certified mail. Applicant or Bank may change its address for giving notices or demands hereunder by written notice of such change to the other party in accordance with the provisions hereof. Applicant shall promptly notify Bank of any change of its principal place of business or mailing address in the manner prescribed by this paragraph.

7.4 **Entire Agreement; Amendment.** This Agreement, the Continuing Agreement for Negotiation of L/C Documents, all Letter of Credit Documents and any agreements, instruments or documents referred to herein constitute the entire agreement between Bank and Applicant regarding the subject matter hereof, and all prior and/or contemporaneous communications, verbal or written, between Bank and Applicant regarding the subject matter hereof shall be of no further effect or evidentiary value. No course of prior dealing between the parties hereto, no usage of trade, and no parole or extrinsic evidence of any nature shall be used to supplement or modify any term or condition of this Agreement. This Agreement can be amended only by a written agreement executed by duly authorized representatives of Bank and Applicant.

7.5 **Definitions.** Terms used in this Agreement, if not defined herein, shall have the meaning given or defined in the provisions of the California Uniform Commercial Code, as it may be amended, modified or replaced from time to time ("UCC"). If a term is not defined herein or by the UCC, then such term shall be construed in a manner that is consistent with the general intent of this Agreement and with the general practices of the banking industry in California.

7.6 **Construction of Agreement.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Bank or Applicant, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the parties hereto.

7.7 **Severability.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

7.8 **Headings.** All section headings and section numbers have been set forth herein for convenience of reference only, and shall not limit or affect the meaning or interpretation of any section hereof.

7.9 **Successors and Assigns.** Except to the extent and in the manner expressly authorized by any Letter of Credit Document, Applicant shall not assign all or any of its rights or obligations in connection with this Agreement or any Credit or any of the Letter of Credit Documents without the prior written consent of Bank, which may be withheld in Bank's sole and absolute discretion. Any purported assignment of rights or obligations without such express authorization or Bank's prior written consent shall constitute an Event of Default pursuant to Section 6.1, but shall not otherwise have any force or effect. This Agreement shall bind Applicant and its successors and assigns and inure to the benefit of Bank and its successors and assigns and Applicant and its permitted successors and assigns.

7.10 **Governing Law.** This Agreement and all other agreements and instruments required by Bank in connection herewith shall be governed by and construed in accordance with the internal laws of the State of California, without taking into account the conflicts of law rules of said state, and the federal law of the United States of America. Notwithstanding the foregoing to the contrary, Applicant acknowledges and agrees that the terms of each Credit and the rights and duties of the parties thereto shall be governed by the International Standby Practices 1998 or the Uniform Customs and Practice (UCP) for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600.

7.11 **Attorneys' Fees.** In the event any party to this Agreement shall commence any action or proceeding against any other party by reason of any breach or claimed breach of any provision of this Agreement, to commence any action in any way connected with this Agreement, or to seek a judicial declaration of rights under this Agreement, the party prevailing in such action or proceeding shall be entitled to recover from the other party, or parties, the prevailing party's reasonable attorneys' fees and costs including, without limitation, all witness fees and associated expenses, including matters on appeal whether or not the proceeding or action proceeds to judgment.

7.12 **Jurisdiction and Service of Process.** Any suit, action or proceeding (collectively "proceeding") against Applicant arising out of or in connection with any Letter of Credit Document may, at Bank's sole option, be brought in (a) the courts of the State of California, (b) the United States District Courts in California, (c) the courts of Applicant's jurisdiction or incorporation or organization or principal office, or (d) the courts of any jurisdiction where any beneficiary, advising, confirming, negotiating, paying or other bank, or any other person or entity, has brought any suit, action or proceeding against you in connection with any Credit or any demand in connection therewith, and Applicant hereby submits to the jurisdiction of said courts for the purpose of any such proceeding or judgment or enforcement of judgment and waives any other preferential jurisdiction, including without limitation by reason of domicile. Applicant will accept joinder in any court in any proceeding brought against Applicant by any beneficiary, advising, confirming, negotiating, paying or other bank, or any other person or entity. Applicant waives all objections to the laying of venue in any court referred to in this paragraph.

7.13 **Joint Applicants.** If this Agreement is signed by more than one person or entity as the Applicant, all references in this Agreement to Applicant shall be deemed to refer to all such signing persons or entities jointly and severally.

Date _____

APPLICANT:

By _____

Name _____

Title _____