



City of Grand Forks  
Staff Report

Growth Fund Committee – November 17, 2025  
JDA – November 24, 2025

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Agenda Item: Authorization to Pursue Collections: Aerial Robotics

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Submitted by: Andy Conlon, Economic Development Manager

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**Staff Recommended Action:** Declare the subject loan in default and authorize the initiation of default proceedings by staff and the City Attorney.

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**Growth Fund Committee Action:**

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**JDA Action:**

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**BACKGROUND:**

As part of the 2019 legislative session, the State of North Dakota created the Innovation Technology Loan Fund (LIFT), a program administered by the Bank of North Dakota (BND) and aimed at supporting technology advancement by providing financing for commercialization of intellectual property in the state. The Growth Fund established its own Accelerate loan program to complement the LIFT program shortly thereafter. The Accelerate program was designed to mirror the terms of the LIFT program: a 2% interest loan secured by a blanket UCC filing on business assets, with payment and interest accrual deferred Years 1-3, interest accrual beginning and interest-only payments due monthly Years 4-5, then a balloon payment of outstanding principal due at the end of Year 5, at which time full repayment or modification could be considered. Aerial Robotics, Inc. requested and was approved for an Accelerate loan of \$250,000 in July 2022. The balloon payment of \$250,000 plus accrued interest is scheduled to be due October 1, 2027.

In 2023, staff contacted Aerial Robotics CEO Jörg Schamuhn regarding the company's HIVE membership. Mr. Schamuhn provided a written status update as to some of the challenges the company faced at the time. In summary, this written status report stated that Aerial Robotics, Inc. was "put under preliminary administration to protect...the IP" following its parent company experiencing substantial challenges with certain shareholders regarding intellectual property. Mr. Schamuhn further indicated that "In order to keep the door open we froze Aerial Robotics Inc." and "Our plan is to reactive the Inc. once we are ready organizing our restart." Staff received an email shortly thereafter stating that the company had a "good chance to right the ship" and had had a "very promising" investment meeting that, if able to close, would enable them "to

reactivate also the US entity and move on” and that they were “Overall on a good path.” As the loan remained in deferral and a path forward appeared to have been determined, no action was taken at the time. Subsequent conversations with BND confirm they received the same context and they too opted not to take action at the time.

Though the loan is not due for two years, staff reached out to Mr. Schamuhn recently as part of an effort to provide a status update on remaining Accelerate borrowers and received an automated reply stating the company is no longer in business. Additional attempts to contact Mr. Schamuhn via other means to provide answers have not received replies. Staff has also been in contact with BND on this matter. They are aware of the company's failure but have not yet taken action the outstanding \$500,000 LIFT loan. BND staff indicated they would likely take action similar to staff's recommendation in the near future.

A cessation of operations constitutes an act of default under the loan agreement. The loan is secured with a blanket UCC lien on business assets, however, with limited information available staff cannot ascertain at this time what assets are available or what their worth might be. As such, staff recommends authorizing the City Attorney's office to further review the status of Aerial Robotics operations, and to initiate the collections process in the event it is further confirmed this entity has ceased operations.

#### **ANALYSIS AND FINDINGS OF FACT:**

- Aerial Robotics, Inc. is in default of one or more conditions of the loan agreement dated August 29, 2022, including but not limited to:
  - Section 4.01 Financial Statements and Reports (Event of Default under 6.01.d)
  - Section 4.04 Maintenance of Borrower's Existence (Event of Default under 6.01.d and j)
  - Section 4.09 Notice of Certain Events (Event of Default under 6.01.d)
- The balloon payment of \$250,000 plus accrued interest is due October 1, 2027. Approximately \$833.34 of interest has accrued as of November 1, 2025, bringing the current outstanding balance to \$250,833.34.

#### **SUPPORTING MATERIALS:**

- Original staff report
- Growth Fund loan documents
- Email chain from Jorg Schamuhn – 2023 Status Update
- Out of Business Email from Jorg Schamuhn - 2025

## ACCELERATE LOAN PROGRAM LOAN AGREEMENT

**THIS LOAN AGREEMENT** is made and entered into as of the 29 day of August, 2022, between **AIRIAL ROBOTICS, INC.**, whose principal offices and mailing address is 235 Harrison Street, Syracuse, NY 13202 (the “Borrower”); and **GRAND FORKS GROWTH FUND**, a job development authority, a public body, corporate and politic under North Dakota law, whose mailing address is 255 N. Fourth Street, P.O. Box 5200, Grand Forks, North Dakota 58203 (the “Lender”).

### RECITALS

1. The Borrower has requested a Loan from the Lender under the Lender’s Accelerate Loan Program.
2. The Lender has awarded a Loan to the Borrower in the amount and for the purpose described in Article 2.

**NOW, THEREFORE**, the parties hereto do agree as described herein.

### **ARTICLE I -GENERAL TERMS**

Section 1.01 Definitions. As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

(a) “Affiliate” shall mean, as to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person and, if such Person is an individual, any member of the immediate family (including parents, spouse and children) of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person who is controlled by any such member or trust. As used in this definition, “control” (including, with correlative meanings, “controlled by” and “under common control with”) shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interest, by contract or otherwise).

(b) “Agreement” shall mean this Loan Agreement, as the same may from time to time be amended or supplemented.

(c) “Borrower” shall mean AIRIAL ROBOTICS, INC.

(d) “Business Day” shall mean a day other than a Saturday, Sunday or legal holiday for banks under the laws of the State of North Dakota.

(e) “Business Financing Application” shall mean the application submitted by the Borrower to the Lender, and all other information, in seeking the Loan.

(f) “Current Assets” shall mean the sum of cash, certificates of deposit, ordinary trade accounts receivable (excluding any amount due from any officer, employee director, shareholder or any Affiliate of any of the foregoing), earnest money and other operating deposits, operating prepaid costs, including but not limited to prepaid insurance, prepaid rent, prepaid sales draws, inventory at lower of cost or net realizable value. With the exception of the assets described above, all other assets included as “Current Assets” must satisfy the definition of current assets according to GAAP. In general, current assets according to GAAP are those resources reasonably expected to be realized in cash, sold or consumed during the normal operating cycle of a business. In the event of a dispute relative to the carrying value of said Current Assets, including but not limited to inventory and accounts receivable, or the classification of an asset as a Current Asset, the determination thereof by an independent Certified Public Accountant chosen by Borrower and acceptable to Lender shall be controlling.

(g) “Current Liabilities” shall mean all indebtedness normally held as due within one (1) year.

(h) “Debt” shall mean, for any Person, without duplication: (i) any indebtedness of such Person for borrowed money or for the deferred purchase price of Property or services for which such Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which such person otherwise assures a creditor against loss; and (ii) all obligations under leases which shall have been, or should have been, recorded as capital leases in respect of which such Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss.

(i) “Default” and “Event of Default” shall mean the occurrence of any of the events specified in Section 6.01, whether or not any requirement for notice or lapse of time or other condition precedent has been satisfied.

(j) “Environmental Laws” shall mean any and all laws, statutes, ordinances, rules, regulations, orders, or determinations of any Governmental Authority pertaining to health or the environment applicable to the Borrower, the Facility or any of its other Properties in effect in any and all jurisdictions in which the Borrower is conducting or at any time has conducted business, or where the Facility or any other Property of the Borrower is located, or where any hazardous substances generated by or disposed of by the Borrower are located, including but not limited to the Clear Air Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (“CERCLA”), as amended, the Federal Water Pollution Control Act, as amended, the Occupational Safety and Health Act of 1970, as amended, the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (“RCRA”), as amended, the State Drinking Water Act, as amended, the Toxic Substances Control Act, as amended, the Hazardous Materials Transportation Act, as amended, and other environmental conservation or protection laws. The terms “hazardous substance,” “release” and “threatened release” shall have the meanings specified in CERCLA, and the terms “solid waste” and “disposal” (or “disposed”) shall have the meanings specified in RCRA; provided, however, that (i) in the event either CERCLA or RCRA is amended so as to broaden the meaning of any

term defined thereby, such broader meaning shall apply hereunder subsequent to the effective date of such amendment, (ii) to the extent of the state in which any Property of the Borrower or any Affiliate is located establish a meaning for “hazardous substance,” “release,” “threatened release,” “solid waste” or “disposal” which is broader than that specified under CERCLA or RCRA, such broader meaning shall apply, and (iii) the terms “hazardous substance” and “solid waste” shall include all oil and gas exploration and production wastes that may present an endangerment to public health or welfare or the environment, even if such wastes are specifically exempt from classification as hazardous substances or solid wastes pursuant to CERCLA or RCRA or the state analogues to those statutes.

(k) “Financial Statements” shall mean the financial statements of the Borrower.

(l) “Financing Statement” shall mean the financing statements filed pursuant to the Uniform Commercial Code and any changes thereto as the Lender shall deem necessary.

(m) “Governmental Authority” shall mean the United States of America, the State of North Dakota, City of Grand Forks, North Dakota, the Lender, and the state, county, city and political subdivisions in which any other Property of the Borrower is located or which exercises jurisdiction over any such Property and/or the Borrower or the business operations of the Borrower, and any agency, department, commission, board, bureau, homeowners association, utility district, flood control district, improvement district, or similar district, court, grand jury or instrumentality or any of them which exercises jurisdiction over any such other Property and/or the Borrower or the business operations of the Borrower.

(n) “Governmental Requirement” shall mean any law, statute, code, ordinance, order, rule, regulation, judgment, decree, determination, award, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement (including but not limited to any of the foregoing which relate to zoning and planning standards or controls, environmental standards or controls, energy regulations and occupational, safety and health standards or controls) of any Governmental Authority.

(o) “Indebtedness” shall mean any and all amounts owing or to be owing by the Borrower to the Lender in connection with the Note, this Agreement or any Security Instrument, and all other liabilities of the Borrower to the Lender from time to time existing, whether in connection with this or other transactions.

(p) “Loan Advance” means any advance of loan proceeds in the amount of, but not to exceeding, \$250,000.00, made pursuant to Section 2.01.

(q) “Lender” shall mean the Grand Forks Growth Fund, a job development authority, a public body, corporate and politic under North Dakota law.

(r) “Lien” shall mean any interest in property securing an obligation owed to, or a claim by, a Person other than the owner of the property, whether such interest is based on the common law, statute or contract, and including but not limited to the lien or security interest arising from a mortgage, encumbrance, pledge, security agreement, conditional sale or trust

receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting property. For the purposes of this Agreement, the Borrower shall be deemed to be the owner of any property which it has acquired or holds subject to a conditional sale agreement, financing lease or other arrangement pursuant to which title to the property has been retained by or vested in some other Person for security purposes.

(s) "Material Adverse Effect" shall mean any material and adverse effect on (i) the assets, liabilities, financial condition, business or operations of the Borrower, taken as a whole, from those reflected in the Financial Statements or from the facts represented or warranted in this Agreement or any other Security Instrument, or (ii) the ability of the Borrower, taken as a whole, to carry out its business as of the date of this Agreement or thereafter, or as proposed at the date of this Agreement to be conducted or meet the Borrower's obligations under the Note, this Agreement, or the other Security Instruments on a timely basis.

(t) "Note" or "Notes" shall mean each promissory note of the Borrower being in the form of promissory note attached hereto as Exhibit "1," and by this reference incorporated herein, together with any and all renewals, modifications, amendments, substitutions, extensions for any period, increases or rearrangements thereof.

(u) "Outstanding Balance" shall mean all amounts due and owing by Borrower under the Note, Security Instruments and/or the Indebtedness including but not limited to outstanding and unpaid principal, interest, late fees and/or any other charges imposed or payable thereunder.

(v) "Person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

(w) "Secured Property" shall property and assets described in Paragraph 1 in the Security Agreement.

(x) "Security Agreement" shall mean the Security Agreement attached hereto as Exhibit "2," and by this reference incorporated herein, with such changes, renewals, modifications or amendments thereto as the Lender shall deem reasonably necessary.

(y) "Security Instruments" shall mean this Agreement, Security Agreement, each Financing Statement, and any and all other agreements or instruments now or hereafter executed and delivered by the Borrower, or any other Person (other than participation or similar agreements between the Lender and any other bank or creditor with respect to any Indebtedness pursuant to this Agreement) in connection with, or as security for the payment or performance of, the Note or this Agreement, as such agreements may be amended or supplemented from time to time.



## ARTICLE 2 - AMOUNTS AND TERMS OF LOANS

Section 2.01 The Loan. Subject to the conditions precedent described in Article 7 below and the terms and conditions and relying on the representations and warranties contained in this Agreement, the Lender agrees to make the Loan evidenced by the Note to the Borrower:

(a) Loan Advance. The Lender shall make the Loan Advance to the Borrower, as evidenced in the Note, that the Borrower shall issue, execute and deliver to the Lender, and in the principal amount and interest rate as described thereon.

(b) Re-Payment of Loan Advance. The Borrower shall repay the Loan Advance to the Lender in accordance with the terms of the Note. The amount and schedule of said repayments shall be made as described in the amortization schedule attached to the Note. The Borrower shall make each payment to the Lender, not later than the day when due in lawful money of the United States of America at the following address:

Grand Forks Growth Fund  
Community Development Department  
255 N. Fourth Street  
Grand Forks, ND 58203

Section 2.02 Purpose and Use of Loan Advance. The Loan Advance shall be used by Borrower solely and exclusively for the purposes described in the Borrower's approved Business Financing Application and for no other purpose.

Section 2.03 Voluntary Prepayments. The Borrower may, at its option, prepay the Outstanding Balance of the Note at any time in whole or from time to time in part without premium or penalty, upon giving the Lender prior notice of such payment.

Section 2.04 Payment Procedure. All payments and prepayments made by the Borrower under the Note or this Agreement shall be made to the Lender at its offices described above in immediately available funds before 2:00 p.m. central time, on the date that such payment is required to be made. Any payment received and accepted by the Lender after such time shall be considered for all purposes (including the calculation of interest to the extent permitted by law) as having been made on the Lender's next following Business Day.

Section 2.05 Business Days. If the date for any loan payment or prepayment or commitment fees payment hereunder falls on a day which is not a Business Day, then for all purposes in this Agreement, the Note and the Security Instruments, the same shall be deemed to have fallen on the next following Business Day, and such extension of time shall in such case be included in the computation of payments of interest.

## ARTICLE 3 – BORROWER'S REPRESENTATIONS AND WARRANTIES

In order to induce the Lender to enter into this Agreement, the Borrower makes the representations and warranties to the Lender (which representations and warranties will survive

the delivery of the Note and the making of the loan or loans thereunder and which were relied upon by Lender) set forth below:

Section 3.01 Existence. The Borrower is a corporation duly organized, legally existing and in good standing under the laws of the State of North Dakota.

Section 3.02 Power and Authorization. The Borrower is duly authorized and empowered to create, execute, deliver, issue and perform this Agreement, the Note, and the Security Instruments; and all corporate action on the Borrower's part requisite for the due creation, execution, delivery, issuance and performance of this Agreement, the Note and the Security Instruments has been duly and effectively taken.

Section 3.03 Binding Obligations. The Borrower represents and warrants to the Lender that this Agreement, the Note and the Security Instruments upon their creation, execution, delivery and issuance, shall constitute valid and binding obligations of the Borrower enforceable in accordance with their terms.

Section 3.04 No Legal Bar or Resultant Lien. The Borrower represents and warrants to the Lender that this Agreement, the Note and the Security Instruments and the creation, execution, delivery, issuance and the compliance with and performance by the Borrower of the terms thereof do not and will not violate any provision of the articles of incorporation, bylaws, partnership agreement or other agreement of Borrower, or any other contract, agreement, instrument of the Borrower (including but not limited to any loan, promissory note or other credit agreement relating to any Debt of the Borrower) or Governmental Requirement to which the Borrower is subject, or will result in the creation or imposition of any Lien upon any Properties of the Borrower other than those permitted by this Agreement.

Section 3.05 No Consent. The Borrower represents and warrants to the Lender that except as disclosed in writing to the Lender, the Borrower's creation, execution, delivery, issuance, compliance with and performance of this Agreement, the Note and the Security Instruments does not require the consent or approval of any venturer, partner, or of any stockholder of or partner in any of the venturers or partners, or of any other Person which has not been obtained, including, but not limited to, any Governmental Authority.

Section 3.06 Financial Condition. The Borrower represents and warrants to the Lender that the Business Financing Application is true and correct and the Financial Statements of the Borrower, (including any related schedules or notes) which have been delivered to the Lender have been prepared in accordance with generally accepted accounting principles, consistently applied, and present fairly the financial condition and changes in financial position of the Borrower as at the date and for the period or periods stated and that no change has since occurred in the condition, financial or otherwise, of the Borrower, except as disclosed in writing to the Lender.

Section 3.07 Investments and Guaranties. The Borrower represents and warrants to the Lender that, at the date of this Agreement, the Borrower has not made investments in, advances to or guaranties of the obligations of any Person, except as reflected in the Business Financing

Application, the Financial Statements or disclosed to the Lender in writing and except as otherwise permitted by this Agreement.

Section 3.08 Liabilities; Litigation. The Borrower represents and warrants to the Lender that except for Debts incurred in the normal course of business, the Borrower has no material (individually or in the aggregate) liabilities, direct or contingent, except as disclosed or referred to in the Business Financing Application and/or the Financial Statements or as disclosed to the Lender in writing and that, except as disclosed to the Lender in writing, at the date of this Agreement there is no litigation, legal, administrative or arbitral proceeding, investigation or other action of any nature pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, the Secured Property, including but not limited to challenging the validity of this Agreement, the Note or the Security Instruments or involves the possibility of any judgment or liability not fully covered by insurance.

Section 3.09 Taxes; Governmental Charges. The Borrower represents and warrants to the Lender that the Borrower has filed all tax returns and reports required to be filed and have paid all taxes, assessments, fees, and other governmental charges levied upon any of Borrower, the Secured Property or income which are due and payable, including interest and penalties, or have provided adequate reserves for the payment thereof. No tax liability has been asserted by the Internal Revenue Service or other taxing agency, Federal, State, or Local, for taxes materially in excess of those already provided for and the Borrower knows of no basis for any such deficiency assessment.

Section 3.10 Titles, Etc. The Borrower represents and warrants to the Lender that the Borrower has good title to the Secured Property free and clear of all Liens except (a) Liens disclosed to the Lender in writing and acceptable to the Lender, (b) Liens and minor irregularities in title which do not interfere with the occupation, use, or employment by the Borrower of its Property in the normal course of business as presently conducted or impair the value thereof for such business, or (c) Liens otherwise permitted or contemplated by this Agreement or the Security Instruments.

Section 3.11 Defaults. The Borrower represents and warrants to the Lender that the Borrower is not in default nor has any event of circumstance occurred which, but for the passage of time or the giving of notice, or both, would constitute a default under any loan or credit agreement, indenture, mortgage, deed of trust, security agreement or other agreement or instrument evidencing or pertaining to any Debt of the Borrower, or under any agreement or other instrument to which the Borrower is a party or by which the Borrower is bound, except as disclosed to the Lender in writing, and that no Default hereunder has occurred and is continuing.

Section 3.12 Casualties; Taking of Properties. The Borrower represents and warrants to the Lender that since the date of the Business Financing Application and the Financial Statements, neither the business nor the Secured Property, taken as a whole, have been materially and adversely affected by any cause or event.

Section 3.13 Use of Proceeds. The Borrower represents and warrants to the Lender that the proceeds of the Loan Advance shall be used solely and exclusively for the purposes described in the Borrower's approved Business Financing Application and for no other purpose.

Section 3.14 Compliance with the Law. The Borrower represents and warrants to the Lender that the Borrower (a) is not in violation of any Governmental Requirement or (b) has not failed to obtain any license, permit, franchise or other governmental authorization necessary to the ownership of the Secured Property or the conduct of its business.

Section 3.15 Location of the Borrower/Percent of Employees in Grand Forks. The Borrower represents and warrants to the Lender that the Borrower's principal place of business and chief executive offices is located in Grand Forks, North Dakota ("Grand Forks Operating Location") and that more than seventy-five percent (75%) of its employees shall be employed and located at the Grand Forks Operation location.

Section 3.17 No Material Misstatements. The Borrower represents and warrants to the Lender that no information, exhibit or report furnished to the Lender by the Borrower in connection with the negotiation of this Agreement, the Note and/or Security Instruments contain any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statement contained herein not misleading.

Section 3.18 Subsidiaries. The Borrower represents and warrants to the Lender that the Borrower has no subsidiaries.

Section 3.19 Environmental Matters. The Borrower represents and warrants that:

(a) Neither the Secured Property, nor the Grand Forks Operating Location, violate any order or requirement of any court or Governmental Authority or any Environmental Law;

(b) There are no conditions existing on Grand Forks Operating Location or the Secured Property or resulting from operations conducted thereon that could give rise to or result in the imposition of remedial obligations under Environmental Laws other than conditions that customarily exist in the homebuilding business that are not material and are remediable without significant cost or any liability;

(c) Except as disclosed to the Lender in writing, without limiting clause (a) above, neither the Grand Forks Operating Location or Secured Property, nor the operation currently conducted thereon or by any prior owner or operator of the Grand Forks Operating Location or Secured Property or operation, are in violation of or subject to any existing, pending, or threatened action, suit, investigation, inquiry, or proceeding by or before any court or Governmental Authority or to any remedial obligations under Environmental Laws;

(d) All notices, permits, licenses or similar authorizations, if any, required to be obtained or filed in connection with the operation or use of the Grand Forks Operating Location or Secured Property, including but not limited to past or present treatment, storage, disposal, or release of a hazardous substance or solid waste into the environment, have been duly obtained or

filed, and the Borrower is in compliance with the terms and conditions of any such notice, permit, license or similar authorization;

(e) All hazardous substances or solid waste generated at the Grand Forks Operating Location or Secured Property have during the term of Borrower's ownership and/or use have been transported only by carriers maintaining valid permits under Environmental Law and only at treatment, storage and disposal facilities maintaining valid permits under Environmental Law, which carriers and facilities have been and are operating in compliance with such permits and are not the subject of any existing, pending or threatened action, investigation or inquiry by any Governmental Authority in connection with any Environmental Law;

(f) The Borrower has taken all reasonable and prudent steps necessary to determine and has determined that no hazardous substances or solid waste have been disposed of or otherwise released and there has been no threatened release of any hazardous substances on or to the Grand Forks Operating Location or Secured Property except in compliance with Environmental Laws, and that there are no storage tanks or other containers on or under the Grand Forks Operating Location or the Secured Property from which hazardous substances or other contaminants may be released into the surrounding environment; and

(g) The Borrower has no material contingent liability in connection with any release or threatened release of any hazardous substance or solid waste into the environment.

Section 3.21 Solvency. The Borrower is solvent, is generally paying its debts as they become due, and has no outstanding liens, suits, garnishments, bankruptcies or court actions which could render it insolvent.

#### **ARTICLE 4 – BORROWER'S AFFIRMATIVE COVENANTS**

The Borrower will at all times comply with the covenants contained in this Article 4, from the date hereof and for so long as any part of the Indebtedness is outstanding.

Section 4.01 Financial Statements and Reports. The Borrower, at Borrower's expense, shall promptly furnish to the Lender from time to time upon request such information regarding the business and affairs and financial condition of the Borrower as the Lender may reasonably request, and the Borrower, at the Borrower's expense, shall furnish to the Lender:

(a) Annual Reports. Promptly after becoming available, and in any event within sixty (60) days after the close of each fiscal year of the Borrower, balance sheets of the Borrower, as of the end of such year (compiled by an independent certified public accountant), statements of profit and loss of the Borrower for such year (compiled by an independent certified public accountant), the reconciliation of capital accounts of the Borrower for such year (compiled by an independent certified public accountant), and the statement of changes in financial position (cash flow statements) of the Borrower for such year (compiled by an independent certified public accountant).

(b) Maintain Financial Records. The Borrower agrees to maintain adequate records and books of account, in which complete entries will be made reflecting all of its business and financial transactions, such entries to be made in accordance with generally accepted principles of good accounting practice consistently applied in the case of financial transaction.

(c) Loan Program Report. The Borrower shall provide all reports required under the Lender's Accelerate Loan Program under which the Note was issued.

(d) Other Reports.

(i) As soon as provided to Borrower, any inspection, report, audit, review or similar oversight review of the Borrower by a Governmental Authority.

(ii) As soon as available, and in any event within seventy-five (75) days after the end of each fiscal year of the Borrower, a copy of the Federal income tax return of the Borrower for such fiscal year.

(e) Satisfaction of Conditions Precedent. Promptly upon request by the Lender, the Borrower shall provide the Lender with such documents, reports or other evidence as the Lender may reasonably request evidencing the satisfaction by the Borrower of the conditions precedent set forth in Article 7.

(f) Open Records. The Borrower agrees and understands that all records relating to Borrower maintained by Lender shall be held in compliance with the provisions of the North Dakota open records law. As this Agreement, the Note and Security Instruments are made with public funds, financial information provided under this section is considered a public record governed by North Dakota Century Code §44-04-17 through §44-04-20. Borrower may designate information or documents submitted to the Lender to be confidential including trade secrets and proprietary, commercial and financial information to be exempt from public disclosure. However, such designation shall not be determinative as to the exempt status of the information or documents under §44-04-18.4.

Section 4.02 Certificates of Compliance. Concurrently with the furnishing of the financial reports pursuant to subsection 4.01, the Borrower shall furnish or cause to be furnished to the Lender a certificate signed by the principal financial officer of the Borrower (a) stating that the review of the activities of the Borrower has been made under his supervision with a view to determining whether the Borrower has fulfilled all of its obligations under this Agreement, the Security Instruments and the Note; (b) stating that the Borrower has fulfilled its obligations under such instruments and that all representations made herein continue to be true and correct in all material respects (or specifying the nature of any change), or if there shall be a Default specifying the nature and status thereof and the Borrower's proposed response thereto; and (c) containing or accompanied by such financial or other details, information and material as the Lender may reasonably request to evidence such compliance.

Section 4.03 Taxes and Other Liens. The Borrower shall pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon the Borrower or upon



the income, the Secured Property, as well as all claims of any kind (including claims of labor, materials, supplies and rent) which, if unpaid, might become a Lien upon any part or all of any of the Secured Property, provided, however, that the Borrower shall not be required to pay any such tax, assessment, charge, levy, or claim if the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings diligently by or on behalf of the Borrower, and the Borrower shall have set up adequate reserves therefore.

Section 4.04 Maintenance of Borrower's Existence. The Borrower shall (a) maintain its joint venture, partnership, limited liability company or corporate status, as the case may be and (b) observe and comply with all Governmental Requirements.

Section 4.05 Further Assurances. The Borrower shall cure promptly any defects in the creation, execution, delivery and issuance of this Agreement, the Note or the Security Instruments. The Borrower, at its expense, will promptly execute and deliver to the Lender, upon request, all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of the Borrower in the Security Instruments, including this Agreement, or to further evidence and more fully describe the collateral intended as security for the Note, or to correct any omissions in the Security Instruments, or more fully to state the security obligations set out herein or in any of the Security Instruments, or to perfect, protect or preserve any Liens created pursuant to any of the Security Instruments, or to make any recordings, to file any notices, or obtain any consents, all as may be reasonably necessary or appropriate in connection therewith.

Section 4.06 Costs and Expenses. The Borrower shall pay all reasonable legal fees and costs and expert fees incurred by the Lender in connection with the administration of this Agreement, the Note and the Security Instruments contemplated hereby (including any amendments hereto or thereto or consents or waivers hereunder or thereunder) and shall also pay all other fees, charges or taxes for the recording or filing of the Security Instruments. The Borrower shall pay all reasonable out-of-pocket expenses of the Lender in connection with the administration of this Agreement, the Note and the Security Instruments including, but not limited to, fees charged by the Lender's independent or internal inspectors (provided that such fees for internal inspectors shall not exceed the fees the Lender would have paid its independent inspectors for substantially similar work), attorneys' fees, expert fees, appraisal fees, title endorsement premiums and premiums for any title policy. The Borrower shall upon request promptly reimburse the Lender for all amounts reasonably expended, advanced or incurred by the Lender to satisfy any obligation of the Borrower under this Agreement, the Note or the Security Instruments, or to collect the Note, or to enforce the rights of the Lender under this Agreement or any Security Instrument, which amounts will include all court costs, attorneys' fees, (including but not limited to trial, appeal or other proceedings), fees of auditors and accountants, and investigation expenses reasonably incurred by the Lender in connection with any such matters, together with interest thereon at the rate specified in the Note on each such amount from the date three (3) days after written demand or request by the Lender for reimbursement until the date of reimbursement to the Lender. The Borrower will pay at the time of execution of this Agreement, or when due, or at the option of the Lender at any time or times hereafter specified by the Lender, all costs and expenses required by the terms of this Agreement, the Note, or the Security Instruments, and including but not limited to:

- (a) All survey and continuations of survey costs and expenses, including the cost of a survey;
- (b) All premiums for title policies and other insurance policies;
- (c) All architects and engineers; and
- (d) All other reasonable costs and expenses payable to third parties incurred by the Lender in connection with the consummation of the transactions contemplated by this Agreement.

Section 4.07 Insurance. The Borrower now maintains and shall continue to maintain, with financially sound and reputable insurers, insurance with respect to the Secured Property and business against such liabilities, casualties, risks and contingencies and in such types and amounts as is customary in the case of Persons engaged in the same or similar businesses and similarly situated, including but not limited to liability insurance in the minimum amount of \$2,000,000.00, workmen's compensation insurance up to the statutory limits, business interruption insurance, an umbrella policy in the minimum amount of \$2,000,000.00, completed value fire and extended coverage insurance, and flood insurance together with such other insurance as the Lender may require covering the Secured Property all in amounts approved by the Lender, such insurance to be written in form and with companies approved by the Lender with loss made payable to the Lender pursuant to the standard mortgagee clause, without contribution, and the Borrower shall have delivered the corresponding certificates of insurance to the Lender with evidence of payment of premiums thereon. Such policy shall provide, by way of riders, endorsements or otherwise, that the insurance provided thereby shall not be terminated, reduced or otherwise limited regardless of any breach of the representations and agreements set forth therein and that no such policy shall be cancelled, endorsed or amended to any extent unless the issuer thereof shall have first given the Lender at least thirty (30) days prior written notice. Upon request of the Lender, the Borrower shall furnish or cause to be furnished to the Lender from time to time (i) a summary of the insurance coverage of the Borrower in form and substance satisfactory to the Lender and if requested will furnish the Lender copies of the applicable policies and (ii) a copy of any completion status report provided by the Borrower to any insurance company. In the case of any fire, accident or other casualty causing loss or damage to the Secured Property, the proceeds of such policies shall be used either (i) to repair or replace such damaged Secured Property, or (ii) to prepay the Indebtedness, such election to be made by the Lender.

Section 4.08 Right of Inspection/Retention of records. The Borrower shall permit any officer, employee or agent of the Lender to visit and inspect the Secured Property, examine and/or audit the Borrower's books of record and accounts (including but not limited to the general ledger, balance sheets, income statements, statements of account, contracts, invoices, payrolls, and personnel records), take copies and extracts therefrom, and discuss the affairs, finances and accounts of the Borrower with the Borrower's officers, accountants and auditors, all at such reasonable times and as often as the Lender may desire. All books and records in the possession of the Borrower pertaining to this Agreement shall be retained by the Borrower for a

period of seven (7) years beginning with the date upon which the final payment under this Agreement is issued. All book and records shall be retained beyond the seven-year period if audit findings have not been resolved within that period or if other disputes have not been resolved.

Section 4.09 Notice of Certain Events. The Borrower shall promptly notify the Lender if the Borrower obtains knowledge of the occurrence of (a) any event which constitutes a Default, together with a detailed statement by a responsible officer of the Borrower of the steps being taken to cure the effect of such Default; or (b) the receipt of any notice from, or the taking of any other action by, the holder of any promissory note, debenture, or other evidence of indebtedness of the Borrower with respect to a claimed default, together with a detailed statement by a responsible officer of the Borrower specifying the notice given or other action taken by such holder and the nature of the claimed default and what action the Borrower is taking or proposes to take with respect thereto; or (c) any legal, judicial or regulatory proceedings affecting the Borrower, the Secured Property and involving an amount in controversy equal to \$250,000.00 or more individually; or (d) any dispute between the Borrower and any Governmental Authority or any other Person; or (e) any event or condition having a Material Adverse Effect.

Section 4.10 Affiliates. All transactions between the Borrower and any Affiliate of the Borrower shall be arm's length transactions undertaken in good faith and in the ordinary course of business, unless approved by the Lender in its reasonable discretion.

Section 4.11 Notices by Governmental Authority, Fire and Casualty Losses, Etc. In addition to and without limiting the requirements under Section 4.01, the Borrower shall timely comply with and promptly furnish to the Lender true and complete copies of any official notice or claim by any Governmental Authority pertaining to the Borrower, the Grand Forks Operating Location, the Secured Property and/or the Borrower's business operations. The Borrower shall promptly notify the Lender of any fire or casualty or any notice of taking or eminent domain action or proceeding affecting the Secured Property. In the event any part of the Secured Property is taken in an eminent domain action or proceeding, the condemnation proceeds resulting from such action or proceeding shall be paid to the Lender to be applied as a prepayment of the Indebtedness.

Section 4.12 Compliance with Civil Rights Provisions. Without in any way limiting any other provision of this Agreement, but in addition thereto, the Borrower agrees as follows:

(a) Non-discrimination in employment. The Borrower shall not discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, national origin, age, or physical or mental disability. The Borrower should take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including an apprenticeship. The Borrower agrees to post notices setting



forth the provisions of the non-discrimination clause in conspicuous places so as to be available to employees

(b) Consideration of employment. The Borrower shall, in all solicitations or advertisements for employees placed by or on behalf of the Borrower, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex national origin, age, or disability.

(c) Program Non-discrimination. The Borrower shall conform with requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.). No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available on the basis of age under the Age Discrimination Act of 1965 (42 U.S.C. et. seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Vocational Rehabilitation Act of 1963 (29 U.S.C. §794) shall also apply to any such program or activity.

(d) Noncompliance. Without limiting any other available remedy, but in addition thereto, in the event of the Borrower's noncompliance with the nondiscrimination clauses of this Agreement or with any of the aforesaid rules, regulations, or requests, this Agreement may be canceled, terminated, or suspended either wholly or in part at the sole option of the Lender.

Section 4.13 Payment of Claims. The Borrower shall promptly pay or cause to be paid when due all costs and expenses incurred in connection with the Borrower's business operations and the Borrower shall keep the Secured Property free and clear of any mechanic's Liens, charges, or claims other than the Lien of the Security Instruments and other Liens approved in writing by the Lender, whether inferior or superior to the Security Instruments. A discharge of any Security Instrument and taking of a new Security Instrument in substitution thereof shall not release or diminish this obligation. Notwithstanding anything to the contrary contained in this Agreement, the Borrower may contest (a) the validity or amount of any claim of any contractor, consultant, architect, or other Person providing labor, materials, or services, (b) any tax or special assessment levied by any Governmental Authority, or (c) the enforcement of or compliance with any Governmental Requirement, and any such contest on the part of the Borrower shall not be a Default hereunder provided that during the pendency of any such contest the Borrower shall furnish to the Lender an indemnity bond with a corporate surety satisfactory to the Lender or other security acceptable to them in an amount equal to one hundred fifty percent (150%) of such claim or tax, and provided further that the Borrower shall pay any amount finally adjudged by a court of competent jurisdiction to be due, with all costs, interest, and penalties thereon before such judgment creates a Lien on the Secured Property or the Borrower.

## **ARTICLE 5 – BORROWER'S NEGATIVE COVENANTS**

The Borrower shall at all times comply with the covenants contained in this Article 5, from the date hereof and for so long as any part of the Indebtedness is outstanding.

Section 5.01 Debt. The Borrower shall not incur, create, assume or suffer to exist any Debt, or any Debt which would arise from commitments to lend, in excess of the maximum aggregate amount of \$250,000.00 incurred after the date hereof, without the Lender's prior written consent.

Section 5.02 Liens. The Borrower shall not create, incur, assume or permit to exist any Lien on the Secured Property (now owned or hereafter acquired), except:

- (a) Liens securing the payment of any Indebtedness; and
- (b) As approved, in advance and in writing from the Lender.

Section 5.03 Investments, Loans and Loan Advance. The Borrower shall not make or permit to remain outstanding any loans or advances to or investments in any Person, except that the foregoing restriction shall not apply to:

- (a) Investments, loans or advances, the material details of which have been disclosed to and approved by the Lender;
- (b) Investments in direct obligations of the United States of America or any agency thereof;
- (c) Investments in certificates of deposit of maturities less than one year, issued by commercial banks in the United States of America having capital and surplus in excess of \$250,000.00; and
- (d) Investments in commercial paper of maturities less than one year if at the time of purchase such paper is rated in either of the two highest rating categories of Standard & Poors Corporation, Moody's Investors Service, Inc., or any other rating agency satisfactory to the Lender.

Section 5.04 Issuance of Stock, Etc. by the Borrower. Borrower shall not sell or otherwise dispose of any shares of its capital stock, partnership interests, membership interests or other securities or rights, warrants or options to purchase, or acquire or issue any shares partnership interests, membership interests or securities if the effect thereof would be to cause Borrower to breach any covenant of this Agreement, the Note and/or any other Security Instrument.

Section 5.05 Sales and Leasebacks. The Borrower shall not enter into any arrangement, directly or indirectly, with any Person whereby the Borrower shall sell or transfer any of the Secured Property, whether now owned or hereafter acquired, and whereby the Borrower shall then or thereafter rent or lease, as lessee, such Property or any part thereof which the Borrower intends to use for substantially the same purpose or purposes as the Property sold or transferred.

Section 5.06 Restrictions on Covenants. The Borrower shall not impose any restrictive covenants or encumbrances upon any of the Secured Property without the prior written consent of the Lender.



Section 5.07 Mergers, Stock of Borrower. The Borrower shall not merge or consolidate with or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) its business operation and/or all or substantially all of its Secured Property (whether now owned or hereafter acquired) to any Person without the prior written consent of the Lender.

Section 5.08 Proceeds of Note. The Borrower shall not permit the proceeds of the Note to be used for any purpose other than those permitted by Sections 2.02 and 3.13.

Section 5.09 Sale or Discount of Receivables. The Borrower shall not discount or sell with recourse, or sell for less than the greater of the face or market value thereof, any of its notes, receivable or accounts receivable.

Section 5.10 Environmental Matters. The Borrower shall not cause or permit the Grand Forks Operating Location or the Secured Property of any such party to be in violation of, or do anything or permit anything to be done which will subject the Grand Forks Operating Location or Secured Property to any remedial obligations under any Environmental Laws, assuming disclosure to the applicable Governmental Authority of all relevant facts, conditions and circumstances, if any, pertaining to the Grand Forks Operating Location or Secured Property, and the Borrower shall promptly notify the Lender in writing of any existing, pending or threatened action or investigation by any Governmental Authority in connection with any Environmental Laws. The Borrower shall establish and implement such procedures as may be necessary to continuously determine and assure that they fully comply with these covenants. The Borrower shall not use the Grand Forks Operating Location or Secured Property which will result in (a) violation of any order or requirement of any court or Governmental Authority or any Environmental Law, (b) the disposal of any solid waste on or to the Grand Forks Operating Location or a Secured Property or as a result of operation conducted on the Grand Forks Operating Location or Secured Property in quantities or locations that would require remedial action under any Environmental Laws, (c) a release of a hazardous substance on or to the Grand Forks Operating Location or Secured Property in a quantity equal to or exceeding that quantity which requires reporting pursuant to CERCLA, or (d) the release of any hazardous substance on or to the Grand Forks Operating Location or Secured Property so as to pose an imminent and substantial endangerment to public health or welfare or the environment. The Borrower covenants and agrees to keep or cause the Grand Forks Operating Location and Secured Property to be kept free of any hazardous waste or contaminants and to remove the same (or if removal is prohibited by law, to take whatever action is required by law) promptly upon discovery at its sole discretion. Without limitation of the Lender's rights to declare a Default hereunder and to exercise all remedies available by reason thereof, if the Borrower fails to comply with or perform any of the foregoing covenants and obligations, the Lender may (without any obligation, express or implied) remove any hazardous substance or solid waste from the Grand Forks Operating Location or Secured Property (of if removal is prohibited by law, take whatever action is required by law) and the cost of the removal or such other action shall be a demand obligation by the Borrower to the Lender (which obligation the Borrower hereby promises to pay) pursuant to this Agreement and shall be subject to and covered by the provisions of Section 4.13 and 8.09.



## ARTICLE 6 - EVENTS OF DEFAULT

Section 6.01 Events. Any of the following events shall be considered an “Event of Default” as that term is used herein:

(a) Payments. Borrower fails to make any payment, when due, of any installment of principal or interest on the Note or other Indebtedness; or

(b) Terms of Loan. Borrower fails to observe and perform any of the terms, conditions, covenants or agreements contained in Article 2 of this Agreement.

(c) Representations and Warranties. Any representation or warranty by the Borrower or other Person in this Agreement, the Note or in any other Security Instrument, or in any certificate, request, or other document furnished pursuant to or under this Agreement, the Note or any other Security Instrument proves to have been incorrect in any material respect as of the date when made or deemed made; or

(d) Affirmative Covenants. Borrower fails to observe or perform any of the covenants or agreements contained in Article 4 of this Agreement; or

(e) Negative Covenants. Borrower fails to observe or perform any of the covenants or agreements contained in Article 5 of this Agreement; or

(f) Other Covenants. Borrower fails to observe or perform any other covenant or agreement contained in this Agreement; or

(g) Note and Security Instrument Obligations. Borrower fails to observe or perform any of the other covenants or agreements contained in the Note or any covenants or agreements contained in the Security Instruments, and/or any Person obligated under any Security Instrument fails to observe or perform any of the covenants or agreements contained in the Security Instrument, and such default continues unremedied beyond the expiration of any applicable grace period which may be expressly allowed under the Note or such Security Instrument; or

(h) Involuntary Bankruptcy or Other Proceedings. An involuntary case or other proceeding shall be commenced against the Borrower which seeks liquidation, reorganization or other relief with respect to it or its debts or other liabilities under bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its Property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of thirty (30) days, or an order for relief against the Borrower shall be entered in any such case under the Federal Bankruptcy Code; or

(i) Voluntary Petitions, Etc. The Borrower shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts or other liabilities under any bankruptcy, insolvency or other similar law now or hereunder in effect

or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of the Grand Forks Operating Location or Secured Property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to, or shall admit in writing its inability to pay its debts generally as they become due, or shall take any corporate or partnership action to authorize or effect any of the foregoing; or

(j) Discontinuance of Business. The Borrower discontinues its business; or

(k) Winding Up Business, Etc. The Borrower shall take any action to or shall otherwise begin the process of winding up its business or affairs, or dissolving, liquidating, or terminating; or

(l) Default on Other Debt. Any Debt of the Borrower is not paid when due (or within any grace period applicable thereto) or as a result of the occurrence of any default or event of default (however described and whether or not involving culpability on the part of any Person), or any Debt of Borrower is declared to be or otherwise becomes due and payable prior to its specified maturity; or

(m) Undischarged Judgments. The Borrower shall fail within ten (10) days to pay, bond or otherwise discharge any judgment or order for the payment of that is not otherwise being satisfied in accordance with its terms and is not stayed on appeal or otherwise being appropriately contested in good faith; or

(n) Security Instruments. Any Security Instrument after delivery thereof shall for any reason, except to the extent permitted by the terms thereof, cease to be in full force and effect and valid; binding and enforceable in accordance with its terms, or cease to create a valid and perfected Lien of the priority required thereby on any of the collateral purported to be covered thereby and the Borrower fails to fully remedy or cure the same within ten (10) days after the Lender gives notice thereof to the Borrower, or the Borrower shall so state in writing; or

(o) Title. The Borrower's title to the Secured Property is not reasonably satisfactory to the Lender, regardless of whether the Lien, encumbrance or question existed prior to the time of any Loan Advance and such objection is not remedied or cured within ten (10) days after the Lender gives notice thereof to the Borrower; or

#### Section 6.02 Remedies.

(a) Upon the occurrence of an Event of Default described in Section 6.01, all lending obligations, if any, of the Lender hereunder shall immediately terminate, and the entire Outstanding Balance of all Indebtedness, and other amounts, fees and costs arising under the Note, this Agreement and/or the Security Instruments, shall become immediately due and payable, all without written notice and without presentment, demand, notice of intent to accelerate, notice of acceleration, protest, notice of protest or dishonor or any other notice of default of any kind, all of which are hereby expressly waived by the Borrower.



(b) Further, the Lender may exercise any and all rights and remedies provided or available to Lender under the Note and/or the Security Instruments, and/or pursue any other available remedy.

**If the Lender is required to commence any action against Borrower to enforce any provision of this Agreement, the Note and/or the Security Instruments, the venue for such action shall be in Grand Forks County, North Dakota District Court, by a Judge alone and without a trial by jury. The Borrower, having had an opportunity to consult with independent counsel of their choosing, hereby knowingly and voluntarily waive their right to a trial by jury in any manner relating to this Agreement, the Note, and the Security Instruments, or any other agreement, document or instrument related thereto. Further, the Borrower acknowledges and agrees that Grand Forks County, North Dakota District Court shall have complete and full personal jurisdiction over the Borrower and subject matter jurisdiction with respect to any such action.**

Section 6.03 Right of Set-Off. Upon the occurrence and during the continuance of any Event of Default, the Lender is hereby authorized at any time and from time to time, without notice to the Borrower (any such notice being expressly waived by the Borrower), to set-off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Lender to or for the credit or the account of the Borrower against any and all of the Indebtedness of the Borrower, irrespective of whether or not the Lender shall have made any demand under this Agreement or the Note and although such obligations may be unmatured. The Lender agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lender under this section 6.03 are in addition to other rights and remedies (including but not limited to other rights of set-off) which the Lender may have.

## **ARTICLE 7 - CONDITIONS OF LENDING**

Unless waived by the Lender, the obligations of the Lender to make the Advance pursuant to this Agreement are subject to the conditions precedent stated in this Article 7.

Section 7.01 Advance. The obligation of the Lender to make the Loan Advance under this Agreement is subject to the following conditions precedent, wherein such document to be delivered to the Lender be in form and substance satisfactory to it and at Borrower's cost and expense:

(a) Closing. The Borrower shall have delivered to the Lender (unless waived by the Lender) at least three (3) Business Days' advance written notice of the closing date, for the delivery of all instruments, certificates and opinions referred to in this Section not theretofore delivered (except as to the Compliance Certificate, which is to be delivered at the time provided in Subsection 7.01(c) hereof).

(b) Agreement/Note/Security Instruments Executed. The Borrower shall have duly and validly issued, executed and delivered this Agreement, the Note and Security Instruments to the Lender.

(c) Certificates. The Lender shall have received a certificate signed by the Secretary of Borrower certifying (i) the names, titles, and true signatures of the officers of Borrower authorized to sign this Agreement, the Note, the Security Instruments and the other documents or certificates to be delivered pursuant thereto, and (ii) the resolutions authorizing, among other things, this Agreement and all transactions contemplated hereby, together with all affidavits and documents evidencing other necessary partnership or corporate action with respect to any thereof.

(d) Advance Delivery. Any document, instrument, commitment, or other writing or written evidence required to be provided pursuant to this Section 7.01 shall have been furnished to the Lender at least two (2) Business Days prior to the date upon which the Lender is to fund the Advance.

(e) Opinion of Borrower's Counsel. The Lender shall have received from counsel for the Borrower, a favorable written opinion as to (i) the matters contained in Sections 3.01 through 3.05; (ii) such counsel's knowledge of pending or threatened material litigation or governmental or regulatory proceedings against the Borrower, or any Affiliate of the Borrower; and (iii) such other matters incident to the formation of the Borrower or the transactions herein contemplated as the Lender may reasonably request.

(h) Recordings. The necessary Security Instruments shall have been duly delivered to the appropriate county and/or offices for filing or recording, and the Lender shall have received confirmations of receipt thereof from the appropriate filing or recording offices.

(i) Other. The Lender shall have received such other documents as it may reasonably have requested at any time at or prior to the closing referred to in subsection 7.01(a).

## ARTICLE 8 - MISCELLANEOUS

Section 8.01 Notices. Any notice required or permitted to be given under or in connection with this Agreement, the Security Instruments (except as may otherwise be expressly required therein) or the Note shall be in writing and shall be mailed by first class or express mail, postage prepaid, or sent by telex, telegram, telecopy or other similar form of rapid transmission confirmed by mailing (by first class or express mail, postage prepaid) written confirmation at substantially the same time as such rapid transmission, or personally delivered to an officer of the receiving party. All such communications shall be mailed, sent or delivered,

(a) If to the Borrower, to its address shown at the beginning of this Agreement, or to such other address or to such individual's or department's attention as it may have furnished the Lender in writing; or

(b) If to the Lender, to its address shown at the beginning of this Agreement, or to such other address or to such individual's or department's attention as it may have furnished to the Borrower in writing.

Any communication so addressed and mailed shall be deemed to be given within 48 hours of when so mailed; any notice so sent by rapid transmission shall be deemed to be given when receipt of such transmission is acknowledged; and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by, an authorized officer of the Borrower or the Lender, as the case may be.

Section 8.02 Amendments and Waivers. Any provision of this Agreement, the Security Instruments or the Note may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower (and/or any other Person which is a part to any Security Instrument being amended or with respect to which a waiver is being obtained) and the Lender.

Section 8.03 Invalidity. In the event that any one or more of the provisions contained in the Note, this Agreement or any Security Instrument shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Note, this Agreement or any Security Instrument.

Section 8.04 Survival of Agreements. All representations and warranties of the Borrower herein or in the Security Instruments, and all covenants and agreements herein not fully performed before the effective date or dates of this Agreement and of the Security Instruments, shall survive such date or dates.

Section 8.05 Successors and Assigns. The Note, this Agreement and the Security Instruments shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto. The Borrower shall not, however, have the right to assign its rights under this Agreement or any interest herein without the prior written consent of the Lender.

Section 8.06 Renewal, Extension or Rearrangement. All provisions of this Agreement and of any Security Instruments or other Indebtedness shall apply with equal force and effect to each and all Note hereinafter executed which in whole or in part represent a renewal, extension for any period, increase or rearrangement of any part of the Indebtedness originally represented by the Note or of any part of such other Indebtedness.

Section 8.07 Waivers. No course of dealing on the part of the Lender, its officers, employees, consultants or agents, including but not limited to any course of dealing whereby the Lender does not require complete compliance with the terms, provisions and conditions hereof, nor any failure or delay by the Lender with respect to exercising any right, power or privilege of the Lender under the Note, this Agreement or any Security Instrument shall operate as a waiver thereof, except as otherwise provided in Section 8.02 and, without limiting the foregoing, provisions and conditions hereof.



Section 8.08 No Liability of Lender/No Third Party Benefit.

(a) The Lender shall have no liability, obligation or responsibility whatsoever with respect to the Borrower's business, the Secured Property. The relationship between Borrower and Lender is, and shall at all times remain, solely that of Borrower and Lender, and Lender neither undertakes nor assumes any responsibility or duty to Borrower to select, review, inspect, supervise, pass judgment upon or inform Borrower with regard to the conduct and operation of the Borrower's business. Lender owes no duty of care to protect the Borrower against negligent, fault, inadequate, or defective actions or for any loss or damage of any kind to any persons or property. Borrower shall keep Lender free and harmless from any and all liability, loss, or damage arising under this agreement. Nothing herein is intended to create any partnership or joint venture between Lender and Borrower.

(b) No member, official, or employee of the Lender shall be personally liable to the Borrower or any successor in interest in the event of any default by the Lender or for any amount which may become due to the Borrower or its successors or on any obligation under the terms of this Agreement.

(c) The Lender shall have the right from time to time to waive any of the terms of this Agreement without prejudice to its right to require strict compliance in the future, and no Person shall be a third party beneficiary of this Agreement or be entitled to require or rely upon the Lender's enforcement of this Agreement. Nothing, including but not limited to any disbursement of loan proceeds or acceptance hereunder of any document or instrument, shall be construed as a representation or warranty, express or implied, to any party by the Lender.

(c) This Agreement, the Note and the Security Instruments are made and entered into for the sole protection and benefit of Lender and Borrower, and no other person or persons shall have any right of action herein, or right to funds at any time available under this Agreement.

Section 8.09 Cumulative Rights. All rights and remedies of the Lender under the Note, this Agreement and each Security Instrument shall be cumulative, and the exercise or partial exercise of any such right or remedy shall not preclude the exercise of any other right or remedy.

Section 8.10 Singular and Plural. Words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

Section 8.11 Construction. This Agreement is, and the Note and Security Instruments will be, a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of North Dakota, as such laws are now in effect and, with respect to usury laws, if any, applicable to the Lender and to the extent allowed thereby, as such laws may hereafter be in effect which allow a higher maximum non-usurious interest rate than such laws now allow.



Section 8.12 References The words “herein,” hereof,” “hereunder” and other words of similar import when used in this Agreement refer to this Agreement as a whole, and not to any particular article, section or subsection. Any reference herein to an Article, Section or Subsection shall be deemed to refer to the applicable Article, Section or Subsection of this Agreement unless otherwise stated herein. Any reference herein to an exhibit shall be deemed to refer to the applicable exhibit attached hereto unless otherwise stated herein.

Section 8.13 Taxes, etc. Any taxes (excluding income taxes) payable or rules payable by federal or state authority in respect of the Note, this Agreement or the Security Instruments shall be paid by the Borrower, together with interest and penalties, if any.

Section 8.14 Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrower in an amount in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 8.15 Exhibits. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

Section 8.16 Titles of Articles, Sections and Subsections. All titles or headings to articles, sections, subsections or other divisions of this Agreement or exhibits hereto are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other content of such articles, sections, subsections or other divisions, such other content being controlling as to the agreement between the parties hereto.

Section 8.17 Satisfaction Requirement. If any agreement, certificate, instrument or other writing, or any action taken or to be taken, is by the terms of this Agreement required to be satisfactory to any party, the determination of such satisfaction shall be made by such party in its sole and exclusive judgment exercised in good faith.

Section 8.18 Time of Essence. Time is of the essence in this Agreement, the Note and the Security Instruments.

Section 8.19 Entire Agreement. This written Agreement, the Note, and the Security Instruments 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 not unwritten oral agreements between the parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be duly executed as of the date first above written.



**AIRIAL ROBOTICS, INC.**

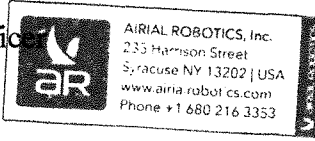
**GRAND FORKS GROWTH FUND**

By: Joerg Schamuhn  
Its: Chief Executive Officer

By: Kenneth Vein  
Its: Vice President

“Borrower”

“Lender”



STATE OF New York )  
 )  
COUNTY OF Onondaga )

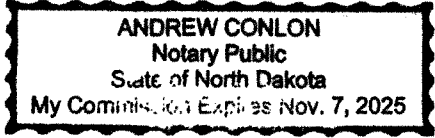
This document was acknowledged before me this 29 day of August, 2022, by Joerg Schamuhn as the Chief Executive Officer of Aerial Robotics, Inc., on behalf of said entity.

EMMA DIETRICH SPECTOR  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SP6425811  
Qualified in Onondaga County  
My Commission Expires 11-29-2025  
CE 8/30/22

[Signature]  
Notary Public for the State of New York

STATE OF NORTH DAKOTA )  
 )  
COUNTY OF GRAND FORKS )

This document was acknowledged before me this 6<sup>th</sup> day of September, 2022, by Kenneth Vein as the Vice President of the Grand Forks Growth Fund, on behalf of said entity.



[Signature]  
Notary Public for the State of North Dakota

STATE OF NEW YORK, COUNTY OF ONONDAGA, ss:

I, Lisa Dell, County Clerk and Clerk of the Supreme Court and County Court, Onondaga County, a Court of Recording having by law a seal, DO HEREBY CERTIFY that Emma Dietrich Spector whose name is subscribed to the deposition, certificate of acknowledgment or proof of the annexed instrument, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proofs of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30 day of August, 2022.

Lisa Dell, Onondaga County Clerk

Brittni Harper, Deputy Clerk

Brittni Harper  
Deputy County Clerk



## CONVERTIBLE PROMISSORY NOTE

THE PROMISSORY NOTE AND THE SECURITIES, ISSUABLE UPON AND IN THE EVENT OF THE CONVERSION OF THIS PROMISSORY NOTE, AS DESCRIBED HEREIN, HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OTHER FEDERAL SECURITIES LAWS OR ANY STATE SECURITIES LAWS. WITHOUT REGISTRATION, THIS PROMISSORY NOTE AND THE SECURITIES, ISSUABLE UPON AND IN THE EVENT OF THE CONVERSION OF THIS PROMISSORY NOTE MAY NOT BE SOLD, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED AT ANY TIME WHATSOEVER, EXCEPT ON DELIVERY TO THE COMPANY OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED FOR THE TRANSFER, OR THE SUBMISSION TO THE COMPANY OF OTHER EVIDENCE SATISFACTORY TO THE COMPANY TO THE EFFECT THAT ANY TRANSFER WILL NOT BE IN VIOLATION OF THE SECURITIES ACT OF 1933, AS AMENDED, OTHER APPLICABLE FEDERAL SECURITIES LAWS AND APPLICABLE STATE SECURITIES LAWS OR ANY RULE OR REGULATION PROMULGATED THEREUNDER.

(\$250,000.00)

Dated: August 29, 2022

**FOR VALUE RECEIVED**, Aerial Robotics, Inc., a Delaware corporation doing business in North Dakota with a primary business address in Grand Forks, ND (the “Company”) promises to pay to the order of **GRAND FORKS GROWTH FUND**, a job development authority, a public body, corporate and politic under North Dakota law, its successors and assigns, whose mailing address is 255 North 4<sup>th</sup> Street, P.O. Box 5200, Grand Forks, North Dakota 58203, (the “Lender”) or such other place as is designated from time to time by the holder of this note, in lawful money of the United States, the sum of Two Hundred Fifty Thousand and 0/100 Dollars (\$250,000.00) (the “Principal Balance”) in the following manner:

1. **Payment of Principal and Interest**: Subject to conversion described in Section 2 below, the Company shall pay the Principal Balance plus accrued interest thereon as follows:

1.1 **Maturity Date**. The entire outstanding Principal Balance plus all interest accrued thereon shall be paid on or before October 1, 2027.

1.2 **Interest Accrual**. While any amount of the Principal Balance is outstanding, interest shall accrue thereon as follows:

1.2.1 **Initial 3 Years – No Interest**. From and after the date hereof until September 1, 2025, no interest shall accrue on the Principal Balance.

1.2.2 **Final 2 Years - 2% Interest**. From and after October 1, 2025, interest on the outstanding Principal Balance shall accrue at the rate of two percent (2%) per annum.

1.2.3 **Basis of Interest Accrual**. Interest shall be calculated on a three hundred sixty-five (365) day year and actual days elapsed.

1.3 **Application of Payments.** Each payment shall be applied first to accrued interest and the balance to the outstanding Principal Balance.

1.4 **Advance Payments.** The Company may make advance payments at any time and in such amounts as the Company may elect without penalty. All prepayments shall be applied on the principal in the inverse order of maturity, and shall not relieve the undersigned from paying the next succeeding installment or installments of principal and interest due hereunder.

2. **Conversion of Promissory Note to Equity Securities.**

2.1 **Optional Conversion to Equity Security.** From and after the date hereof and on or prior to the Maturity Date, each and every time the Company or any subsidiary of the Company issues, sells, offers, solicits, or otherwise disposes of any Equity Securities to any Equity Investor, then the outstanding Principal Balance plus any unpaid accrued interest thereon, may, at the sole option of the Lender and subject to the terms and conditions hereof, be converted into Equity Securities of the Company or subsidiary of the Company, as the case may be, with the same rights, preferences, privileges, terms and registration rights provided to the Equity Investors in such Equity Financing.

2.2 **Number of Equity Securities on Conversion.** The number Equity Securities into which the Promissory Note will convert and be issued to the Lender by the Company in the event the Lender exercises the option described in Section 2.1 shall be equal to and determined by a quotient, where the numerator is the Principal Balance plus accrued interest thereon and the denominator is the Lender's Equity Security Price.

2.3 **Company's Notice of Equity Financing/Lender's Exercise of Option.**

2.3.1 The Company shall provide to the Lender written notice at least sixty (60) calendar days prior to any Equity Financing. The notice shall state the number of Equity Securities that are subject to the Equity Financing, the per unit purchase price of the Equity Securities in such Equity Financing, and all other information or documents provided to any Person relating to such Equity Financing.

2.3.2 The Lender shall have a period of forty-five (45) calendar days after receipt of the notice described in Section 2.3.1 to exercise its option to convert the Principal Balance plus any unpaid accrued interest thereon into the Equity Securities of the Company or subsidiary of the Company pursuant to this Section 2. The Lender shall exercise this option by providing written notice to the Company of such exercise on or before the expiration of said 45 calendar day period. If the Lender does not exercise the option in compliance with this Section 2.3.2, then the Lender shall have forfeited its conversion right with respect to the then applicable Equity Financing, provided however, that notwithstanding the non-exercise or forfeiture by the Lender of its conversion rights during an Equity Financing, the Lender shall retain and continue to have conversion rights, as described in this Section 2, for any and all subsequent Equity Financing.



**2.4 Execution of Equity Financing Documents.** Upon the conversion of this Promissory Note into Equity Securities, as described in this Section 2, the Lender shall and hereby agrees to execute and deliver counterpart signature page(s) to all of the documents that are signed by the Equity Investors participating in the Equity Financing.

**2.5 Other Duties on Conversion.** Upon a conversion of this Promissory Note into Equity Securities, as described in this Section 2, the Lender shall surrender this Promissory Note, duly endorsed, and noted as being paid in full at the principal office of the Company and the Company, shall simultaneously, at its expense, issue and deliver to the Lender a certificate or certificates for the number of Equity Securities to which the Lender shall be entitled upon such conversion.

**2.6 No Fractional Shares; Other Matters.** No fractional Equity Securities shall be issued upon conversion of this Promissory Note. In lieu of issuing any fractional Equity Securities to the Lender upon the conversion of this Promissory Note, the Company shall pay to the Lender an amount in cash equal to the product obtained by multiplying the per unit price of the Equity Security by fractional number of Equity Securities not issued to the Lender by operation of the first sentence of this Section 2.6. Upon the issuance of Equity Securities to the Lender by the Lender's conversion of the entire outstanding Principal Balance plus accrued interest thereon into Equity Securities, as described in this Section 2, the Company shall be released from all its obligations and liabilities under this Promissory Note, and this Promissory Note shall be deemed cancelled and of no further force and effect.

**2.7 Payment of this Note on a Company Sale.**

**2.7.1** In the event a Company Sale occurs on or prior to the Maturity Date and the Lender has not exercised its conversion option under Section 2.1, the Company shall provide the Lender at least sixty (60) calendar days prior written notice prior to closing of such Company Sale. The notice shall state the number of Equity Securities that are subject to the Company Sale, the per unit purchase prices of the Equity Securities in such Company Sale, and all other information or documents provided to any Person relating to such Company Sale.

**2.7.2** Solely for purposes of this Section 2.7, a Company Sale shall be deemed to be an Equity Financing and the Lender shall be deemed to have exercised its option to convert the outstanding Principal Balance plus accrued interest thereon immediately prior to the closing of such Company Sale.

**2.7.3** The number of Equity Securities allocated to the Lender under such deemed exercise of its conversion option, as described in this Section 2.7.2, shall be the under same method and quotient as described in Section 2.2, provided, however, for purposes of determining the Lender's Equity Security Price, the lowest per unit purchase price in such Company sale shall apply. By way of example only, if a Company Sale occurs, and the per unit purchase prices in such Company Sale ranges from a low of \$2.00 to a high of \$2.50, and the outstanding Principal Balance plus accrued interest is \$250,000.00, then the Equity Securities allocated to the Lender, for purposes of this Section 2.7, shall be 156,250.00 ( $\$250,000 / \$2.00 \times 80\%$ ).



**2.7.4** Notwithstanding anything to the contrary herein, upon the closing of a Company Sale, the Lender shall be entitled to a payment that is equal to the greater of:

(a) entire outstanding Principal Balance plus accrued interest thereon as of the closing date of the Company Sale or

(b) an amount equal to the product of the highest per unit purchase price in such Company Sale and the number of Equity Securities the Lender is allocated as described in Section 2.7.3.

(c) By way of example, if at the time of closing the Company Sale the outstanding Principal Balance plus accrued interest is \$250,000.00, the number of Equity Securities allocated to the Lender under Section 2.7.3 is 156,250.00 and the highest per unit purchase price in the Company Sale is \$2.50, then the payment to the Lender shall be \$390,625.00 (156,250.00 x \$2.50).

(d) Upon the Lender's receipt of the payment described in this Section 2.7, the Company shall be released from all its obligations and liabilities under this Promissory Note, and this Promissory Note shall be deemed cancelled and of no further force and effect.

**2.7.5** In the event the closing for a Company Sale does not occur, then this Section 2.7 shall not apply, but shall continue to be applied to any future Company Sale, and the Company shall continue to be bound by and comply with all of the terms and conditions of this Promissory Note and the other Security Instruments.

**2.8 Authorized Securities.** The Company covenants and agrees that it has taken and will continue to take all required actions to authorize and issue a sufficient number of Equity Securities to enable the Promissory Note to become fully convertible and exercisable on the terms contained herein or therein for any and all Equity Financing for which the Lender's conversion rights apply.

### **3. Other Terms.**

**3.1** This Promissory Note is secured by that certain Security Agreement (With Future Advance Clause), dated the 29 day of August, 2022, executed by the Company, in favor of the Lender. Further, this Promissory Note is secured by that certain Accelerate Loan Program Loan Agreement, dated the 29 day of August, 2022, executed by the Company and the Lender. The Security Agreement (With Future Advance Clause) and Loan Agreement, and all documents related or collateral thereto, including but not limited to Uniform Commercial Code financing statements shall be referred to herein as the "Security Instruments."

**3.2** If any required payment hereunder is not paid when due, the Company agrees to pay the Lender a late payment penalty in the amount of fifteen percent (15%) of any late payment with a minimum of Fifty and no/100 Dollars (\$50.00) and a maximum of Five Hundred and no/100 (\$500.00), and the Lender, or its successors and assigns may, at his option, declare the



entire unpaid balance of principal, interest and penalties hereunder to be immediately due and payable and exercise any and all rights described in the Security Instruments as result of such default hereunder. The Company agrees and understands that an occurrence of any other event of default, as described in any of the Security Instruments, shall be a default hereunder and shall permit the Lender, or its successors and assigns, at his option, to declare the entire unpaid balance of principal, interest and penalties hereunder to be immediately due and payable and exercise and any and all rights described in the Security Instruments.

**3.3 If the Lender is required to commence any action against the Company to enforce any provision of this Promissory Note, the venue for such action shall be in Grand Forks County, North Dakota District Court, by a judge alone and without a trial by jury. The Company, having had the opportunity to consult with independent counsel of its choosing, hereby knowingly and voluntarily waives its rights to a trial by jury in any manner relating to this Promissory Note, the Security Instruments or any agreement, document or instrument related thereto. Further, the undersigned acknowledges and agrees that Grand Forks County, North Dakota District Court shall have complete and full personal jurisdiction over the undersigned and subject matter jurisdiction with respect to any such action.**

**3.4** Waiver by the holder hereof of any default by the undersigned shall not constitute a waiver by the holder of a subsequent default. Failure by the Lender, or his successors and assigns, to exercise any right, power or privileges which he may have by reason of a default by the undersigned shall not preclude the exercise of such right, power or privilege so long as such default remains uncured or if a subsequent default occurs.

**3.5** The undersigned hereby waives demand, presentment for payment, protest, notice of protest, and notice of dishonor.

**3.6** Words used in the singular herein shall include the plural, and the obligations and liabilities hereunder of the undersigned shall be joint and several.

**4 Other Defined Terms.** In addition to other defined terms set forth herein, the following terms and definitions apply to this Promissory Note:

**4.1** “Company Sale” means every sale, conveyance, transfer, grant or other disposition of more than forty percent (40%) of the then outstanding Equity Securities of the Company, whether such offer, solicitation, sale or other disposition is by and through the Company and/or any existing Equity Investors.

**4.2** “Equity Security” means and includes common stock, preferred stock, treasury stock, voting stock, non-voting stock, membership interests, voting membership interests, non-voting membership interests, partnership interests, general partnership interests, limited partnership interests, limited liability limited partnership interests, limited liability partnership interests, preorganization certificate or subscription and transferable share in, to, of and/or issued by the Company.

4.3 "Equity Investor" means any Person, except the Lender, who is offered, solicited, purchases and/or otherwise acquires an Equity Security of the Company.

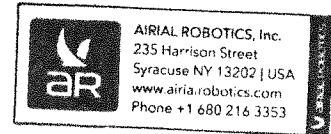
4.4 "Equity Financing" means each and every offer, solicitation, sale, or other disposition of an Equity Security by the Company, excluding any such offer, solicitation, sale or other disposition of an Equity Security to the Lender.

4.5 "Person" means individual, corporation, limited liability company, partnership, association, joint venture, trust, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

4.6 "Lender's Equity Security Price" means the product of the per unit purchase price for the Equity Securities in an Equity Financing multiplied by 80%. By way of example only, if the per unit purchase price for the Equity Securities in an Equity Financing is \$2.00, then the Lender's Equity Security Price is \$1.60 (\$2.00 x 80%).

IN WITNESS WHEREOF, the undersigned has executed this Promissory Note the day and year first hereinabove written.


AIRIAL ROBOTICS, INC.



By: Joerg Schamuhn  
Its: Chief Executive Officer

STATE OF New York )  
 : ss.  
COUNTY OF Onondaga )

This instrument was acknowledged before me on this 29 day of August, 2022, by Joerg Schamuhn, as the Chief Executive Officer, of Aerial Robotics, Inc., on behalf of said entity.

  
Notary Public for the State of New York

EMMA DIETRICH SPECTOR  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SP6425811  
Qualified in Onondaga County  
My Commission Expires 11-29-2025

 8/30/22

STATE OF NEW YORK, COUNTY OF ONONDAGA, ss:

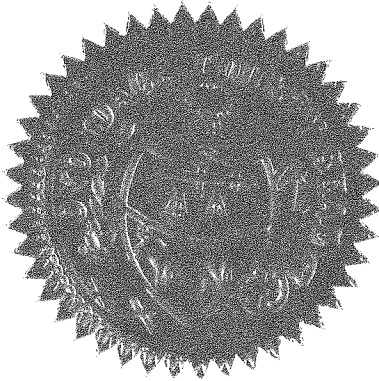
I, Lisa Dell, County Clerk and Clerk of the Supreme Court and County Court, Onondaga County, a Court of Recording having by law a seal, DO HEREBY CERTIFY that Emma Ditchrich Specter whose name is subscribed to the deposition, certificate of acknowledgment or proof of the annexed instrument, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proofs of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30 day of August, 2022.

Lisa Dell, Onondaga County Clerk

Britt Harper, Deputy Clerk

Britt Harper  
Deputy County Clerk



**SECURITY AGREEMENT**  
(With Future Advance Clause)

THIS INDENTURE, made this 29 day of August, 2022 by and between:  
**AIRIAL ROBOTICS, INC.** whose mailing address is 235 Harrison Street, Syracuse,  
NY 13202, referred to herein as the “Debtor;”

and

**GRAND FORKS GROWTH FUND**, a job development authority, a public body, corporate  
and politic under North Dakota law, whose mailing address is 255 North 4<sup>th</sup> Street, P.O. Box  
5200, Grand Forks, North Dakota 58203, hereinafter referred to as the “Lender.”

**WITNESSETH, FOR GOOD AND VALUABLE CONSIDERATION, THE PARTIES  
AGREE AS FOLLOWS:**

**1. SECURITY AGREEMENT.** The Debtor for good and valuable consideration,  
the receipt and sufficiency of which is hereby acknowledged, and to secure the repayment of the  
“Secured Debt” as defined in Paragraph 2 below, hereby irrevocably **GRANTS, BARGAINS,  
SELLS, CONVEYS, ASSIGNS, PLEDGES AND MORTGAGES TO THE LENDER**, the  
following described, personal property, (hereafter collectively referred to as the “Secured  
Property”).

**A. Equity Interests.** Any and all of securities, security certificate, security  
entitlement, financial asset, shares of stock, membership interests, partnership interests (limited  
or general), or any other equity or ownership interests owned or hereafter acquired by Debtor,  
whether certificated or un-certificated, (the “Equity Interests”).

**B. Personal Property.** All machinery, equipment, fixtures, motors, tools, office  
furnishings, office machines and equipment, office and recordkeeping equipment, goods, tools,  
fittings, fixtures, apparatus, maintenance and repair equipment, furniture, money, accounts,  
accounts receivable, margin accounts, certificates of deposit, chattel paper, deposit accounts,  
documents, instruments, investment property, contract rights, commercial tort claims, letters of  
credit, letter of credit rights, payment intangible, general intangibles, any and all rights to  
payment of money including, but not limited to payment for goods sold or leased or services  
rendered whether earned or unearned, and rights to payment arising out of all present and future  
debt instruments, loans, obligation receivables, book accounts, notes, secured claims, unsecured  
claims, causes of action, money, checks, bank accounts, documents of title, and proceeds thereof,  
whether now or hereafter acquired by Debtor, and any and all other personal property now or  
hereafter necessary, in connection with, convenient to the use and operation of, or in any way  
related and/or arising from Debtor’s business, (the “Personal Property”), including, but not  
limited to all renewals, replacements, accessions, proceeds, alterations, accessories, increases,  
parts, fittings and substitutes thereof, all of which Personal Property shall be deemed not  
severable in whole or in part without material injury to the Secured Property.

C. **Inventory.** All inventory, goods, supplies, materials and other personal property, including but not limited to all merchandise, now or hereafter placed in or upon or necessary or convenient to the use and operation of the, related to and/or arising from Debtor’s business (the “Inventory”).

D. **Licenses and Permits.** All licenses, permits, franchises, patents, copyrights, trademarks, tradenames, and agreements, or rights thereto, now or hereafter held by, owned or used by Debtor in connection with, convenient to the use and operation of, in any way related to and/or arising from Debtor’s business (the “Licenses and Permits”).

E. **Judgments and Awards.** All awards and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Secured Property for any taking or damaging by eminent domain, either permanent or temporary, of all or any part of the Secured Property or any easement or appurtenances thereof, including any awards for a temporary taking, change of grade of streets, or taking of access (the “Judgments and Awards”).

F. **Contracts.** All right, title and interest now or hereafter held, owned or acquired by Debtor in and to drawings, surveys, sales reports, engineering studies, permits, bonds, management contracts, contracts for deed, and similar agreements relating to the purchase, use, development and operation of the Secured Property or any part thereof (the “Contracts”).

G. **After-Acquired Property.** All right, title and interest hereafter acquired in or to any of the Secured Property, real or personal as described in this Paragraph 1, as well as renewals, replacements, accessions, proceeds, alterations, accessories, increases, parts, fittings and substitutes thereof (the “After-Acquired Property”), hereby also releasing, relinquishing and waiving all exemptions, rights of a surviving spouse and homestead rights, in or to said property, vested or inchoate.

H. **Proceeds.** All proceeds (including without limitation insurance proceeds) from the Secured Property, whether from sale, lease, license, exchange or other disposition thereof, and any and all property of every name and nature, including but not limited to non-cash proceeds, from time to time hereafter by delivery or by writing of any kind conveyed, pledged, assigned or transferred, as and for additional security hereunder by the Debtor or by any one in their behalf or with its written consent to the Lender, which the Lender is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof (the “Proceeds”).

2. **SECURED DEBT.** The term “Secured Debt” includes, but is not limited to the following:

- (a) The promissory note(s), contract(s), guaranty(s), or other evidence of debt described below and all extensions, renewals, modifications or substitutions: (1) PROMISSORY NOTE EXECUTED BY DEBTOR TO LENDER IN THE ORIGINAL PRINCIPAL AMOUNT OF \$250,000.00 DATED THE 29 DAY OF August, 2022 (2) ACCELERATE LOAN PROGRAM LOAN AGREEMENT EXECUTED BY THE DEBTOR DATED THE 29 DAY OF



August \_\_\_\_\_, 2022 AND (3) ANY AND ALL ADDITIONAL OR FUTURE LOANS OR ADVANCES MADE BY THE LENDER PURSUANT TO THE TERMS OF ANY PROMISSORY NOTE, LINE OF CREDIT, CONTRACT, GUARANTY OR OTHER EVIDENCE OF DEBT EXISTING ON THE DATE OF THIS SECURITY AGREEMENT OR EXECUTED AFTER THE DATE HEREOF, WHICH MAY INCLUDE BUT IS NOT LIMITED TO RENEWALS, EXTENSIONS OR SUBSTITUTIONS OF THE DEBT OBLIGATIONS DESCRIBED HEREIN; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL CONSTITUTE A COMMITMENT BY THE LENDER TO MAKE ADDITIONAL OR FUTURE LOANS OR ADVANCES IN ANY AMOUNT.

- (b) All future advances from the Lender to Debtor or other future obligations of Debtor to the Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Agreement whether or not this Security Agreement is specifically referred to in the evidence of debt.
- (c) All obligations Debtor owes to the Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Debtor and the Lender.
- (d) All additional sums advanced and expenses incurred by the Lender for insuring, preserving or otherwise protecting the Secured Property and its value and any other sums advanced and expenses incurred by the Lender under the terms of this Security Agreement, plus interest at the highest rate in effect, from time to time, as provided in the Secured Debt.
- (e) Debtor's performance under the terms of any instrument evidencing a debt by Debtor to the Lender and any mortgage or other agreement securing, guarantying, or otherwise relating to a debt the Lender.

If more than one person signs this Security Agreement as Debtor, each Debtor agrees that this Security Agreement will secure all future advances and future obligations described above that are given to or incurred by any one or more Debtor, or any one or more Debtor and others.

**3. FUTURE ADVANCES.** Additional or future loans or advances pursuant to the terms of any promissory note, line of credit, contract, guaranty or other evidence of debt which may include but is not limited to renewals or substitutions of the Secured Debt, are contemplated and, along with other future obligations, are secured by this Security Agreement and shall have priority to the same extent as if made on the date this Security Agreement is executed even though all or part may not yet be advanced or the evidence of such debt not having been executed on the date hereof by Debtor. Nothing in this Security Agreement, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

**4. WARRANTIES.** Debtor represents and warrants to the Lender, as follows:

- (a) The Debtor is the lawful owner of and has good marketable and merchantable title to the Secured Property; Debtor has good right and lawful authority to grant, bargain, sell, convey, warrant, mortgage, assign and pledge the same as provided herein; and the Secured



Property are free and clear of all mortgages, liens, pledges, charges and encumbrances, and shall not hereafter grant any security or other lien interest in the Secured Property. Debtor warrants and will defend the title to the Secured Property against all claims and demands whatsoever not specifically excepted herein.

(b) There is no provision in any mortgage, indenture, contract or agreement to which the Debtor is a party or by which they are bound or in any order of any court or administrative agency to which the Debtor is subject, which prohibits the execution and delivery by the Debtor of this Security Agreement, or of the Secured Debt, or the performance or observance by the Debtor of any of the terms or conditions of this Security Agreement or of the Secured Debt.

(c) The Secured Debt and this Security Agreement have been validly executed and delivered and are valid and enforceable obligations of the Debtor in accordance with their terms.

(d) There are no actions, suits, or proceedings pending or, to the knowledge of the Debtor, threatened against the Debtor or the Secured Property in any court or before any federal, state, municipal or other governmental agency, which, if decided adversely to the Debtor, would have a materially adverse effect upon the Debtor or upon the Secured Property, and the Debtor is not in default with respect to any order of any court or governmental agency.

(e) The Debtor is not in default in the payment of the principal of or interest on any indebtedness for borrowed money and is not in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued, and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes or would constitute an event of default thereunder.

**5. PAYMENT OF INDEBTEDNESS.** Debtor agrees to promptly pay when due the principal of and interest on the Secured Debt secured hereby, which includes but is not limited to any additional or future loans or advances made by the Lender, and to pay prepayment and late payment charges as provided in this Security Agreement or the Secured Debt, and to perform each and every agreement and covenant contained in this Security Agreement and the Secured Debt.

**6. MAINTENANCE.** Debtor agrees to keep and maintain the Secured Property in good condition, repair and operating condition free from any nuisance, waste or misuse, and to comply with all requirements of law, federal, state or municipal statutes, ordinances and regulations, restrictions and covenants affecting the Secured Property and their use, and will promptly repair or restore any buildings, improvements or structures now or hereafter on the Secured Property and all fixtures therein which may become damaged or destroyed to their condition prior to any such damage or destruction and to pay when due all claims for labor performed and materials furnished therefore. Debtor further agrees that it will not, without first obtaining the Lender's prior consent: (a) remove, alter, or demolish any building thereon, nor sever or remove any fixtures or appliances from said buildings; nor (b) make any additions, alterations, or expansions to the Secured Property which will alter the basic structure, affect the market value or change the existing architectural character of the Secured Property; nor (c)



acquiesce in any rezoning classification, modification or restrictions affecting the Secured Property; nor (d) abandon or vacate the Secured Property. With respect to Lender's consent to any of the foregoing, the Debtor shall submit a written notice of such building modification, alteration, addition, expansion or other proposal to the Lender, and the Lender shall have sixty (60) days from receipt of such notice to review and either approve or disapprove the same; provided, however, that Lender shall be deemed to have approved the modification, alteration, addition, expansion or other proposal if it does not respond to said written notice within said sixty (60) day period. Lender may enter upon and inspect the Secured Property at any reasonable time and effect whatever repairs or replacements the Lender may reasonably require to maintain the Secured Property in good condition (provided the Lender shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections).

7. **INSURANCE.** Debtor agrees to provide, continuously maintain and deliver to the Lender, insurance of such type or types and amounts as Lender may require, on the Secured Property, including but not limited to comprehensive general liability insurance for any accident on the Secured Property, business interruption insurance, hazard insurance and flood insurance. Such insurance policies shall be carried in companies approved by the Lender with loss payable clause in favor of and in form acceptable to the Lender. In the event of loss, Debtor shall give immediate notice to Lender, who may make proof of loss and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Lender instead of to Debtor and the Lender jointly, and the insurance proceeds, or any part thereof, may be applied by Lender, at its option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

8. **EVIDENCE OF TITLE.** Debtor agrees to deliver to, pay for and maintain with Lender until the Secured Debt hereby secured is paid in full, such evidence of title as Lender may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

9. **PAYMENT OF IMPOSITIONS, CONTEST OF LIENS AND IMPOSITIONS.** Debtor agrees to pay when due and before any penalty all taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Secured Property or any interest therein or the indebtedness secured hereby ("Impositions"); and will upon demand furnish to the Lender proof of the payment of any such Impositions. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon a bank under a mortgage security agreement after financing statement the payment of the whole or any part of the Impositions herein required to be paid by the Debtor, or changing in any way the laws relating to the taxation of debts secured by mortgages or a mortgagee's interest in Secured Property conveyed as security, so as to impose such Imposition on the Lender, then, in any such event, Debtor shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Debtor of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Secured Debt secured hereby wholly or partially usurious, the Lender, at its option, may declare the whole sum secured by this Security Agreement, with interest thereon, to be immediately due and payable, without prepayment



premium, or the Lender at its option, may pay that amount or portion of such Imposition as renders the indebtedness secured hereby unlawful or usurious, in which event Debtor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition. In addition to the payments due in accordance with the terms of the Secured Debt hereby secured, Debtor shall, at the option and on demand of the Lender, pay to the Lender monthly and concurrently with payment of principal and interest, a sum equal to one-twelfth (1/12) of the annual taxes, assessments, insurance premiums, maintenance and other charges upon the Secured Property, as estimated by the Lender, in trust nevertheless for Debtor's use and benefit and for payment by the Lender of any such items when due. The failure of Debtor to make any of such payments shall constitute a default under this Security Agreement. Debtor shall not be in default hereunder in respect to the payment of any taxes, payments in lieu of taxes, assessments, levies or other charges which Debtor shall be required by any provision hereof to pay so long as Debtor shall first notify the Lender in writing at least thirty (30) days prior to the due date thereof of its intention to contest such payment and shall thereafter, in good faith and with all possible promptness, contest such payment; provided, however, that Debtor shall furnish to the Lender, prior to commencing of any such protest or other contest, cash or other security satisfactory to the Lender to indemnify the Lender against any loss or liability by reason of any such protest or other contest and to pay any such taxes, assessments, levies or other charges, together with interest and penalty thereon, if any, if said contest should fail. Upon a final adjudication of any such protest or other contest, and in any event prior to the date on which the interest of the Lender in the Secured Property will forfeit by reason of the nonpayment of any such taxes, special assessments, levies or other charges, the Debtor shall pay the amount thereof then due. Lender may, at its option, make such payment from the security deposited by Debtor.

10. **PRIOR LIENS.** Debtor agrees to keep the Secured Property free from mortgages, encumbrances, charges, pledges or liens of every and any kind including, but not limited to, any statutory lien under Title 35, North Dakota Century Code, and/or from the making of any levy, judicial or non-judicial seizure or attachment upon the Secured Property, and shall pay promptly and discharge all mortgages, encumbrances, charges, pledges and liens on the Secured Property, whether inferior or superior to the lien of this Security Agreement; and further shall keep and maintain the Secured Property free from the claims of all persons supplying labor or materials which will enter into the construction, repair, alteration or improvement of any and all Improvements now on, now being erected, or which hereafter may be erected on said Secured Property.

11. **CONDEMNATION AND INSURANCE ACTIONS AND PROCEEDS.** Debtor agrees to immediately notify the Lender of the commencement of any condemnation proceedings, actual or threatened, affecting the Secured Property or of any loss that may be covered by insurance. Debtor hereby assigns to the Lender any insurance proceeds and any award for property taken and for damages to remaining property, in connection with an actual or threatened condemnation proceeding, whether fully adjudicated or settled, and such proceeds and awards (less expenses of collection) shall, at the option of the Lender, be applied to the Secured Debt secured hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or shall be applied to the restoration or repair of the Secured Property. Lender shall have full authority, but shall not be obligated, to make proof of loss and adjust and collect insurance and to intervene in any condemnation proceeding in the name of

Debtor and settle, collect and receive any award from the condemning authorities. Any insurer or condemning authority is hereby authorized and directed to make payment directly to the Lender. Any expenses incurred by the Lender in intervening in any action or collecting such proceeds shall be reimbursed to the Lender first out of the proceeds. Should proceeds be applied to restoration or repair of the Secured Property, the restoration or repair shall be pursuant to plans and specifications approved by the Lender, and the proceeds shall be disbursed by the Lender under such safeguards as the Lender may reasonably require to assure completion in accordance with such plans and specifications.

12. **INDEMNIFICATION.** Debtor agrees to indemnify, save and hold the Lender harmless from all costs and expenses (including reasonable attorneys' fees and costs of a title search, continuation of abstract and preparation of survey) incurred by reason of any action or proceeding before any court or administrative body and appeals therefrom (excepting an action to foreclose or to collect the Secured Debt secured hereby) in which the Lender may be or become a party by reason hereof, including but not limited to condemnation, bankruptcy, probate and administration proceedings, as well as any other of the foregoing wherein proof of claim is by law required to be filed or in which it becomes necessary to defend or uphold the terms of the lien created by this Security Agreement, and all money paid or expended by the Lender in that regard, together with interest thereon from the date of such payment at the rate specified in the Secured Debt secured hereby, shall be so much additional indebtedness secured hereby and shall be immediately and without notice due and payable by Debtor.

13. **COSTS AND EXPENSES.** Except as otherwise expressly provided herein, Debtor agrees to pay, without demand, all costs, fees and expenses of this Security Agreement, including costs of search and evidence on title, advertising and recording expenses, documentary taxes and attorneys' fees as allowed by law, and all other sums expended hereunder by the Lender with interest from date of expenditure at the rate provided in the Secured Debt.

14. **PROTECTION OF SECURITY.** Should Debtor default hereunder in any respect, or if the Lender in its sole judgment and discretion deems it necessary to disburse funds, appear in actions or take other action to protect the full security interest intended to be created by this instrument, then Lender, without obligation to do so, without notice to or demand upon Debtor, and without releasing Debtor from any obligation hereof, may make such appearances, disburse such funds and take such action as either may deem necessary to protect the security hereof, the Lender being authorized to enter upon the Secured Property for such purposes. Debtor shall, on demand, reimburse the Lender for all amounts expended, including reasonable attorneys' fees, pursuant to this paragraph, together with interest thereon at the rate stated in the Secured Debt, and shall be so much additional indebtedness secured hereby and shall be immediately and without notice due and payable by Debtor

15. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Debtor shall provide to the Lender upon request, any financial statement or information the Lender may deem necessary, and/or as required under the Secured Debt. Debtor warrants that all financial statements and information Debtor provides to the Lender are, or will be, accurate, correct, and complete. Upon failure of Debtor to furnish such financial statements or information, the Lender may cause an audit of the respective books and records, at Debtor's sole cost and expense, and

the Lender may also treat such failure as a default hereunder, entitling the Lender to exercise the remedies described herein. If Debtor fails to do so, the Lender may sign, deliver, and file such documents or certificates in Debtor's name and Debtor hereby irrevocably appoints the Lender or the Lender's agent as attorney in fact to do the things necessary to comply with this paragraph.

**16. POWERS OF LENDER.** Without affecting the liability of any person, including Debtor, for the payment of any Secured Debt secured hereby, or the lien of this Security Agreement on the remainder of the Secured Property for the full amount of the Secured Debt unpaid, the Lender is empowered as follows: Lender may from time to time and without notice:

- (a) Release any person liable for payment of any of the Secured Debt,
- (b) Extend the time or otherwise alter the terms of payment of any of the Secured Debt,
- (c) Alter, substitute or release any property securing the Secured Debt; or
- (d) Accept any additional security or resort to any security in such order as the Lender may determine.

**17. SECURITY AGREEMENT UNDER UNIFORM COMMERCIAL CODE.** This Security Agreement shall constitute a security agreement as defined in the Uniform Commercial Code for the State of North Dakota, being Title 41 of the North Dakota Century Code (the "Code") and Debtor hereby grants to the Lender a security interest within the meaning of the Code in favor of the Lender on the Equity Interests, Personal Property, Inventory, Licenses and Permits, Judgments and Awards, Contracts, After-Acquired Property and Proceeds, all as described in Paragraph 1 above (collectively described in this Paragraph 17 as the "Collateral") and which comprise the Secured Property. Debtor is and will be the lawful owner of the Collateral mentioned in any financing statement, subject to no liens and encumbrances other than the lien hereof and liens previously disclosed to the Lender. Such Collateral shall be used by Debtor solely for business purposes. Such Collateral will not be removed from buildings included within the Secured Property without the consent of the Lender, and may be affixed to such buildings but will not be affixed to any other real estate. The only persons having any interest in the Collateral are the Debtor and the Lender and no financing statement, assignment or any other similar document covering any such property and any proceeds thereof is on file in any public office except pursuant hereto. Debtor shall from time to time provide the Lender on request with itemizations of all such Collateral. Neither this paragraph nor the filing of a financial statement shall in any way impair the intent that all of the equipment, personal property and fixtures included within the Collateral that are deemed to be a fixture under North Dakota law, at all times and for all purposes including the Lender's remedies upon default, shall be deemed a part of the reality. Debtor shall upon request by the Lender, execute and deliver any financing statement or continuation statement deemed necessary by the Lender to perfect the security interest created hereby.

18. **CONTROL.** To the extent reasonably requested by the Lender to create, attach and/or perfect the Lender's security lien interest pursuant to the Code or otherwise, the Debtor shall grant to the Lender possession and/or control over and to all or any portion of the Secured Property, including but not limited to any certificated security in registered form, deposit accounts, un-certificated certificates of deposit, electronic chattel paper, commodity contracts, commodity accounts and/or any investment property. Debtor shall execute and deliver and cause necessary third parties to execute and deliver any and all documents requested by the Lender to obtain possession and/or control over and to the Secured Property pursuant to this Paragraph 18.

19. **DUE ON SALE OR ENCUMBRANCE.** If all or any part of the Secured Property or any interest therein is sold, conveyed, transferred or further mortgaged, encumbered, charged or pledged or if any part thereof are assigned, or if any person other than Debtor or the Lender obtains any interest in or right to acquire the Secured Property, without the prior written consent of the Lender, then the Lender may, at the Lender's option, declare all Secured Debt secured hereby immediately due and payable, in full, together with any applicable prepayment premiums. Failure by Debtor to pay such sums within such time shall constitute an event of default hereunder. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

20. **INSURANCE FOR NON-PAYMENT.** Both parties agree that the Lender may, if the Lender so elects, procure and thereafter continue during the term of this Security Agreement, for as long as the Lender desires, a form of insurance acceptable to the Lender insuring the Lender against any loss sustained by the Lender by reason of any default in payment by the Debtor of the Secured Debt hereby secured. If the Lender elects to procure such insurance, Debtor shall promptly reimburse the Lender the full amount of the initial premium for such insurance. During the term of this Security Agreement, at the Lender's option, Debtor shall each month deposit in escrow with the Lender one-twelfth (1/12) of the next following anticipated annual premium for such insurance, said deposit to be made at the same time and place as Debtor make monthly payments on the Secured Debt. The Lender may thereafter pay all annual renewal premiums from such escrow. Should the amount deposited in escrow be insufficient to pay any renewal premium in full as the same become due, Debtor shall immediately upon demand deposit with or pay to the Lender such additional amount as may be sufficient to pay the renewal premium in full. Failure of Debtor to pay or deposit any of the amounts referred to herein shall constitute a default of the terms of this Security Agreement.

21. **NON-WAIVER.** The entering upon and the taking possession of the Secured Property, the collection of Proceeds, or the application thereof to the Secured Debt hereby secured shall not cure or waive any default or notice of default, invalidate any act done pursuant to such notice, nor extend or postpone the due date of any payment secured hereby.

22. **APPLICATION OF PAYMENTS.** Except as otherwise required by law, all payments made to the Lender and any amounts applied to the Secured Debt secured hereby shall be applied to the various amounts secured hereby in any order the Lender may determine.

23. **EVENTS OF DEFAULT.** The occurrence of any one or more of the following events shall be an "Event of Default" hereunder:



- (a) Debtor shall fail to make any payment or installment of principal or interest when due pursuant to the terms of the Secured Debt or under this Security Agreement, or shall fail to pay when due any other sum or amount due under this Security Agreement or the Secured Debt; or
- (b) Debtor shall fail to observe and perform any other covenant, condition or agreement on their part hereunder under the terms of any Secured Debt or under the terms of any other agreement with the Lender,
- (c) Debtor shall: (i) admit in writing Debtor's inability to pay their respective debts generally as they become due; or (ii) admit in writing the fact that Debtor's respective debts exceed a fair valuation of its property; or (iii) commence a voluntary proceeding under any applicable federal or state bankruptcy, insolvency or other similar law; or (iv) make an assignment for the benefit of their respective creditors; or (v) consent to the entry of an order for relief in an involuntary proceeding under any applicable federal or state bankruptcy, insolvency or other similar law; or (vi) have entered against Debtor by a court of competent jurisdiction a decree or order granting relief in any involuntary case under any applicable federal or state bankruptcy law, or appointing, with or without the consent of the Debtor, a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Debtor or for any substantial part of their property, or approving a plan for reorganization of the Debtor, or ordering the winding up or liquidation of their affairs, and such decree or order shall not be vacated, set aside or stayed for a period of thirty (30) consecutive days; or
- (d) Any representation or warranty made by the Debtor herein, in the Secured Debt or in any document or certificate furnished to the Lender in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be incorrect or misleading in any material respect as of the date made; or
- (e) A default shall occur with respect to any of the covenants, conditions or agreements under the Secured Debt, or any one of them, and the time for cure of such default pursuant thereto shall have expired, and such default shall not have been waived in writing by Lender; or
- (f) A good faith belief by the Lender at any time that the Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Secured Property is impaired; or
- (g) A material adverse change in the Debtor's business ownership, management or financial conditions, which the Lender in its opinion believes impairs the value of the Secured Property or repayment of the Secured Debt; or
- (h) The Debtor issue additional shares of stock, membership interests, partnership interests or other equity interests, as the case may be; or



- (i) Use of the Secured Property in violation of any law, statute, ordinance, regulation or any judicial or non-judicial interpretation thereof; or
- (j) A default by Debtor under the terms and conditions of any agreement, understanding and/or obligation with any third party(ies); or
- (k) The dissolution or termination of existence, whether voluntary or involuntary, of Debtor.

then, in any such case, the Lender or its attorney, may, at the Lender's option, without further written notice to the Debtor, declare the principal of and the accrued interest on all of the Secured Debt and all sums advanced or due hereunder, with interest, to be forthwith due and payable, and thereupon the Secured Debt, including both principal and all interest accrued thereon, and including any prepayment premium or late payment penalty then applicable, and all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind.

**24. LENDER'S REMEDIES.** In the event of the happening of any Event of Default entitling the Lender to accelerate the maturity of the Secured Debt, or in case the principal of the Secured Debt shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case the Lender may proceed to protect and enforce its rights by a suit or suits in equity or at law, either by (i) the specific performance of any covenant or agreement contained herein or in the Secured Debt, or (ii) in aid of the execution of any power herein or therein granted, or (iii) the foreclosure of this Security Agreement by the foreclosure of a mortgage by action or by advertisement as provided under North Dakota law and to sell the Secured Property as provided by such foreclosure by action or by advertisement, to a purchaser, in fee simple, as provided under North Dakota law, and if such sale occurs, Debtor agrees that the Secured Property may be sold as one parcel, or (iv) for the enforcement of any other appropriate legal or equitable remedies.

**If the Lender is required to commence any action against Debtor to enforce any provision of this Security Agreement, the venue for such action shall be in Grand Forks County, North Dakota District Court, by a Judge alone and without a trial by jury. The Debtor, having had an opportunity to consult with independent counsel of their choosing, hereby knowingly and voluntarily waive their right to a trial by jury in any manner relating to this Security Agreement, the Secured Debt or any other agreement, document or instrument related thereto. Further, the Debtor acknowledges and agrees that Grand Forks County, North Dakota District Court shall have complete and full personal jurisdiction over the Debtor and subject matter jurisdiction with respect to any such action.**

**25. TIME OF THE ESSENCE.** Time is of the essence hereof.

**26. SURRENDER OF POSSESSION AFTER SALE.** Debtor agrees to surrender possession of the Secured Property to the purchaser at any foreclosure sale on the date the

applicable redemption period expires, if any, in the event such possession has not previously been delivered by Debtor.

27. **TITLE EVIDENCE AND INSURANCE POLICIES.** Each abstract of title, title insurance policy and all other evidences of title, and all hazard insurance policies placed or deposited with the Lender shall be deemed an incident to the title to the Secured Property and upon foreclosure by exercise of power of sale, or otherwise, shall pass to the purchaser and the same are hereby pledged as additional security for payment of the indebtedness secured hereby.

28. **COLLECTION COSTS.** Debtor agrees to pay the Lender, all costs and expenses, including attorneys' fees, incurred by the Lender in collecting, enforcing or protecting the Lender's rights and remedies under this Security Agreement or the Secured Debt, including but not limited to all such costs and expenses incurred from any foreclosure sale, litigation, bankruptcy or insolvency proceeding or action.

29. **EFFECT OF DISCONTINUANCE OF PROCEEDINGS.** Lender shall have the unqualified right, after invoking any remedy permitted under this Security Agreement, to discontinue the same, and in such event Debtor and Lender shall be restored to their former positions with respect to the Secured Debt secured hereby; and this Security Agreement, the Secured Property and all rights, remedies and recourse of the Lender shall continue as if the same had not been invoked.

30. **WAIVER, CUMULATIVE RIGHTS.** Waiver by the Lender of any default by Debtor, or acceptance of payment in default or partial payment, shall not constitute a waiver by the Lender of any continuing or subsequent default. Failure by the Lender to exercise any right, power, privilege or remedy which the Lender may have by reason of a default by the Debtor shall not preclude the exercise of such right, power, privilege or remedy so long as such default remains uncured or if a subsequent default occurs. Each right, power, privilege and remedy herein conferred upon the Lender is cumulative and in addition to every other right, power, privilege and remedy available to Lender at law or in equity, or under any other agreement, and each and every right, power, privilege and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Lender and such exercise shall not be a waiver of the right to exercise at any time thereafter any other right, power, privilege or remedy.

31. **FURTHER ASSURANCES.** Debtor agrees upon reasonable request by Lender to execute and deliver such further mortgages, security agreements, financing statements and other agreements as may be necessary or proper to perfect, continue and preserve Debtor's obligations hereunder and the Lender's lien on the Secured Property or otherwise to carry out more effectively the purposes of this Security Agreement or any property intended to be subjected hereto. If Debtor fails to do so, the Lender may sign, deliver and file such documents in Debtor's names and Debtor hereby irrevocably appoints the Lender or Lender's agent as attorney in fact to do the things necessary to comply with this paragraph.

32. **BINDING ON SUCCESSORS.** This Security Agreement shall apply to, inure to the benefit of and bind all parties hereto, their heirs, legatees, devisees, personal representatives,

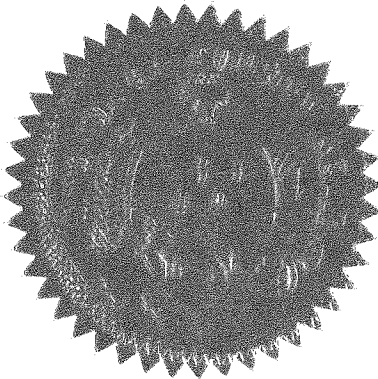




STATE OF NEW YORK, COUNTY OF ONONDAGA, ss:

I, Lisa Dell, County Clerk and Clerk of the Supreme Court and County Court, Onondaga County, a Court of Recording having by law a seal, DO HEREBY CERTIFY that Emma Dietrich Spector whose name is subscribed to the deposition, certificate of acknowledgment or proof of the annexed instrument, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proofs of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30 day of August, 2022.



Lisa Dell, Onondaga County Clerk

Brittni Harper, Deputy Clerk

Brittni Harper  
Deputy County Clerk

**From:** [Jörg Schamuhn](#)  
**To:** [Conlon, Andrew](#)  
**Cc:** [Keith Lund](#); [Richards, Meredith](#); [cmc@airialuav.com](mailto:cmc@airialuav.com)  
**Subject:** Re: Checking In  
**Date:** Friday, June 16, 2023 12:52:50 AM

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Hey Andy,

I like to thank you very much for your support. I have a bit of an update for ou which indicates that we have a good chance to turn the ship.

First of all our team of engineers including Neil from Grand Forks is very focussed working on the design of the generation 2 aircraft. This has gone far and we put all energy behind the project in order to start flying also in Grand Forks later this year.

The current activities are self funded by Clive Coote, who through his company Lodge Flying ist one of the shareholders of the AIRIAL ROBOTICS GmbH. It demonstrates the commitment we have to overcome the trouble we are facing with th4e Chinese shareholders.

On Tuesday we had a meeting with Deutsche Bahn. This is the German rail system. They are highly interested in our solution. The meeting was about funding the restart of our activities with a new company in Germany. The outcome was very promising. They are now working in an investment offer. Should we be able to close on it we will be able to reactivate also the US company and move on.

We are also talking to two other potential investors to find a solution. Overall we are on a good path. We will keep you updated on a regular basis. Thank you very much.

Best regards  
Joerg

Am 14.06.2023 um 21:06 schrieb Conlon, Andrew  
<[AConlon@grandforksgov.com](mailto:AConlon@grandforksgov.com)>:

Hi Joerg,  
Thanks for the thorough update. I'm sorry to hear of the extraordinary circumstances and hope you're able to reach a satisfactory resolution quickly. I also note that the bottom of your email indicates the information you've shared as being confidential. In light of that, and given the state of flux things currently are in, we will not intend to bring forward an update on this matter to the Growth Fund's June meeting. Please keep us updated regularly as the path forward becomes clearer so we can work together with you and stay on the same page so that we are better prepared to bring forward a substantive update when things become clearer.

We hope you're able to resolve these issues quickly and as smoothly as possible. We wish you luck in doing so and look forward to welcoming you to the HIVE when the time comes. Thank you and stay in touch.

**ANDY CONLON**

Senior Community Development Planner

City of Grand Forks  
701-746-2642  
[aconlon@grandforksgov.com](mailto:aconlon@grandforksgov.com)

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**From:** Jörg Schamuhn <[joerg@airialrobotics.com](mailto:joerg@airialrobotics.com)>  
**Sent:** Monday, June 5, 2023 11:17 AM  
**To:** Conlon, Andrew <[AConlon@grandforksgov.com](mailto:AConlon@grandforksgov.com)>  
**Cc:** Richards, Meredith <[MRichards@grandforksgov.com](mailto:MRichards@grandforksgov.com)>; Keith Lund <[keithl@grandforks.org](mailto:keithl@grandforks.org)>; [cmc@airialuav.com](mailto:cmc@airialuav.com)  
**Subject:** Re: Checking In

Hey Andy,

Thank you for reaching out. Your information is correct. Aerial Robotics GmbH was pushed into trouble by our two Chinese shareholders, their director from Hungary and a Hungarian US lawyer friend of one of the Chinese shareholders. There has been an intense legal battle over the last four months between the Chinese front and us as European shareholders (one German and one UK) to keep the company alive and in operation and to especially protect the IP that had been developed with the investment that the State of North Dakota and the Community fund from Grand Forks made.

The Aerial Robotics GmbH, which owns the Aerial Robotics Inc, was put under preliminary administration to protect first of all the IP and the two managing directors. It was necessary as the Chinese made an attempt to unrightfully take the IP away. The status of the reorganization is that the formal administration proceedings were ordered by the registration court on Friday. So we, my UK partner and I are working with the administrator on a concept how to use the assets of the Aerial Robotics GmbH properly and synchronized with the German law to bring the product finally to market.

You may understand that this is a huge effort. Trials to get to grips with the Chinese shareholders all failed. Their only interest is to run away with the IP and to eliminate AR.

I mentioned that the Aerial Robotics Inc is a 100% daughter company of the Aerial Robotics GmbH. She is an active asset of the German company. My partner in the UK and I feel very much responsible for the funds given to Aerial Robotics GmbH to come to market in Grand Forks. In order to keep the door open we froze Aerial Robotics Inc. Unfortunately we had to lay off all employees and make sure it had no expenses. We paid all outstanding salaries and cost outside of the loans from our private pocket not to push anybody into trouble. Our plan is to reactivate the Inc once we are ready organizing our restart.

A strong indication for you might be that we contracted from our UK company Neil, a

former employee from Grand Forks, as a project manager to continue our work with him and the area. It indicates that we have a very strong interest to reactivate our activities in Grand Forks.

Presently we are planning a restart of a German entity. The potential name will be Aerial Gyrobotix. In the last two months we already worked on a design upgrade to our existing product. We were asked by multiple customers to keep the idea alive and relevant in the market. We are looking for funding for setting up this company and should have a result by the end of June.

Once this restart will be clear we will reactivate the operation in the Inc. We will rename it, employ staff and develop business within it. And we will do it in North Dakota and Grand Forks. Clive, my UK partner, and I will do our utmost to protect your investment. We feel very much responsible to give it back as we can although the miserable situation was fully out of our control.

We also would love to be a member of HIVE. We need a hub in the US. But we cannot enter it right now as the Inc should not have expenses at this moment in time. Maybe there is a way to wait for us until July so that we can become a member of this awesome community.

I am very sorry, that this are not the best news. Again we feel responsible and we do what we can to recover the ground that we lost in the last few months. We are very happy to explain additional details as needed also in a conference call if needed.

Best regards  
Joerg

Am 05.06.2023 um 17:27 schrieb Conlon, Andrew  
<[AConlon@grandforksgov.com](mailto:AConlon@grandforksgov.com)>:

Good morning Joerg,  
I'm reaching out regarding your plans for The HIVE as well as your Accelerate loan with the Grand Forks Growth Fund. As I understand things, Aerial Robotics is no longer planning to become a member of The HIVE at this time and may be undergoing some form of reorganization. I'm wondering if that is correct and, if so, what the nature of that reorganization is so we can modify the existing Accelerate loan as necessary. Could you please provide me with an update as to where things stand and your plans moving forward so I can better understand whether any modifications to the loan are needed? Thank you!

**ANDY CONLON**

Senior Community Development Planner  
City of Grand Forks

701-746-2642  
[aconlon@grandforksgov.com](mailto:aconlon@grandforksgov.com)

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**From:** [joerg@airialrobotics.com](mailto:joerg@airialrobotics.com)  
**To:** [Conlon, Andrew](#)  
**Subject:** Company out of business  
**Date:** Thursday, October 30, 2025 3:04:53 PM

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Company out of business