

**PROMISSORY NOTE**

\$ 4,930,000.00

May 30, 1996

For value received, the receipt and sufficiency of which are hereby acknowledged, Thomas J. Petters, an individual and Petters Company, Inc., a Minnesota corporation located at 11610 Wayzata Blvd., Minnetonka, MN 55302, jointly and severally ("Borrower"), promise to pay the order of Data Sales Co., Inc., 3450 W. Burnsville Parkway, Burnsville, MN 55337, ("Lender"), its assigns or successors, the principal sum of Four Million, Nine Hundred Thirty Thousand and NO/100 Dollars (\$4,930,000.00) together with interest from the date hereof on the unpaid principal at the rate of four percent (4%) per month on the first \$2,000,000.00 and three and one half percent (3-1/2%) per month on the remaining principal balance, payable the earlier of August 30, 1996 or upon Borrower's payment by customer.

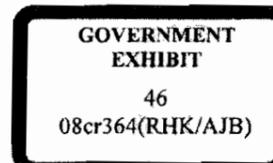
Borrower may prepay all or any part of the unpaid principal amount of this Note at any time and from time to time without penalty or premium, except that Borrower shall pay Lender or holder hereof a minimum of 30 days interest under this Note in the event of prepayment of the principal. All payments on this Note shall be applied first to the payment of accrued interest and the balance shall be applied to principal.

This Note is secured by a Security Agreement and Loan Agreement executed by Borrower in favor of Lender on May 30, 1996, collectively referred to as the "Loan Documents".

If default be made in any payment of principal of interest or any other sums due hereunder, when due in accordance with the terms and conditions of this Note, or if a default or an event of default occurs under any of the Loan Documents, then, in any such event, the entire unpaid principal balance hereof, together with accrued interest thereon and any other sums due hereunder, shall become immediately due and payable at the option of Lender, time being of the essence of this Note. The terms and provisions of the Loan Documents are incorporated herein by reference as if set forth herein in full.

The Borrower hereby agrees to pay, on demand, all costs of collection incurred by Lender or any holder of this Note, including reasonable attorneys' fees and legal expenses, in the event this Note is not paid when due, whether or not legal proceedings are commenced.

No delay on the part of the Lender or any holder hereof in exercising any right or remedy hereunder shall operate as a waiver of or preclude the exercise of such right or remedy or of any other remedy under this Note. No waiver by the Lender or any holder hereof shall be effective unless in writing signed by such holder. A waiver on any one occasion shall not be construed as a waiver of any such right or remedy on a future occasion.



This Note may be amended, modified, discharged or changed, except only by an instrument in writing and signed by the party against whom enforcement of any amendment, modification, discharge or change is sought.

Borrower hereby waives presentment for payment, demand, protest, and notice of nonpayment, and also notice of acceleration of maturity on default or otherwise, and consent, without affecting their liability hereunder, to any and all extensions, renewals, substitutions, and alterations of any of the terms of this Note and to the release of, or failure by the holder hereof to exercise any rights against any party liable for payment hereof or any property securing payment hereof. Any such extension, renewal, substitution, alteration or release may be made without notice to said parties.

Upon the occurrence at any time of an event of default under this Note or the Loan Documents, the Lender or any holder hereof shall have the right to set off any and all amounts due hereunder by the Borrower to the Lender or any holder hereof of the Note against any indebtedness or obligation of the Lender or any holder hereof to the Borrower.

The rights and remedies of the Lender or any holder hereof as provided in this Note and the Loan Documents shall be cumulative and concurrent, and may be pursued singularly, successively, or together against Borrower, any collateral, any Guarantor of this Note and any other funds, property or security held by the holder for the payment of the indebtedness due under this Note. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies or of the right to exercise them at any later time.

This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

**BORROWER:  
PETERS COMPANY, INC.**

  
THOMAS J. PETERS  
PRESIDENT

and

  
THOMAS J. PETERS





May 16, 1996

Petters Company, Inc.  
11610 Wayzata Blvd.  
Minnetonka, MN 55305**STATEMENT**

3M has offered the following product to Petters for the below indicated quantities and dollar amounts.

<u>Quantity</u>	<u>Unit</u>	<u>Description</u>	<u>Unit Price</u>	<u>Total Amt.</u>
34,000	each	3M STV Digital 6 Surround Sound Systems	\$145.00 - each	\$4,930,000.00
Total Payment Due				\$4,930,000.00

Please submit Tax Exemption Certificate

Tom Zohn  
Market Development Manager

## GUARANTY AND STOCK PLEDGE AGREEMENT

June 17, 1996

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt and sufficiency of which is hereby acknowledged, and to induce **DATA SALES CO., INC.**, a Minnesota corporation and **RONALD C. BRECKNER**, an individual (herein, with its participants, successors and assigns, called "Lender (s)") at their option, at any time or from time to time, to make loans or extend other accommodations to or for the account of **PETTERS COMPANY, INC.**, 11610 Wayzata Blvd., Minnetonka, MN 55302 (herein called "Borrower"), or to engage in any other transactions with Borrower, the undersigned hereby absolutely and unconditionally guarantee(s) to Lender(s) the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, accounts, liabilities, and obligations herein described.

WHEREAS, Borrower is indebted to Lender(s) pursuant to various Promissory Notes (the "Note(s)"); and

WHEREAS, the Note(s) were issued pursuant to the terms and conditions of various Loan Agreement(s) ("Loan Agreement(s)");

WHEREAS, as security for repayment of the amounts due Lender(s) pursuant to the Loan Agreement(s) and the Note(s), Borrower executed and delivered to Lender(s) the Security Agreement(s), ("Security Agreement(s)");

WHEREAS, in order to induce Lender(s) to extend to Borrower the loan(s) evidenced by the Loan Agreement(s), the Note(s) and the Security Agreement(s), Borrower has agreed to procure and deliver, and the undersigned have agreed to make this Guaranty and Stock Pledge Agreement ("Agreement") pursuant to joint and several liability; and Lender(s) have refused to extend said loan to Borrower unless this Agreement is executed by the undersigned and delivered to Lender(s);

NOW THEREFORE, in consideration of these premises, the undersigned hereby covenants and agrees with Lender(s) as follows:

**1. GUARANTY.** The undersigned guarantees to Lender(s) the payment and performance of the debt, liability and obligation of Borrower to Lender(s) evidenced by or arising out of the following: the Note(s), the Loan Agreement(s), the Security Agreement(s), and any other documents executed and delivered in connection with the Loan Agreement(s), and any extensions, renewals or replacements thereof and including also all amounts paid to the Lender(s) by the Borrower that are recovered from Lender(s) in any legal proceeding (herein referred to as "Indebtedness").

**2. PLEDGE OF STOCK.** To secure the due and punctual payment of all indebtedness of the Borrower, the undersigned hereby pledges and grants Lender(s) a first security interest in all stock certificates of Petters Warehouse Direct, Inc., certificate

number 1 totaling 2,500,000 shares representing 100% of the outstanding shares of Petters Warehouse Direct, Inc., ("Stock"). The undersigned hereby represents, warrants and covenants that:

- (a) The undersigned will duly endorse, each and every instrument constituting the Stock by signing on said instrument or by signing a separate document of assignment or transfer, as required by Lender(s);
- (b) The undersigned is the owner of the Stock free and clear of all liens, encumbrances, security interests and restrictions;
- (c) The undersigned will keep the Stock free and clear of all liens, encumbrances and security interests, except the Security Interest granted to Lender(s);
- (d) The instruments constituting the Stock will be maintained and held by the Lender(s) or its agent to be held until the Note(s) and all obligations related thereto have been paid, satisfied and performed.

**3. NO CONTINGENCIES.** No act or thing need occur to establish the liability of the undersigned hereunder, and no act or thing, except full payment and discharge of all Indebtedness, shall in any way exonerate the undersigned or modify, reduce, limit or release the liability of the undersigned hereunder.

**4. CONTINUING GUARANTY; REVOCATION.** This is an absolute, unconditional and continuing guarantee of payment of the Indebtedness and shall continue to be in force and be binding upon the undersigned, until the Indebtedness is paid in full. The death or incompetence of the undersigned shall not revoke this Guaranty as to the Indebtedness or any part thereof.

**5. ACCELERATION.** If any "Event of Default" (as defined in the Loan Agreement(s), the Note(s), the Security Agreement(s), or any other document executed or delivered in connection with the Loan Agreement(s)) shall occur and be continuing, or (except as provided in the Loan Agreement(s)) if the undersigned shall die, or shall be or become insolvent, (however defined), then Lender(s) shall have the right to declare immediately due and payable, and the undersigned will forthwith pay to Lender(s) the full amount of all Indebtedness, whether due and payable or unmatured.

**6. OTHER COLLATERAL.** The undersigned hereby agrees that Lender(s) may take other guarantees, collateral or security to further secure the Indebtedness, and any terms, covenants and conditions contained in any Note(s) or Agreement(s) evidencing or relating to the Indebtedness may be altered, extended, changed, modified, or released without in any manner affecting this Guaranty or releasing the undersigned. The undersigned shall remain liable to pay and perform pursuant to the Note(s) or Agreement(s) evidencing or relating to the Indebtedness as so altered, extended, changed or modified, notwithstanding the taking of such other guarantees, collateral or security.

**7. SUBORDINATION.** The undersigned will not exercise or enforce any right of contribution, reimbursement, recourse or subrogation available to the undersigned against any person liable for payment of the Indebtedness, or as to any collateral security therefor, unless and until all the Indebtedness shall have been fully paid and discharged. Any such right of contribution, reimbursement, recourse or subrogation available to the undersigned is expressly made subordinate to lien, time of payment and in all other respects to the amounts owing to Lender(s) under this Guaranty and on the Indebtedness.

**8. COSTS, EXPENSES AND ATTORNEYS' FEES.** The undersigned will pay or reimburse Lender(s) for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender(s) in connection with the protection, defense or enforcement of this Guaranty.

**9. CONSENT TO CERTAIN ACTIONS.** Whether or not any existing relationship between the undersigned and Borrower has been changed or ended and whether or not this Guaranty has been revoked, Lender(s) may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the undersigned and without any notice to the undersigned. The liability of the undersigned shall not be affected or impaired by any of the following acts or things (which Lender(s) are expressly authorized to do, omit or suffer from time to time, both before and after revocation of this Guaranty, without notice to or approval by the undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue Borrower or any other guarantor or other person liable in respect to any Indebtedness; (v) any discharge of any evidence of Indebtedness or other acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure or enforce any collateral security; or any modification, substitution, discharge, impairment, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; or (x) any election by the Lender(s) under Sec. 1111(b) (2) of the United State Bankruptcy Code.

**10. WAIVER OF DEFENSES; DEFICIENCY.** The undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the undersigned will not assert, plead or enforce against

Lender(s) any defense of waiver, release, discharge in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect to any Indebtedness, or any setoff available against Lender(s) to Borrower or any such other person, whether or not on account of a related transaction. The undersigned expressly agrees that the undersigned shall be and remain liable for any deficiency remaining after foreclosure upon collateral securing the Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.

**11. CUMULATIVE REMEDIES.** The undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness, notices of default and all other notices now or hereafter provided by law. Lender(s) shall not be required to resort first to Borrower for payment of the Indebtedness or to other persons or their properties, nor to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this Guaranty. All remedies afforded to Lender(s) by reason of this Guaranty are separate and cumulative, and no one of such remedies, whether exercised by Lender(s) or not, shall be deemed an exclusion of any other remedies available to Lender(s), and shall in no way limit or prejudice any other legal or equitable remedies Lender(s) may have in the premises. All payments made by Borrower and the undersigned or by any other person, and the proceeds of any security, may be applied by Lender(s) to the Indebtedness as Lender(s) may determine, whether the same be due or not. Any remedy or right hereby granted which shall be found to be unenforceable as to any person or circumstance, for any reason, shall in no way limit or prevent the enforcement of such remedy or right as to any other person or circumstance, nor shall such unenforceability limit or prevent enforcement of any other remedy or right hereby granted.

**12. RESCINDED PAYMENTS.** If any payment applied by Lender(s) to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall, for the purposes of this Guaranty, be deemed to have continued in existence, notwithstanding such application, and this Guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

**13. LIABILITY, ACCEPTANCE, ENFORCEABILITY, WAIVER, GOVERNING LAW.** This Guaranty shall be enforceable against each person signing this Guaranty. All persons signing this Guaranty shall be jointly and severally liable for all its provisions. This Guaranty shall be effective upon delivery to the Lender(s), without further act, condition or acceptance by Lender(s) and shall be binding upon the undersigned and heirs, representatives, successors and assigns of the undersigned, and shall inure to the benefit of Lender(s). The invalidity or unenforceability of any provision or application of this Guaranty shall not affect other lawful provisions and application hereof, and to this end, the provisions of this Guaranty are declared to be severable. This

Guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the undersigned and Lender(s). The undersigned waives notice of Lender's acceptance hereof and waives the right to a trial by jury in any action based on or pertaining to this Guaranty. This Guaranty shall be interpreted and construed in accordance with the laws of the State of Minnesota.

**14. NOTICE.** Any notice, demand or request by Lender(s) to the undersigned shall be in writing. It shall be deemed to have been duly given or made if either delivered personally or if mailed by United States registered or certified mail to the undersigned at the following address:

Guarantor: Thomas J. Petters  
15011 Woods Edge  
Minnetonka, MN 55345

Notice so mailed shall be deemed given and made upon deposit in the United States mail at any United States post office or branch thereof.

Any party may change the address for such notice by providing the other party a notice in writing so specifying and providing the new address in the manner provided above.

**15. SETOFF.** In addition to all other rights and remedies, the undersigned agrees that, without notice to the undersigned, the Lender(s) may setoff and apply any and all money owing by Lender(s) to the undersigned, or any of them, to the payment of Indebtedness then outstanding, including interest accrued thereon.

**16. BENEFIT/SUBROGATION.** The undersigned represents, warrants, acknowledges and agrees that: (i) the undersigned will receive direct economic benefit from the loans and advances made by Lender(s) to Borrower comprising the Indebtedness, (ii) Lender(s) are making advances to Borrower in reliance upon this Guaranty, (iii) the undersigned has received reasonably equivalent value in return for execution and delivery of this Guaranty. The undersigned waives and relinquishes any right of subrogation or other right of reimbursement from the Borrower or the Borrower's estate and any other right to payment from the Borrower or the Borrower's estate, arising out of or on account of any sums paid or agreed to be paid by the undersigned under this Guaranty, whether such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured. The provisions of this section are made for the express benefit of Borrower as well as Lender(s) and may be enforced independently by Borrower. The undersigned's obligations under this Guaranty include all amounts paid to Lender(s) by Borrower that are later recovered from Lender(s) in a legal proceeding. The undersigned's obligations under this Guaranty survive the payment in full of the Indebtedness until payment has



## SECURITY AGREEMENT

Dated May 30, 1996

THIS AGREEMENT is by and between Thomas J. Petters, an individual, and Petters Company, Inc., a Minnesota corporation, having its address at 11610 Wayzata Blvd., Minnetonka, Minnesota 55305 (collectively the "Debtor"), and Data Sales Co., Inc., a Minnesota corporation, whose address is 3450 W. Burnsville Parkway, Burnsville, Minnesota 55337 (the "Secured Party").

To secure the payment and performance of each and every debt, liability and obligation owed to the Secured Party as set forth in the promissory note(s), extensions, renewals or replacements thereof which Debtor may now or from time to time hereafter owe to Secured Party (whether such debt, liability or obligation now exists or is hereafter created or incurred), the parties agree to as follows:

1. Security Interest and Collateral. Debtor hereby grants to Secured Party a security interest under Article 9 of the Uniform Commercial Code in the following described property to secure payment of indebtedness owed to Secured Party (the "Collateral"):

All inventory/merchandise and proceeds thereof whether now owned or hereafter acquired and wherever located that is financed by funds advanced to Debtor by Secured Party;

Any other merchandise which Debtor has or will acquire rights in or use of to the extent funds advanced by the Secured Party has enabled Debtor to acquire an interest in such merchandise; and,

Debtor will not create nor permit the existence of any lien, security interest or encumbrance other than the one created hereby on the collateral, without the prior written consent of Secured Party.

This Security Interest is granted to secure payment of funds loaned to Debtor which has enabled or is intended to enable Debtor to acquire rights in or use of certain merchandise, which the parties understand and anticipate that Debtor intends to resell as a part of its business. The Secured Party agrees that Debtor may, in the ordinary course of Debtor's business, transfer title to or dispose of the merchandise or goods in which a security interest has been granted in a manner consistent with the Representations and Agreement set forth herein and Debtor agrees that, in the event of such disposition, the Secured Party's interest will extend to all accounts receivable generated and all proceeds received relating to such disposition.

2. Representation and Agreements.

Debtor represents and warrants to the Secured Party and agrees as follows:

(a) All funds provided by the Secured Party will be advanced towards the purchase of the merchandise described by individual exhibit to each promissory note issued hereunder, or, in the event of any change in the merchandise described therein, towards the purchase of such other merchandise regarding which the Secured Party has been provided prior notice and an amendment has been made to this promissory note referencing the actual merchandise acquired.

(b) Debtor agrees to provide Secured Party adequate documentation upon the sale of the merchandise identifying Buyer and indicating payment instructions.

(c) Debtor agrees to use reasonable care in its handling of the merchandise and to keep the merchandise adequately insured in the event Debtor takes or maintains physical custody of the merchandise.

(d) Debtor agrees to sign any financing statements that are required by the Secured Party to perfect this security interest.

(e) Debtors will pay before delinquency all taxes, or other governmental charges levied against the Collateral or its use, and all assessments, including stock assessments, and will pay any tax which may be levied on any obligation secured hereby.

(f) Debtors agree to indemnify and save harmless Secured Party from any loss, or damage caused by the Collateral or its use and to immediately give written notice to Secured Party of any loss or damage to, or loss of possession of, the Collateral, occasioned by any cause whatsoever.

(g) In all transactions of Debtor financed by Secured Party, Debtor shall direct payment and/or proceeds thereof to an Escrow Account maintained by First Community Bank on behalf of Debtor and Secured Party.

### 3. Default.

In the event of default by Debtor of any obligation evidenced by the promissory note(s) referred to herein, the Secured Party may declare the entire obligation immediately due and payable without demand or notice hereof, and will have all of the remedies of a secured party under the Uniform Commercial Code. Events of default will include any failure to pay amounts as due under the terms of the promissory notes(s), and any breach of the Representations and Agreements set forth in this Security Agreement. In the event of default, Debtor will be responsible for any costs of collection, including court costs and attorney fees. No delay or failure by Secured Party to exercise any right or remedy shall be a waiver of such right or remedy at any other time.

4. Modification. No modification of this Agreement will be effective unless it is in writing and is signed by all parties. This Agreement binds and benefits all parties and successors.

5. Additional Provisions.

- (a) This Agreement, the Loan Agreement, the promissory note(s), the Bank Escrow Agreement and attachments, constitute the entire agreement between the Parties.
- (b) This Agreement is governed by the laws of the State of Minnesota.

Debtor: PETERS COMPANY, INC.

By:   
Thomas J. Petters  
President

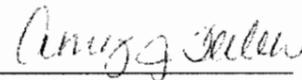
Personal Guarantor:

  
THOMAS J. PETERS

Secured Party: DATA SALES CO., INC.

By:   
Ronald C. Breckner  
President

Witness:



## LOAN AGREEMENT

Dated May 30, 1996

**THIS LOAN AGREEMENT** made this 30th day of May, 1996 between Thomas J. Petters, an individual and Petters Company, Inc., a Minnesota corporation, located at 11610 Wayzata Blvd., Minnetonka, Minnesota 55302, jointly and severally (the "Borrower"), and Data Sales Co., Inc., a Minnesota corporation located at 3450 W. Burnsville Parkway, Burnsville, Minnesota 55337 (the "Lender"), under which Loan Agreement the parties agree as follows:

1. **Definitions.** The following terms when used in this Agreement shall, except where the context otherwise requires, have the following meanings (such definitions to be equally applicable to the singular and plural forms thereof):

**"Business Day"** shall mean any day on which the Lender is open for the transaction of business of the kind contemplated by this Agreement.

**"Collateral"** shall mean all assets in which the Lender holds a security interest pursuant to any Loan Document.

**"Default"** shall mean any event which if continued uncured would, with notice or lapse of time or both, constitute an Event of Default.

**"Event of Default"** shall mean any Event of Default described in Section 6.

**"Escrow Account"** shall mean that certain joint account at First Community Bank.

**"Guarantor"** shall mean Thomas J. Petters.

**"Loan"** shall be the sum of \$4,930,000.00 together with all sums due and owing in connection therewith, in accordance with the terms and conditions of the Note(s). Each takedown under the Loan shall be individually reviewed by Lender and funded at Lender's sole discretion.

**"Loan Document(s)"** shall mean individually or collectively, as the case may be, this Agreement, the Note(s), the Security Agreement, and the Bank Escrow Agreement as originally executed and as amended, modified or supplemented from time to time.

**"Loan Party(ies)"** shall mean individually or collectively, as the case may be, the Borrower and the Guarantors.

**"Maturity"** of the Loan and Note(s) shall mean the earlier of: (a) the date upon which the Loan and the Note(s) become due and payable upon the occurrence of an Event of Default as provided in Section 6; or (b) upon the due dates indicated in the individual note(s).

**"Note(s)"** shall mean various promissory note(s) executed from time to time in the form of exhibits attached hereto made by the Borrower payable to the order of the Lender to evidence the Loan and each renewal, substitute or replacement note therefor.

**"Person"** means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

**"Security Agreement"** shall mean that certain Security Agreement dated as of even date herewith executed and delivered by the Borrower in favor of the Lender as originally executed and as amended, modified or supplemented from time to time.

**"Guaranty(ies)"** shall mean corporately, individually or collectively, as the case may be, those certain Guaranties dated as of even date herewith respectively made by the Guarantors in favor of the Lender as originally executed and as amended, modified or supplemented from time to time.

Other terms defined herein shall have the meaning ascribed to them herein.

2. **Documents.** The Borrower has delivered, or will deliver, to the Lender before any Loan is made by the Lender, the following documents, all containing, or to contain, provisions acceptable to the Lender and its counsel:

- (a) The Note(s) and each other Loan Document appropriately completed and duly executed by each Loan Party which is a party thereto;
- (b) Uniform Commercial Code Standard Form UCC-1 Financing Statements sufficient to perfect the security interests in favor of the Lender in the collateral;
- (c) Evidence of insurance naming Lender as loss payee for Collateral;
- (d) Such other documents, instruments or certificates as the Lender may reasonable request.

3. **The Loan.** The Lender hereby agrees to make a loan to the Borrower in the amount of, and the Borrower hereby agrees to borrow from the Lender, the sum of \$4,930,000.00. The obligation to repay on the Note shall be as set forth in the Note. Interest shall accrue on the outstanding balance of the Note(s).

(a) **Payments.** Any other provision of this Agreement or any other Loan Document to the contrary notwithstanding, the Borrower shall make all payments of interest on and principal of the Loan and all payments to the Lender with respect to payment of other fees, costs and expenses payable under any Loan Document in immediately available funds to the Lender at its address for notices hereunder, or direct payment to the designated Escrow Account.

(b) **Prepayment.**

(i) Voluntary. The Borrower shall have the right, by giving written notice to the Lender, to prepay the Loan in whole or in part at any time without premium or penalty, except as otherwise designated in the Note(s).

(ii) Setoff; Etc. Upon the occurrence and during the continuance of an Event of Default, the Lender shall have the right, without notice to the Borrower, to setoff any indebtedness owing by the Lender to or for the credit of the account of the Borrower against any and all amounts which may be owed to the Lender by the Borrower. The Lender agrees to provide written notice to the Borrower of such setoff and the amount thereof within five (5) business days of such setoff.

4. **Representations and Warranties.** To induce the Lender to extend credit hereunder, the Borrower represents and warrants that:

(a) the Borrower is a corporation validly organized and existing and in good standing under the laws of the state of its organization, has full power and authority to own its property and conduct its business substantially as presently conducted by it and is duly qualified to do business and is in good standing in each jurisdiction where the nature of its business makes such qualification necessary;

(b) each Loan Party has full power and authority to enter into and to perform such Loan Party's obligations under the Loan Documents to which such Loan Party is a party;

(c) the Loan Documents create binding and enforceable obligations upon each Loan Party which is a party thereto in accordance with their respective terms subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws at the time in effect affecting the enforceability of rights of creditors generally and by general equitable principles which may limit the right to obtain equitable remedies;

(d) each Loan Party's execution, delivery and performance of the Loan Documents to which such Loan Party is a party have been duly authorized by all necessary corporate action, do not require the consent or approval of any person which has not been obtained, do not conflict with any agreement binding upon such Loan Party or any of such Loan Party's property and do not violate any law, rule, regulation, order, writ, judgment, injunction, decree or warrant binding upon such Loan Party or any of such Loan Party's property;

(e) there is no litigation, arbitration or governmental proceeding pending against any Loan Party or affecting the business, property or operations of such Loan Party which is not covered by insurance or segregated cash reserves and which, if determined adversely to such Loan Party, would materially adversely affect the condition (financial or otherwise), business, properties, operations or assets of such Loan Party;

(f) (i) each employee benefit plan ("Plan") covered by Title IV of the Employee Retirement Income Security Act of 1974 and the rules and regulations thereunder ("ERISA") maintained, established, sponsored or contributed to by the Borrower or any member of a group

which is under common control with the Borrower (the Borrower's "ERISA Affiliates"): (A) complies in all material respects with ERISA and the Internal Revenue Code of 1986 (the "Code") including, without limitation, all applicable funding standards of Part 3 of Subtitle B of Title I of ERISA of Section 412 of the Code; (B) is solvent; and (C) is not subject to any termination proceeding; (ii) neither the Borrower nor any of its ERISA Affiliates has any liability under Title IV of ERISA to the Pension Benefit Guaranty Corporation ("PBGC") or any other person with respect to any such Plan; and (iii) neither the Borrower nor any of its ERISA Affiliates contributes to or has contributed to any multi-employer plan (as defined in Section 4001(a)(3) of ERISA) which is a defined benefit plan;

(g) no part of the proceeds of the Loan will be used by the Borrower for any purpose which violates, or which is inconsistent with, Regulation U promulgated by the Board of Governors of the Federal Reserve System:

(h) the Borrower is in material compliance with all pollution control and environmental regulations in each jurisdiction where it is doing business and has no liability for the release or threatened release of any toxic or hazardous waste substance or constituent into the environment which would materially adversely affect the condition (financial or otherwise), business, properties, operations or assets of the Borrower;

(i) the Borrower's projections, if any, provided to the Lender have been prepared in good faith and represent the Borrower's officers' judgment as to the most probable course of the Borrower's business during the period covered thereby; and

(j) all representations and warranties contained in this Section 4 shall be deemed to be continuously made and shall survive the delivery of the Note(s). No investigation at any time made by or on behalf of Lender shall diminish its rights to rely thereon.

5. **Affirmative Covenants.** The Borrower hereby covenants and agrees with the Lender that for so long as the Loan remains unpaid, if requested, the Borrower shall:

(a) furnish to the Lender:

(i) as soon as available and in any event by not later than ninety (90) days after the end of each of the Borrower's fiscal years, a copy of the Borrower's financial statement with comparative figures for the preceding fiscal year, prepared in accordance with GAAP and certified without qualification or exception by certified independent public accountants reasonably satisfactory to the Lender;

(ii) such other financial or other information or certification as the Lender may reasonably request with respect to the Borrower or any Guarantor.

(b) maintain and preserve its corporate existence;

(c) carry on its business activities in substantial compliance with all applicable laws, rules and regulations;

- (d) maintain all material rights, licenses, certificates of compliance or grants of authority required in the conduct of its business;
- (e) maintain insurance of such types and in such amounts as are maintained by companies of similar size engaged in the same or similar businesses and as may be required by any Loan Document;
- (f) file all federal and state tax returns (including, without limitation, withholding tax returns) which are required and make payments as required of such taxes;
- (g) Reimburse the Lender for reasonable expenses, fees and disbursements (including, without limitation, reasonable attorneys' fees and legal expenses), incurred in connection with the preparation or review of Loan Documents or the Lender's enforcement of any Loan Party's obligations under any Loan Document, whether or not suit is commenced, which attorneys' fees and legal expenses shall include, but not be limited to, any attorneys' fees and legal expenses incurred in connection with any appeal of a lower court's judgment or order; and
- (h) promptly notify the Lender of the occurrence of any Default or Event of Default.

**6. Events of Default and Remedies**

(a) **Default**

Upon the occurrence of any one or more of the following events of default, or at any time afterward unless the default has been cured, the Lender may accelerate and declare the unpaid principal, accrued interest and all other amounts payable under the Promissory Note(s) or Loan Documents to be immediately due and payable:

- (i) Default by the Borrower in the payment when due of any principal or interest due under the Promissory Note(s) and continuance for 10 days after Lender's written notice to Borrower of such default.
- (ii) Default by the Borrower in the observance or performance of any covenant or agreement contained in the Loan Documents, including this Agreement, and continuance for more than 30 days after notice to Borrower and demand for compliance by Lender.
- (iii) Default by the Borrower in any agreement with the Lender or any other lender that relates to indebtedness or contingent liabilities which would allow the maturity of such indebtedness to be accelerated.
- (iv) Any representation or warranty made by the Borrower to the Lender which when made is untrue in any material respect.

(v) A garnishment, levy or writ of attachment, or any local state, or federal notice of tax lien or levy is served upon the Lender for the attachment of property of the Borrower in the Lender's possession or indebtedness owed to the Borrower by the Lender.

(vi) If Thomas J. Petters dies or becomes insolvent or is the subject of a voluntary or involuntary petition under the United States Bankruptcy Code.

(vii) A material adverse change occurs in the Borrower's financial condition or ability to repay its obligations to the Lender.

(b) **Immediate Default**

If, with or without the Borrower's consent, a custodian, trustee or receiver is appointed for any of the Borrower's properties, or if a petition is filed by or against the Borrower under the United States Bankruptcy Code, unless dismissed within 120 days of its filing, then the unpaid principal, accrued interest and all other amounts payable under the Note(s) and the Loan Documents will become immediately due and payable without notice or demand.

7. **Miscellaneous.**

(a) **Indemnification by Borrower.** The Borrower agrees to indemnify and hold harmless the Lender, its officers, agents and employees, against any and all losses, claims, damages or liability to third parties which the Lender, its officers, agents and employees, may become subject under any law in connection with the carrying out of the transactions contemplated by this Agreement (other than as a result of the gross negligence or willful misconduct of any such party), and to reimburse the Lender, its officers, agents and employees, for any out-of-pocket legal and other expenses including reasonable counsel fees incurred by the Lender, its officers, agents and employees, in connection with investigating any such losses, claims, damages or liabilities or in connection with defending any actions relating thereto. The Borrower further releases and agrees to hold harmless the Lender, its officers, agents and employees, from any liability to the Borrower for any claim of Lender liability (other than as a result of the gross negligence or willful misconduct of any such party). The provisions of this Section 8(a) shall survive the payment of the Indebtedness and the Loan.

(b) **Addresses for Notices.** All notices to be given by any party to the others hereunder shall be in writing and deemed to have been given when delivered personally or when deposited in the United States mail, registered or certified, postage prepaid, addressed as follows:

Borrowers: THOMAS J. PETTERS  
15011 Woods Edge  
Minnetonka, MN 55345

PETTERS COMPANY, INC.  
11610 Wayzata Blvd.  
Minnetonka, MN 55302

Lender: DATA SALES CO., INC.  
3450 W. Burnsville Parkway  
Burnsville, MN 55337

Any party may change the address for such notice by providing the other party a notice in writing so specifying and providing the new address. Such notice shall be sent in compliance with this Section 7(c).

(c) **Amendments, etc.** This Agreement may not be amended or modified, nor may any of their terms (including, without limitation, terms affecting the maturity of or rate of interest on the Note) be modified or waived, except by written instruments and signed by the Lender and the Borrower.

(d) **Time of Essence.** Time is of the essence in the performance of this Agreement.

(e) **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Borrower and the Lender and their respective successors and permitted assigns, except the Borrower may not transfer or assign its rights hereunder without the prior written consent of the Lender.

(f) **Waivers.** No waiver by the Lender of any right, remedy or Event of Default hereunder shall operate as a waiver of any other rights, remedy, or Event of Default or of the same right, remedy or Event of Default on a future occasion. No delay on the part of the Lender in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or future exercise thereof or the exercise of any other right or remedy.

(g) **Revival of Obligations.** If the incurring of any debt or the payments of money or transfer of property made to the Lender by or on behalf of the Borrower or any Guarantor contemplated by this Loan Agreement (collectively, the "Transfers") should for any reason subsequently be declared to the "voidable" or "avoidable" within the meaning of any state or federal law relating to creditors' rights, including, without limitation, as fraudulent transfers, preferences or otherwise voidable or recoverable payments of money or transfers of property, in whole or in part, for any reason under the Bankruptcy Code, or any other federal or state law, and Lender is required to repay or restore any Transfer, or the amount of any portion thereof, or upon the advice of its counsel is advised to do so, then, as to any such amount repaid or restored, (including all reasonable costs, expenses and attorneys' fees of the Lender related thereto), the liability of the Borrower and any Guarantor, and each of them, shall automatically be revived, reinstated, and restored and shall exist as though such Transfer had never been made.

(h) **Remedies Cumulative.** The rights and remedies herein specified of the Lender are cumulative and not exclusive of any rights or remedies which the Lender would otherwise have at law or in equity or by statute.

(i) **Governing Law and Entire Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. The Note(s), this

agreement and the other related documents contain the entire agreement of the parties on the matters covered herein. No other agreement, statement or promise made by any party of by any employee, officer, or agent of any party that is not in writing and signed by the party against whom enforcement thereof is sought shall be binding.

(j) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

(k) **Term.** This Agreement, and the terms and conditions hereof, shall, unless otherwise specified herein, remain in full force and effect until the Note(s) and any and all amounts payable thereunder are paid inn full.

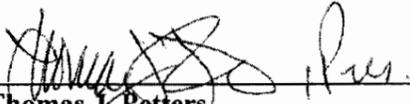
(l) **Offsets.** Nothing in this Agreement shall be deemed a waiver or prohibition of Lender's right of banker's lien, offset or counterclaim, which right the Borrower hereby grants to the Lender.

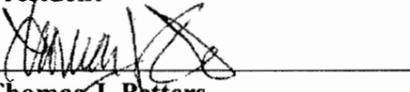
(m) **Not Joint Venturers.** The Lender is not, and shall not by reason of any provision of any of the Loan Documents be deemed to be, a joint venturer with or partner of agent of the Borrower.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be duty executed and delivered as of the day and year first above written.

**BORROWERS:**

**PETTERS COMPANY, INC.**

  
\_\_\_\_\_  
**Thomas J. Petters**  
**President**

  
\_\_\_\_\_  
**Thomas J. Petters,**  
**individually**

**LENDER:**

**DATA SALES CO., INC.**

  
\_\_\_\_\_  
**Ronald C. Breckner**  
**President**