

EAST BAY BOOKSELLERS LLC
LOAN AGREEMENT

_____, 2017
Oakland, CA

This Loan Agreement (the “Loan”) is entered into by and between **East Bay Booksellers, LLC** (the “Borrower”) and _____ (the “Lender”).

WHEREAS, the Borrower desires to obtain a loan from Lender, and Lender desires to make a loan, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Loan. Subject to the terms and conditions contained herein and in the promissory note executed in connection with this Loan, Lender will loan to Borrower the principal amount of _____ DOLLARS (\$ _____) (the “Loan Amount”).

2. Note. The Loan shall be evidenced by a promissory note (the “Note”) executed concurrently herewith, reflecting the Loan Amount. Interest on the principal amount outstanding from time to time shall be charged as provided in the Note.

3. Default. The following events shall constitute an event of default hereunder: (a) if any two consecutive payments due hereunder are not paid as and when due, and remain outstanding following notice to Borrower, or (b) if any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any liquidation proceeding is commenced by Borrower and is not dismissed for thirty (30) days, or (c) if a receiver is appointed for any part of the property or assets of Borrower. Upon the occurrence of any event of default, Lender has the right to declare any amounts due hereunder immediately due and payable.

4. Collection. If an action is instituted by Lender to collect any amounts of the Loan, the Borrower promises to pay all reasonable costs and expenses (including reasonable attorney’s fees) incurred in connection with such action.

5. Waiver. No previous waiver and no failure or delay by Lender or the Borrower in acting with respect to the terms of this Loan shall constitute a waiver of any breach, default, or failure of condition under this Loan or the obligations secured thereby. A waiver or modification of any term of this Loan or of any of the obligations secured thereby must be made in writing and signed by a duly authorized officer of Borrower and shall be limited to the express terms of such waiver.

6. Lender Representations. Lender hereby acknowledges and confirms that Lender has obtained such information and materials about Borrower as Lender deems necessary in order to evaluate the risks of providing the Loan to the Borrower, has had the opportunity to review and negotiate the terms of the Loan and Note, and has carefully considered the risks of providing this Loan to Borrower prior to entering

into this Loan Agreement. Lender further confirms that Lender is able to bear the economic risks of providing the Loan and can afford a complete loss of the Loan Amount.

7. Term; Termination. The term of this Loan shall be as set forth in the Note.

8. Miscellaneous. This Loan shall be binding upon, and inure to the benefit of, the Lender and Borrower and their respective successors and assigns. This Loan shall be construed in accordance with the laws of the State of California without regard to the choice of law principles thereof. The parties hereby submit to the personal jurisdiction of the courts situated in Alameda County. This Loan may only be modified by an agreement signed by both parties hereto. If any provisions of the Loan shall be deemed invalid or unenforceable, the remainder of this Loan shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, this Loan has been executed by the parties as of the date set forth above.

Borrower:

Lender:

EAST BAY BOOKSELLERS, LLC

Name: _____
(Print)

By:

Signature

Title: Managing Member

Address:

Address:

5433 College Avenue
Oakland, CA 94618

Phone:

Phone: (510) 653-9965

Email: info@ebbooksellers.com

Email:

PROMISSORY NOTE

\$ _____

_____, 2017

Oakland, CA

FOR VALUE RECEIVED, **East Bay Booksellers, LLC** (the "Borrower"), promises to pay to the undersigned Holder, as set forth below, the principal sum of

_____ DOLLARS (\$ _____), together with interest on the outstanding principal amount, upon the terms and conditions set forth herein.

1. Term and Amortization. The principal balance of this Note, together with interest accrued and unpaid to date, shall be due and payable on or before the close of business on the sixth (6th) year anniversary of the date on which East Bay Booksellers LLC first opens a retail bookstore in Oakland, California (the "Maturity Date").

2. Rate of Interest; Payments; Prior Termination. The rate applicable to principal amounts outstanding under this Note (the "Note Rate") shall be a fixed rate and shall be _____ percent (_____%). For purposes of calculating interest, interest will be compounded annually, and accrue from January 1, 2017, to but excluding the date upon which such funds are repaid to Holder. Beginning on the one (1) year anniversary of the date on which East Bay Booksellers LLC opens a retail bookstore at 5433 College Avenue in Oakland, Borrower shall make payments of interest and principal at least every calendar quarter, within fifteen (15) days following the end of such quarter. All remaining unpaid principal and interest due thereon and all other amounts owing under this Note and the Loan shall be due and payable in full in no event later than the Maturity Date.

(b) Notwithstanding the foregoing, in the event East Bay Booksellers LLC does not open a retail bookstore in Oakland on or prior to January 1, 2018, the Loan Agreement shall be automatically terminated, and the principal balance of this Note shall be promptly refunded to Holder.

3. Prepayment & Application of Funds. Prepayment of principal and interest may be made at any time, without penalty, without the prior consent of the Holder. All payments shall be first applied to interest and the balance to principal.

4. Default. The following events shall constitute an event of default hereunder: (a) if any two consecutive payments due hereunder are not paid as and when due and remain outstanding following notice to Borrower, or (b) if any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any liquidation proceeding is commenced by Borrower and is not dismissed for thirty (30) days, or (c) if a receiver is appointed for any part of the property or assets of Borrower. Upon the occurrence of any event of default, Holder has the right to declare any amounts due hereunder immediately due and payable.

5. Collection. If an action is instituted by Holder to collect this Note, the Borrower promises to pay all reasonable costs and expenses (including reasonable attorney's fees) incurred in connection with such action.

6. Waiver. No previous waiver and no failure or delay by Holder or the Borrower in acting with respect to the terms of this Note shall constitute a waiver of any breach, default, or failure of condition under this Note or the obligations secured thereby. A waiver or modification of any term of this Note or of any of the obligations secured thereby must be made in writing and signed by a duly authorized officer of Borrower and shall be limited to the express terms of such waiver. The Borrower hereby expressly waives presentment and demand for payment at such time as any payments are due under this Note.

7 Conflicting Agreements. In the event of any inconsistencies between the terms of this Note and the terms of any other document related to the loan evidenced by this Note, the terms of this Note shall prevail.

8. Miscellaneous.

(a) Any sum due for payment hereunder on a day which is not a business day will be paid on or extend to the next succeeding business day or, if that succeeding business day falls in the following calendar month, on or to the preceding business day.

(b) This Note shall be binding upon, and inure to the benefit of, the Holder and Borrower and their respective successors and assigns, provided that Borrower may not assign its rights and obligations hereunder without the prior written consent of Holder.

(c) This Note shall be construed in accordance with the laws of the State of California without regard to the choice of law principles thereof. The parties hereby submit to the personal jurisdiction of the courts situated in Alameda County.

(d) This Note may only be modified by an agreement signed by both parties hereto. If any provisions of the Note shall be deemed invalid or unenforceable, the remainder of this Note shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, this Note has been executed by the Borrower as of the date set forth above.

Borrower:

Acknowledged and Agreed to:

EAST BAY BOOKSELLERS, LLC

Holder:

By:

Print Name:

Title: Managing Member