

TOWN OF JUPITER



DATE: June 18, 2019
TO: Honorable Mayor and Members of Town Council
THRU: Matt Benoit, Town Manager *MB*
FROM: Michael Villella, Finance Director
SUBJECT: Approval of Resolution 66-19 relating to the Loan Guarantee documents between the Town of Jupiter, Beacon Pharmaceutical Jupiter, LLC. and Seacoast Bank

EXECUTIVE SUMMARY:

Town staff recommends the Town Council approve Resolution 66-19 relating to the approval of the Loan Guarantee documents between the Town of Jupiter, Beacon Pharmaceutical Jupiter, LLC. (Beacon) and Seacoast Bank. The terms of the Memorandum of Understanding (MOU) approved by the Town Council at the February 5, 2019 Town Council meeting outlined the conditions that Beacon was to meet in order for the Town to participate in the Loan Guarantee program with Beacon Pharmaceutical. Staff has worked with Beacon and its consultants to ensure they have made the progress required under the terms of the MOU.

The Company

Beacon Pharmaceutical is providing a global platform to expand access to healthcare and wellness. While expediting drug to market time, improving R&D methods via cross borders collaborations, to supply basic healthcare solutions. Beacon, along with their investors and partners will bring a complete solution to global wellness and pharmaceutical research, with a focus on early-stage life science companies.

Beacon Pharmaceuticals Jupiter, LLC is a wholly-owned affiliate of Beacon Capital, based in New York City. According to their company materials, Beacon Capital is a family office known for its socially-responsible investments, creative aptitude towards deal structure, global knowledge, and expertise in the life sciences, real estate, banking, insurance, manufacturing, energy and philanthropy. They are widely acknowledged for their integrity, success, and multi-generational history of trade and banking dating back to the 13th Century in Europe.

- **Beacon's Vision for Jupiter:** To build a life-science complex in Jupiter. The first component of the Beacon Pharmaceuticals Jupiter Life-Science Eco-System will be comprised of a CRO (Clinical Research Organization) focused on the new RTT Act (Right To Try), an accelerator able to host 50 companies during the first year, and a stem cell manufacturing center.
- **Beacon's Philosophy:** Promising research, therapeutics and transforming the way we treat and cure illness. Our social impact model was designed to transform and accelerate pharmaceutical discovery, development, and manufacturing in the fast-growing field of generics, and the ever-evolving therapeutic approach to novel drug development whether it is via biologic, or reformulating of existing compounds.

Beacon proposes to develop and construct a pharmaceutical research development and production facility to be located on the 9 acre parcel that the Town owns adjacent to the Sonoma Isles development. The proposed facility will have a valuation of at least \$45 million providing a significant property valuation increase to the Town and new property tax revenue to its residents. In addition to the increased property valuation and tax revenue, the project is expected to provide approximately 200 new jobs with average salaries that will exceed \$70,000 annually. These economic benefits to the Town will come with the added advantage of having a leading edge research development and production facility which will be developing and producing pharmaceutical products that are expected to provide relief to people worldwide for oncology and neurodegenerative diseases.

The MOU provided the following three economic incentive programs to Beacon:

I. Lease to Purchase Agreement for Town Owned Land:

Beacon will be granted a lease option to purchase the 9 acres of Town owned land that is adjacent to the Sonoma Isles development. Beacon would pay annual lease payments to the Town based upon the Property's fair market appraised value. Annual lease payments will be calculated on an increasing scale to provide economic incentive for Beacon to complete the purchase of the Property at some point in the future when it would become financially impractical to continue making annual lease payments. The term of the lease is proposed at 30 years, with Beacon paying 100% (a fully amortized 30-year rate) beginning in year 15. The term of the lease envisioned by the attached MOU does not start until Beacon obtains land use approval. A draft lease document has been prepared by the Town Attorney and is currently under review by Beacon and their legal counsel.

II. Jobs Creation and Retention Incentive:

Provided Beacon completes its capital investment in the Town (not less than \$44,200,000) and creates and retains at least 137 jobs. The Town shall pay Beacon for each new jobs created, whether the jobs are created for Beacon or one of the companies it locates in the Jupiter facility. The maximum annual incentive that Beacon can earn under this jobs incentive program will be \$108,877, which amount will decrease by 10% per year and end after 10 years. An incentive agreement will be drafted and presented to the Town Council as development approvals for the project proceed.

III. Loan Guarantee Proposed Terms:

The Town's loan guarantee will be for a maximum amount of \$500,000. This funding will be utilized by Beacon to complete development of the facility to be located in the Town. The MOU provides for the following three milestones to be achieved in order for funds to be advanced for the loan guarantee.

1. \$200,000 – At such time that Beacon submits documents for the Land Use and Site Plan Approval for a facility totaling not less than 150,000 square feet of construction in the Town of Jupiter.
2. \$150,000 – At such time that Beacon obtains an approved Development Order for a facility totaling not less than 150,000 square feet of construction in the Town of Jupiter.
3. \$150,000 – At such time that Beacon receives a Certificate of Occupancy for a facility totaling not less than 150,000 square feet of construction in the Town of Jupiter and the issuance of building permits for such.

As with prior loan guarantees approved by the Town Council, a CD provided to Seacoast Bank by the Town in the amount of \$500,000 will be used as collateral for the loan.

Timing and Benefits of the Incentives:

Completion of the Beacon facility in Jupiter will result in the achievement of a 12 year effort that began with attracting the Scripps Research Institute to Jupiter in 2006/2007. Scripps and Max Planck work to develop scientific discoveries that are the building blocks to future medical discoveries and potential medical cures. The Town's economic development fund has provided funding assistance for about 15 companies that have worked to develop pharmaceutical products seeking FDA approval. Each time a drug was completed, the production of that drug was relocated outside of Palm Beach County. With the completion of the proposed Beacon facility, the circle of drug development will be completed and drug products will be able to be manufactured right here in Jupiter.

Beacon Project Update:

Beacon has engaged the services of a local land planning firm along with the architectural services of a nationally recognized firm to develop the site plan and drawing required to secure Town approval of the project. Preliminary plans have been submitted for staff review and early evaluations have been very positive. Given the progress achieved to date, staff has determined the timing is appropriate to complete the Loan Guarantee documents as outlined in the MOU. Once the draft lease agreement review is completed by both Beacon and Town attorneys staff will present that document to the Town Council for its consideration. Approval of the lease agreement will allow Beacon to secure the financing required to start construction of the project once project approval by the Town Council is secured.

RECOMMENDATION:

Town staff recommends the Town Council approve Resolution 66-19 and authorize the Mayor to execute the Loan Guarantee documents between the Town of Jupiter, Beacon Pharmaceutical Jupiter, LLC. and Seacoast Bank.

Strategic Priority: Strong Local Economy

Attachments:

Resolution 66-19	Loan Guarantee Documents

Funding Source:

<input type="checkbox"/> Approved in Budget	\$ N/A	Sources: _____
<input type="checkbox"/> Additional Funding Required	\$ _____	Sources: _____

RESOLUTION NO. 66-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF JUPITER, FLORIDA AGREEING TO GUARANTEE A LOAN BY SEACOAST NATIONAL BANK TO BEACON PHARMACEUTICAL JUPITER, LLC AND APPROVING A CERTIFICATE OF DEPOSIT IN THE AMOUNT OF \$500,000 WITH SEACOAST NATIONAL BANK FOR SAID GUARANTEE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Florida Constitution and Chapter 166, Florida Statutes grant to municipalities broad home rule authority; and

WHEREAS, Beacon Pharmaceutical Jupiter, LLC (“Beacon”) has applied to Seacoast National Bank (Seacoast) for a business loan to fund Beacon’s expansion of its business operations; and

WHEREAS, the Town Council, pursuant to an Economic Development Loan Pledge Agreement (Pledge Agreement) made between the Town of Jupiter (Town), Seacoast and Beacon, the Town has agreed to deposit a Certificate of Deposit with Seacoast in the amount of \$500,000 from funds the Town has set aside in its Economic Development Fund to promote the location and expansion of businesses in the bio science and technology sectors within the Town; and

WHEREAS, the Finance Director has advised the Town Manager that Beacon is developing a bio science or technology business and therefore is eligible for a grant or loan of funds from the Town’s Economic Development Fund; and

WHEREAS, based upon the Finance Director’s determination, the Town Manager recommends that the Town Council guarantee the loan that Beacon is receiving from Seacoast in the amount of \$500,000 for Beacon’s use to expand its business operations in the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN
OF JUPITER, FLORIDA, AS FOLLOWS:**

Section 1. The foregoing recitals are true, correct and incorporated into this Resolution.

Section 2. In accordance with the Town Manager's recommendation, the Town Council hereby directs and authorizes the Mayor to execute the Pledge Agreement with Seacoast and Beacon, a copy of which is attached hereto and incorporated herein as Exhibit "A" to guarantee Beacon's loan from Seacoast.

Section 3. This Resolution shall take effect immediately upon its execution.

**ECONOMIC DEVELOPMENT LOAN
PLEDGE AGREEMENT**

TOWN: TOWN OF JUPITER, FLORIDA
Address: 210 Military Trail
Jupiter, Florida 33458
Attn: Finance Director

LENDER: SEACOAST NATIONAL BANK
Address: Attn: Commercial Loan Department
815 Colorado Avenue
Stuart, Florida 34994

BORROWER: BEACON PHARMACEUTICAL JUPITER, LLC
Address: 2000 PGA Blvd, Suite 4440
Palm Beach Gardens, FL 33408

LOAN: \$500,000.00

THIS AGREEMENT, is made as of this ____ day of June, 2019, by the TOWN OF JUPITER, FLORIDA, a municipal corporation (the "**Town**"), SEACOAST NATIONAL BANK, a national banking association (the "**Lender**"), and BEACON PHARMACEUTICAL JUPITER, LLC, a Florida limited liability company, as debtor (hereinafter referred to as "**Borrower**").

R E C I T A L S

WHEREAS, Borrower is a company involved in pharmaceutical research and development (the "**Business**"), and Borrower intends to locate its Business and operations in a facility to be located in Jupiter, Florida; and

WHEREAS, Borrower has negotiated a business loan from SEACOAST NATIONAL BANK (the "**Lender**") in the original principal sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (the "**Loan**") for the purposes of establishing the Business in Jupiter, Florida; and

WHEREAS, due to the risks associated with the business model of the Business, the Lender will not make the Loan without additional guarantees and collateral in the form of a certificate of deposit or other cash equivalent in the amount of the Loan; and

WHEREAS, Borrower has requested that the Town provide it with a guaranty of the Loan, the proceeds of which would come from the Town's Bio-Tech Fund, and the Town Council has voted and approved of the guaranty of the Loan as evidenced by Resolution No. 66-19 approved by the Town Council on June ____, 2019 (the "**Approval Resolution**"); and

WHEREAS, in order to guarantee the payment of the Loan by the Borrower, and only as an accommodation to the Borrower, the Town is providing to Lender and pledging to Lender as a guarantee of

payment of the Loan a certain certificate of deposit in the principal sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (the “**Guarantee CD**”); and

WHEREAS, the Town has agreed, at Borrower's request and only as an accommodation to the Borrower, to provide the Guarantee CD to be held by the Lender as additional collateral, with the understanding that if the Lender reaches into the Guarantee CD or any portion thereof as a result of a Borrower default or any other reason whatsoever, Borrower agrees to indemnify and hold the Town harmless for any such loss of the collateral provided by the Town and any other costs and damages; and

WHEREAS, Lender is granting the Loan to Borrower as evidenced by a Promissory Note of even date herewith in the principal amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (the “**Note**”), which will be secured by a Security Agreement from Borrower; and

WHEREAS, the Town and Lender have agreed pursuant to Section 3(C) herein to certain procedures by which the Lender can exercise its rights to claim upon the Guarantee CD in the event of a default of Borrower upon the covenants and obligations of the Loan, as further set forth herein; and

WHEREAS, Borrower is joining in this Agreement to evidence its consent to the terms herein and to certify certain covenants as required by the Town in the Approval Resolution;

NOW, THEREFORE, in consideration of the Loan from Lender, and the issuance of the Guarantee CD from the Town, and other good and valuable considerations, the receipt and sufficiency are hereby acknowledged by each party hereto, and intending to be legally bound, the Town, Lender, and Borrower do hereby agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are hereby deemed incorporated herein by reference as if fully set forth.

Section 2. Guarantee CD. The parties acknowledge that the Town has posted with Lender the Guarantee CD in the principal sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00), for the purpose of securing Borrower’s payment of the Note and prompt and complete performance by Borrower of all its obligations under the Loan to pay the obligations of the Note, and such other obligations arising out of the related Loan documents. (The Note and all other documents of even date with the Note evidencing or securing the Loan are herein referred to as the “**Loan Documents**”, and all such obligations arising under the Loan Documents are herein called the “**Obligations**”).

Section 3. Pledge of Guarantee CD.

A. Except to the extent provided in Section 4, the Town unconditionally and irrevocably pledges, transfers and assigns to Lender the Guarantee CD, and any and all renewals thereof, as collateral to guarantee the payment of the Note and performance of the Obligations of Borrower as set forth in the Loan Documents. The Guarantee CD is further identified as follows:

Certificate of Deposit Number: _____
Date of Issue: June ____, 2019
Amount: \$500,000.00
Maturity: November ____, 2025

B. This pledge and the Guarantee CD shall run continuously with the Obligations of Borrower and shall remain in full force and effect until the Note is satisfied in full and the pledge is canceled or released in writing by the Lender. The Town shall become liable on this pledge obligation if and when Borrower fails to perform Borrower's Obligations.

C. The Town hereby authorizes Lender to withdraw any portion or all of the Guarantee CD pursuant to the aforesaid Guarantee CD, at any time and from time to time upon default of any of the Obligations of Borrower; provided however, prior to Lender making a claim upon and withdrawing funds on the Guarantee CD, Lender and the Town shall comply with the following:

- (i) Lender shall provide the Town written notice of the Borrower's default (30) thirty days prior to withdrawing funds on the Guarantee CD in order to provide the Town the opportunity to have such default cured; and
- (ii) Upon withdrawal of either (a) all the funds of the Guarantee CD, or (b) withdrawal of such funds from the Guarantee CD sufficient to satisfy the outstanding sums due to Lender upon the Loan, Lender shall assign to the Town, if requested, all of Lender's rights in the Loan Documents, including a properly executed Note endorsement and an assignment of the Lender's security interest, provided further that: (1) to the extent required to satisfy the Obligations under the Loan Documents, Lender shall have the right to attach and take over any cash security or funds in accounts of Borrower which may serve as collateral for the Loan, and (2) to the extent that at the time Lender assigns to the Town all of Lender's rights under the Loan Documents there are outstanding and unpaid sums due Lender under the Loan Documents (the "**Outstanding Sums**"), the Town and Lender shall enter into a Loan Assignment Agreement providing for the Town to remit to Lender such portion of the Outstanding Sums as may be collected from Borrower by the Town or its collection agent within seven (7) days of collection.

D. The Town has the obligation to maintain the Guarantee CD up to the amount of the Outstanding Sums due on the Loan in full force and effect until such time as the Obligations of Borrower under the Loan Documents are fully satisfied, which may include, without limitation, the duty to renew the Guarantee CD upon demand of Lender. The Guarantee CD shall provide for automatic renewal of the Certificate of Deposit on any maturity date to ensure that the Guarantee CD is maintained through such date and time as the Obligations remain outstanding, including in the event of a default of Borrower upon the maturity date of the Note. Any interest payment which results from the renewal of the Guarantee CD shall inure solely to the benefit of the Town and shall be made directly to the Town. Notwithstanding the foregoing, the Town retains the right to provide to Lender such other form of cash, securities, or other cash-equivalent collateral, as approved by Lender, which approval shall not be unreasonably withheld, in substitution of the Guarantee CD.

E. The undersigned representative on behalf of the Town warrants that the Guarantee CD is, prior hereto or contemporaneously with the execution hereof, being delivered to the Lender; that the Guarantee CD is genuine and is in all respects what it purports to be; that the Town is the owner thereof free and clear of all liens and encumbrances; and that the Town has full power, right and authority to execute and deliver the pledge and assignment of the Guarantee CD as set forth herein.

F. The Town hereby waives, for the duration of this Assignment, all rights of setoff or liens or any other claims which it now has or might, in the future, have against the aforesaid Guarantee CD or the deposited monies upon which the Guarantee CD was issued, which may arise or relate to the default of any Obligation of Borrower.

G. The Town and Borrower hereby agree that any delay by Lender in enforcing its rights to the aforesaid Guarantee CD pursuant to the Loan Documents or hereunder shall not affect the Lender's rights to the Guarantee CD.

Section 4. Lender and Town's Agreement as to Remedies Against the Borrower.

Notwithstanding the right of Lender to exercise its remedies concurrently or without regard to priority against the Borrower, as set forth in the Loan Documents or as may be provided herein, Lender specifically agrees with the Town that Lender shall neither waive nor exercise its rights to make claim upon the Guarantee CD or the proceeds thereof until such time as Lender shall first (i) provides the Town thirty (30) day written notice of Borrower's default as set forth in Section 3(C) above, and (ii) commences to exercise its rights to file a replevin action upon, and/or a foreclosure against Borrower of the security interest encumbering, the collateral pledged by Borrower pursuant to a Security Agreement of even date herewith. The Lender agrees that the Town retains, at its discretion, the right to either (i) cure the default or (ii) to assume all of the Lender's rights and interest in the foreclosure of the Loan Documents, and to receive an endorsement of the Note by the Lender in favor of the Town, along with an assignment of all of the collateral provided by the Borrower to the Lender pursuant to and described in the Security Agreement.

Section 5. Covenants of Borrower. Borrower hereby represents and warrants unto the Town and Lender as follows:

- (a) The sole purposes for which Borrower shall use the proceeds of the Loan are paying the expenses of buildout of a new pharmaceutical research and development facility located in the Town, on the Town's Property, for the location of Borrower's operations.
- (b) Borrower shall establish and locate its facilities within Town of Jupiter boundaries.
- (c) Borrower has no claims, defenses or offsets against the Town or Lender related to the Loan, the Bio-Tech Fund, the Approval Resolution or any other matters related to the Loan of processes related to the procurement of the Loan and the Guarantee CD.
- (d) Borrower agrees to indemnify and hold the Town harmless from any loss or liability resulting from Borrower's default under any terms of the Loan Documents or the Obligations, including but not limited to, all or any portion of the Guarantee CD accessed by Lender, and any attorney's fees and expenses and other costs incurred by the Town arising out of or relating to Borrower's default and the Town's enforcement of its rights under this Agreement.
- (e) Borrower hereby grants a security interest, subordinate only to Lender's security interest under this Agreement, in all of its assets, including all collateral pledged to Lender (with the exception of the Guarantee CD), in order to secure its indemnification obligation to the Town which will be evidenced

by a separate security agreement and UCC-1. The Borrower and the Town acknowledge and recognize that the security interest granted to the Town is independent of and subordinate to the security interest granted to the Lender under the Loan Documents.

(f) In the event the Lender draws on the Guarantee CD and otherwise satisfies the Obligations in full, the Town shall be subrogated to all rights and remedies of the Lender under the Loan Documents and such rights are in addition to, and not in lieu of, the indemnification rights otherwise provided in this Agreement to the Town. The Town shall have the right to pursue those rights in any manner or sequence that it deems appropriate in its sole discretion.

Section 6. Term of Agreement. This Agreement shall continue in full force and effect and the pledge and assignments granted hereby and the duties, covenants and liabilities of the parties hereto and all the terms, conditions and provisions hereof relating thereto shall continue to be fully operative until all the Obligations created under the Note and other Loan Documents have been satisfied in full, concluded and/or liquidated.

Section 7. Miscellaneous Provisions.

(a) Survival of Warranties and Covenants - The warranties, representations, covenants and agreements set forth in this Agreement shall survive the making of the Loan and the execution and delivery of the Note, and shall continue in full force and effect until all monies due under the Note and/or under any of the Loan Documents shall have been paid in full.

(b) Further Assurances – The Town and Borrower, upon the reasonable written request of Lender, will execute, acknowledge and deliver such further instruments (including, without limitation, a declaration of no set-off) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Agreement. Lender and Borrower, upon the reasonable request of the Town, will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Agreement.

(c) Recording and Filing – Borrower, at its expense, will cause a UCC-1 Financing Statement and all supplements thereto for which constructive notice should be given to protect Lender at all times, to be recorded and filed, and re-recorded and re-filed, in such manner and in such places as Lender shall reasonably request, and will pay all such recording, filing, re-recording, re-filing taxes, fees and other charges to the maximum extent permitted by the laws of the state in which the Collateral is situated. The parties acknowledge that Borrower is granting to the Town a security interest in certain collateral of Borrower (the “**Town’s Security Interest**”), which shall be a separate security interest subordinate to the security interest of Lender. Borrower, at Borrower’s expense, will cause a UCC-1 Financing Statement and all supplements thereto to be recorded and filed to protect the Town’s Security Interest.

(d) Notices - All notices, demands, requests and other communications required under this Agreement shall be in writing and shall be deemed to have been properly given when deposited in the United States mail and sent by United States first class mail, postage prepaid, or recognized overnight courier, addressed to the party for whom it is intended at its address set forth in the preamble hereof. Any party may

designate a change of address by written notice to the others, given at least ten (10) days before such change of address is to become effective.

(e) Successors and Assigns - All of the terms of this Agreement shall apply to and be binding upon, and inure to the benefit of, the heirs, devisees, personal representatives, successors and assigns of parties hereto, respectively, and all persons claiming under or through them.

(f) Severability - In case any one or more of the provisions or any covenants contained herein shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions and covenants shall be in no way affected, prejudiced or disturbed thereby.

(g) Modification - This Agreement may not be changed, waived, discharged, released or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge, release or termination is asserted.

(k) Applicable Law - This Agreement shall be governed by and construed according to the laws in effect in the State of Florida.

(i) Headings - The article headings and the section and subsection entitlements hereof are inserted for convenience of reference only, and shall in no way alter or modify the text or substance of such articles, paragraphs and subparagraphs.

(j) Gender, etc. - The use of any gender shall include all other genders. The singular shall include the plural and the plural shall include the singular.

(k) Entire Agreement - This Agreement, including the other agreements referred to herein, is the entire agreement between the parties relating to the subject matter hereof, incorporates or rescinds all prior agreements and understandings between the parties hereto relating to the subject matter hereof, cannot be changed or terminated orally.

(l) This Agreement may be signed in multiple counterparts and together the counterparts shall constitute the binding obligation of each respective party.

Section 8. THE PARTIES AGREE THAT VENUE SHALL BE IN A COURT OF COMPETENT JURISDICTION LOCATED IN PALM BEACH COUNTY, FLORIDA, FOR ANY DISPUTE ARISING OUT OF THE LOAN OR THIS AGREEMENT. BORROWER, THE TOWN AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY AGREE NOT TO SEEK A TRIAL BY JURY AND WAIVE ANY RIGHTS TO HAVE SAME IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY CLAIMS, CROSS-CLAIMS, THIRD PARTY CLAIMS) ARISING IN CONNECTION WITH THIS AGREEMENT, THE LOAN DOCUMENTS, AND THE TRANSACTIONS CONTEMPLATED THEREIN AND ALL AND ANY COMBINATION OF THE FOREGOING.

[... signatures on following page ...]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

ATTEST:

"Town"
TOWN OF JUPITER, FLORIDA

By: _____
Sally M. Boylan, CMC
Town Clerk

By: _____
Name: Todd R. Wodraska
Title: Mayor

Approved as to Form and Legal Sufficiency:

By: _____
Thomas J. Baird, Town Attorney

Signed, sealed and delivered
in the presence of:

"Lender"
SEACOAST NATIONAL BANK

Print Name

By: _____
Name: Della E. Porter
Title: Vice President, Commercial Lending

Print Name

Signed, sealed and delivered
in the presence of:

"Borrower"
BEACON PHARMACEUTICAL JUPITER,
LLC, a Florida limited liability company

Print Name

By: _____
Name:
Title:

Print Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was sworn to, subscribed and acknowledged before me this ____ day of June, 2019, by TODD R. WODRASKA, as Mayor of the TOWN OF JUPITER, FLORIDA, and who (____) is personally known to me or (____) who has produced a _____ as identification, and who did (____) / did not (____) take oath.

[Seal]

Notary Public
Name: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was sworn to, subscribed and acknowledged before me this ____ day of June, 2019, by DELLA E. PORTER, as VICE PRESIDENT of SEACOAST NATIONAL BANK, and who (____) is personally known to me or (____) who has produced a _____ as identification, and who did (____) / did not (____) take oath.

[Seal]

Notary Public
Name: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was sworn to, subscribed and acknowledged before me this ____ day of June, 2019, by PHILIPPE GASTONE, as Manager of BEACON PHARMACEUTICAL JUPITER, LLC, a Florida limited liability company, and who (____) is personally known to me or (____) who has produced a _____ as identification, and who did (____) / did not (____) take oath.

[Seal]

Notary Public
Name: _____

LOAN AGREEMENT

THIS AGREEMENT, made as of this ___ day of June, 2019, by BEACON PHARMACEUTICAL JUPITER, LLC, a Florida limited liability company, as Borrower (hereinafter referred to as "**Borrower**"), in favor of SEACOAST NATIONAL BANK, as Lender (herein referred to as "**Lender**").

RECITALS

WHEREAS, Lender has agreed to extended credit to Borrower in the aggregate principal amount of \$500,000.00 (the "**Loan**"), as evidenced by a Promissory Note of even date herewith (the "**Note**"); and

WHEREAS, the Loan contemplates advances to be made as a non-revolving line of credit, and the parties are agreeing to the terms for advances under the Loan as set forth herein; and

WHEREAS, Lender, in consideration of and as a condition to making the Loan to Borrower, has required the execution and delivery of this Agreement by Borrower as security for Borrower's payment of the Note and the performance of the obligations of Borrower under this Agreement, the Loan, the Note, the Economic Development Loan Security Agreement between Lender, Borrower and the Town of Jupiter, Florida (the "**Tri-Party Agreement**"), a Security Agreement from Borrower to Lender (the "**Security Agreement**"), and the other loan documents executed in connection therewith, from Borrower to Lender (this Agreement, the Note, the Tri-Party Agreement, the Security Agreement and other loan documents executed in conjunction therewith are collectively referred to as "**Loan Documents**"); and

WHEREAS, Borrower has agreed to certify certain matters related to funding of the Loan.

NOW, THEREFORE, in consideration of the Loan, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, and intending to be legally bound, Borrower does hereby agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are hereby deemed incorporated herein by reference as if fully set forth.

Section 2. Loan Advances.

(a) **The Loan**. Borrower agrees to borrow the Loan from Lender, and Lender agrees to lend the Loan to Borrower, subject to the terms and conditions herein set forth, in incremental advances within eighteen (18) months from the date hereof (the "**Draw Period**") which will not exceed, in the aggregate the principal amount of Five Hundred Thousand and No/100 DOLLARS (\$500,000.000). Interest shall accrue and be payable in arrears only on sums advanced hereunder for the period of time outstanding. The Loan is not a revolving loan, and amounts repaid may not be re-borrowed.

(b) **Purpose and Advances**. During the Draw Period, the Loan shall be advanced by Lender in accordance with the terms of this Agreement, and pursuant to terms of a program approved by the Town of Jupiter, Florida, a municipal limited liability company (the "**Town**") to guaranty or provide security for the Loan pursuant to the Town's Bio-Tech Fund (the "**Bio-Tech Fund Program**"). In accordance with the BioTech Fund Program and the requirements of the Town, Borrower is to receive the proceeds of the Loan consisting of a total sum of Five Hundred Thousand and No/100 Dollars (\$ 500,000.00), and can request in three (3) tranches for advances, with the first tranche to be for Two Hundred Thousand and No/100 Dollars (\$200,000.00), the second tranche to be for One Hundred Fifty Thousand and No/100 Dollars

(\$150,000.00), and the third tranche to be for One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) (each a “**Draw**”). In accordance with the Town’s approval of the Borrower’s participation in the Bio-Tech Fund Program, the Town shall permit the disbursement of a Draw upon the compliance with the conditions set forth in Schedule 1 attached hereto. Upon compliance with the conditions set forth in Schedule 1, Borrower may submit to Lender a request for a Draw.

(c) Draw Requests. Advances for a Draw under the Loan shall be made based on Draw requests signed by an authorized officer or Member of Borrower in the form attached hereto as Schedule 2, or in another form as approved by Lender. Each Draw request shall be approved in writing by the Town prior to payment by Lender. Lender shall not be liable for any delay in approving, or rejection of, a Draw request by the Town. Lender shall have no duty to confirm the satisfaction or compliance of the conditions in Schedule 1 for any Draw. By accepting or approving a Draw, including receipt of a Draw request fully executed by Borrower and the Town, Lender shall not be deemed to have warranted or represented the sufficiency, effectiveness or compliance by Borrower of any conditions required by the Town for payment of a Draw, and any such acceptance or approval of a Draw request by Lender shall not be or constitute any warranty or representation with respect thereto by Lender.

(d) Non-Liability of Lender. Lender shall in no event be responsible or liable to any third party other than Borrower for the disbursement of or failure to disburse the Loan proceeds or any part thereof, and no third party shall have any right or claim against Lender under this Agreement or the other Loan Documents.

Section 3. Representations, Warranties and Covenants. Borrower warrants, represents, and covenants:

(a) Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida, and is duly registered to do business in the State of Florida; Borrower has the power and authority to enter into all Loan Documents relative to this transaction; and Borrower is in compliance with all laws, regulations, ordinances and orders of all public authorities applicable to it.

(b) The execution, delivery and performance by Borrower of the Note, and the Loan Documents, and the Indebtedness evidenced by the Note, (i) are within powers and purposes of Borrower; (ii) has been duly authorized by all company action; (iv) has received all necessary governmental approval, if applicable, and (v) will not violate any provision of law, any order of any court or other agency of government, the organizational documents of Borrower, or any indenture, any agreement or other instrument to which Borrower is a party.

(c) The Note and the Loan Documents, when executed and delivered by Borrower and the other parties thereto will constitute the legal, valid and binding obligations of Borrower in accordance with their respective terms.

(d) Any person signing this Agreement on Borrower's behalf has been duly authorized to sign it on Borrower's behalf.

(e) All information now or hereafter supplied by Borrower to Lender, or at Borrower's request or instruction, is correct in all material respects and may be relied upon by Lender and Lender's successors and assigns.

(f) Borrower will not commence or permit to continue any proceeding in bankruptcy or make any assignment for benefit of creditors or become insolvent or liquidate or dissolve during the period when any part of the indebtedness secured hereby remains unpaid.

Section 4. Accounts. Throughout the term of the Loan, Borrower shall maintain with Lender Borrower's primary deposit account and operating bank accounts. Without limiting the generality of the foregoing, Borrower shall maintain Seacoast National Bank as its principal depository bank, including for the maintenance of business, cash management, operating and administrative deposit accounts. Borrower hereby grants to Lender a security interest in the foregoing accounts and deposit accounts in respect of any amounts that are payable by Borrower to Lender.

Section 5. Conditions to Funding. Borrower acknowledges that as a condition to funding of the Loan, and in addition to other requirements as may be expressly set forth in the Loan Documents, the following conditions or requirements shall be satisfied:

(a) Borrower shall provide to Lender, upon such form as is reasonably acceptable to Lender and Lender's counsel, a subordination of any loans to Borrower from any members or shareholders of Borrower, as may be required by Lender;

(b) The certificate of deposit to be pledged by the Town of Jupiter, Florida (the "**Town**") in the sum of Five Hundred Thousand (\$500,000.00) (the "**Town CD**"), as collateral for the Loan, shall have a maturity date coterminous with the maturity date of the Loan;

(c) The Town shall certify to Lender, or provide Lender with an opinion letter from the Town's attorney, that all conditions precedent to the approval of the Tri-Party Agreement have been satisfied and that there are no contingencies or conditions outstanding to the pledge by the Town of the Town CD in favor of Lender in accordance with the Tri-Party Agreement;

(d) The Town shall execute and deliver to Lender the Tri-Party Agreement, in form acceptable to Lender and Lender's counsel, pledging to Lender the Town CD as security for the Loan; and

(e) Borrower shall provide to Lender an executed counterpart the Security Agreement granting a lien and security interest upon the assets of Borrower and the Business (the "**Security Interest**").

Section 6. Default and Remedies. Any default hereunder shall further constitute an Event of Default (as that term is defined in the Note) under the Note and all of the Loan Documents. Lender shall be entitled to any and all remedies provided by law and/or in equity and under the Loan Documents.

Section 7. Miscellaneous Provisions.

(a) Further Assurances - Borrower, upon the reasonable request of Lender, will execute, acknowledge and deliver such further instruments (including, without limitation, a declaration of no set-off) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Agreement.

(b) Loan Expenses - To the extent permitted by the laws of the state in which the Collateral is situated, Borrower shall pay all reasonable out-of-pocket costs and expenses incurred by Lender in connection with the preparation, execution, delivery, recording and performance of the Loan Documents, including, but not limited to, fees and disbursements of counsel appointed by Lender to prepare the Loan

Documents and close the Loan, recording costs and expenses, stamp and other taxes and policies of casualty insurance.

(c) No Representation by Lender - By accepting or approving anything required to be observed, performed or fulfilled, or to be given to Lender, pursuant to this Agreement and/or the Loan Documents, including but not limited to any officer's certificate, balance sheet, statement of income, profit and loss or other financial statement, Lender shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation with respect thereto by Lender.

(d) Successors and Assigns - All of the terms of this Agreement shall apply to and be binding upon, and inure to the benefit of, the heirs, devisees, personal representatives, successors and permitted assigns of Borrower and Lender, respectively, and all persons claiming under or through them.

(e) Severability - In case any one or more of the covenants contained herein or in any of the Loan Documents, shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants shall be in no way affected, prejudiced or disturbed thereby.

(f) Modification - This Agreement may not be changed, waived, discharged, released or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge, release or termination is asserted.

(g) Applicable Law - This Agreement shall be governed by and construed according to the laws in effect in the State of Florida.

(h) Strict Performance - Any failure by Lender to insist upon strict performance by Borrower of any of the terms and provisions of this Agreement, the Loan Documents or of the Note shall not be deemed to be a waiver of any of the terms or provisions of this Agreement, the Loan Documents, or the Note, and Lender shall have the right thereafter to insist upon strict performance by Borrower of any and all of them.

(i) Headings - The article headings and the section and subsection entitlements hereof are inserted for convenience of reference only, and shall in no way alter or modify the text or substance of such articles, paragraphs and subparagraphs.

(j) Gender, etc. - The use of any gender shall include all other genders. The singular shall include the plural and the plural shall include the singular.

(k) Time of Essence - Time is specifically made of the essence with respect to the performance by the Borrower.

(l) Non Waiver - Lender's acceptance of partial or delinquent payments or its exercise or failure or delay to exercise any right or remedy, shall not constitute a waiver of any right of Lender of any nature including, but not limited to, the right to execute such right or remedy in the future at any time, or constitute a modification of this Agreement or of the Note or Loan Documents.

(m) Entire Agreement - This Agreement (and other Loan Documents referred to herein) is the entire agreement between the parties relating to the subject matter hereof, incorporates or rescinds all prior agreements and understandings between the parties hereto relating to the subject matter hereof, cannot be

changed or terminated orally and shall be deemed effective as of the date it is accepted by Lender at its offices above set forth.

Section 9. BORROWER HEREBY AGREES THAT VENUE SHALL BE IN A COURT OF COMPETENT JURISDICTION LOCATED IN PALM BEACH COUNTY, FLORIDA, FOR ANY DISPUTE ARISING OUT OF THE LOAN OR THIS AGREEMENT, WHICH SHALL BE GOVERNED BY AND ENFORCEABLE UNDER THE LAWS OF THE STATE OF FLORIDA. BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY AGREE NOT TO SEEK A TRIAL BY JURY AND WAIVE ANY RIGHTS TO HAVE SAME IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY CLAIMS, CROSSCLAIMS, THIRD PARTY CLAIMS) ARISING IN CONNECTION WITH THIS AGREEMENT, THE LOAN DOCUMENTS, AND THE TRANSACTIONS CONTEMPLATED THEREIN AND ALL AND ANY COMBINATION OF THE FOREGOING. BORROWER ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, INTER ALIA, THE PROVISIONS OF THE PARAGRAPH

IN WITNESS WHEREOF, the Borrower has executed this Agreement on the day and year first above written.

Signed, sealed and delivered
in the presence of:

"Borrower" BEACON PHARMACEUTICAL
JUPITER, LLC, a Florida limited liability
company

Print Name

By: _____
Name: Philippe Gastone
Title: Manager

Print Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was sworn to, subscribed and acknowledged before me this ____ day of June, 2019, by PHILIPPE GASTONE, as Manager of BEACON PHARMACEUTICAL JUPITER, LLC, a Florida limited liability company, who (____) is personally known to me or (____) who has produced a _____ as identification, and who did (____) / did not (____) take oath.

[Seal]

Notary Public
Name: _____

SCHEDULE 1

DRAW REQUEST NO. 1 – Tranche #1: \$200,000.00: Conditions required by Town:

- Borrower submits documents for land use and site plan approval by the Town for a research and development facility totaling not less than 150,000.00 square feet to be constructed in the Town of Jupiter.

DRAW REQUEST NO. 2 – Tranche #2: \$150,000.00: Conditions required by Town:

- Borrower obtains an approved Development Order from the Town for a facility totaling not less than 150,000.00 square feet to be constructed in the Town of Jupiter

DRAW REQUEST NO. 3 – Tranche #3: \$150,000.00: Conditions required by Town:

- Borrower receives a final certificate of occupancy from the Town for the facility totaling not less than 150,000.00 square feet to be constructed in the Town of Jupiter and the issuance of final building permits for such facility.

SCHEDULE 2

NON-REVOLVING LINE OF CREDIT

DRAW REQUEST

TO: Seacoast National Bank
P O Box 9012
Stuart, FL 34995

ATTN: Loan Servicing Department
FAX # (772) 288-4187 Martin & St. Lucie Counties
FAX # (866) 263-2504 Toll Free

FROM: BEACON PHARMACEUTICAL JUPITER, LLC

Please accept this signed request as your authorization to draw against our Non-Revolving Line of Credit # _____ /Note # _____ for \$ _____ and deposit to our Seacoast National Bank checking account # _____.

Please fax this completed form to either of the numbers listed above. All requests received before 4:00 p.m. will be processed the same day.

BORROWER: BEACON PHARMACEUTICAL
JUPITER, LLC, a Florida limited liability company

DRAW REQUEST APPROVED BY TOWN:
TOWN OF JUPITER, FLORIDA

By: _____
Name:
Title:
Date: _____

By: _____
Name:
Title:
Date: _____

For Bank Use Only:

Date Received _____ Time _____

Approved by: _____

PROMISSORY NOTE

\$500,000.00

June ___, 2019

FOR VALUE RECEIVED, **Beacon Pharmaceutical Jupiter, LLC**, a Florida limited liability company (the “**Borrower**”), hereby promises to pay to the order of **SEACOAST NATIONAL BANK**, a National Banking Association (together with any and all of its successors and assigns and/or any other holder of this Note, the “**Lender**”), without offset, in immediately available funds in lawful money of the United States of America, at P.O. Drawer 9012, 815 Colorado Avenue, Stuart, Florida 34994-9012, the principal sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) (or the unpaid balance of all principal advanced against this Note, if that amount is less), together with interest on the unpaid principal balance of this Note from day to day outstanding as hereinafter provided.

During the initial eighteen (18) months of this Note, Borrower shall have the right to borrow, in accordance with the Loan Agreement of even date herewith between Borrower and Lender (the “**Loan Agreement**”), the principal amount evidenced by this Note, on the condition that (a) no Event of Default (as defined herein) exists, (b) Lender has not made demand under this Note that remains unpaid, (c) the unpaid principal balance due under this Note at any one time does not exceed the original principal amount of this Note, and (d) all additional conditions to the right to borrow as set forth in the Loan Documents have been satisfied. This Note reflects a non-revolving line of credit, and the actual indebtedness from time-to-time outstanding shall be the sum of all advances made by Lender to Borrower pursuant to the Loan Agreement, less the aggregate amount of all principal repayments made under the Loan by Borrower to Lender, not to exceed the Loan Amount.

Section 1 Payment Schedule and Maturity Date. During the initial eighteen (18) month term of this Note, Borrower shall pay to Lender monthly payments of interest only on the outstanding principal balance from time-to-time outstanding, on the _____ () day of each month beginning on the month following the date of this Note. Following the initial eighteen (18) month term of this Note, Borrower shall pay Lender equal monthly payments of principal and interest, based upon a ten (10) year amortization period, the outstanding principal balance and the rate of interest as determined in accordance with Section 3(a) below. The first installment of principal and interest shall be due and payable on January ___, 2021, and a like installment shall be due and payable on the _____ () day of each succeeding month thereafter, until this Note shall have been fully paid and satisfied.

The entire principal balance of this Note then unpaid, together with all accrued and unpaid interest and all other amounts payable hereunder and under the other Loan Documents (as hereinafter defined), shall be due and payable in full on June ___, 2025 (the “**Maturity Date**”), the final maturity of this Note.

Section 2 Security; Loan Documents. The security for this Note includes a Security Agreement (as the same may from time to time be amended, restated, modified or supplemented, the “**Security Agreement**”) of even date herewith from Borrower to Lender, conveying and encumbering certain personal property more particularly described therein (the “**Property**”), together with an Economic Development Loan Pledge Agreement of even date herewith entered into between Borrower, Lender and the Town of Jupiter, Florida (the “**Tri-Party Agreement**”). This Note, the Security Agreement, the Tri-Party Agreement, the Loan Agreement, and all other documents now or hereafter securing, guaranteeing or executed in connection with the loan evidenced by this Note (the “**Loan**”), as the same may from time to time be amended, restated, modified or supplemented, are herein sometimes called individually a “**Loan Document**” and together the “**Loan Documents**.”

Section 3 Interest Rate.

(a) **Fixed Rate.** During the term of this Note, the unpaid principal balance of this Note from day to day outstanding, which is not past due, shall bear interest at the rate of Five and 38/100 percent (5.38%) per annum. Interest shall be computed for the actual number of days which have elapsed, on the basis of a 360-day year.

Initials: _____

(b) Past Due Rate. If any amount payable by Borrower under any Loan Document is not paid when due, such amount shall thereafter bear interest at the Past Due Rate (as defined below) to the fullest extent permitted by applicable law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable on demand, and interest shall accrue thereon at a rate per annum (the "**Past Due Rate**") equal to the lesser of: (i) twenty-five (25%) percent per annum, or (ii) the highest non-usurious rate permitted under applicable law.

Section 4 Prepayment. Borrower may prepay the principal balance of this Note, in full at any time or in part from time to time, without fee, premium or penalty, provided that: (a) Lender shall have actually received from Borrower prior written notice of (i) Borrower's intent to prepay, (ii) the amount of principal which will be prepaid (the "**Prepaid Principal**"), and (iii) the date on which the prepayment will be made; (b) each prepayment shall be in the amount of \$1,000 or a larger integral multiple of \$1,000 (unless the prepayment retires the outstanding balance of this Note in full); and (c) each prepayment shall be in the amount of 100% of the Prepaid Principal, plus accrued unpaid interest thereon to the date of prepayment, plus any other sums which have become due to Lender under the Loan Documents on or before the date of prepayment but have not been paid. If this Note is prepaid in full, any commitment of Lender for further advances shall automatically terminate.

Section 5 Late Charges. If Borrower shall fail to make any payment under the terms of this Note (other than the payment due at maturity) within ten (10) days after the date such payment is due, Borrower shall pay to Lender on demand a late charge equal to five percent (5%) of the amount of such payment. Such ten (10) day period shall not be construed as in any way extending the due date of any payment. The late charge is imposed for the purpose of defraying the expenses of Lender incident to handling such delinquent payment. This charge shall be in addition to, and not in lieu of, any other amount that Lender may be entitled to receive or action that Lender may be authorized to take as a result of such late payment.

Section 6 Certain Provisions Regarding Payments. All payments made under this Note shall be applied, to the extent thereof, to late charges, to accrued but unpaid interest, to unpaid principal, and to any other sums due and unpaid to Lender under the Loan Documents, in such manner and order as Lender may elect in its sole discretion, any instructions from Borrower or anyone else to the contrary notwithstanding. Remittances shall be made without offset, demand, counterclaim, deduction, or recoupment (each of which is hereby waived) and shall be accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Lender of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only, notwithstanding any notation on or accompanying such partial payment to the contrary, and shall not in any way (a) waive or excuse the existence of an Event of Default (as hereinafter defined), (b) waive, impair or extinguish any right or remedy available to Lender hereunder or under the other Loan Documents, or (c) waive the requirement of punctual payment and performance or constitute a novation in any respect. Payments received after 2:00 p.m. shall be deemed to be received on, and shall be posted as of, the following Business Day. Whenever any payment under this Note or any other Loan Document falls due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day.

Section 7 Events of Default. The occurrence of any one or more of the following shall constitute an "**Event of Default**" under this Note:

(a) Borrower fails to pay when and as due and payable any amounts payable by Borrower to Lender under the terms of this Note.

(b) Any covenant, agreement or condition in this Note is not fully and timely performed, observed or kept, subject to any applicable grace or cure period.

(c) An Event of Default (as therein defined) occurs under any of the Loan Documents other than this Note (subject to any applicable grace or cure period).

(d) The filing of any petition under the Bankruptcy Act, or any similar federal or state statute, by or against Borrower or any Guarantor of the Loan; provided that in the case of the filing of a petition against the Borrower the proceedings are not stayed or dismissed within sixty (60) days of the filing.

(e) An application for the appointment of a receiver for, the making of a general assignment for the benefit of creditors by, or the insolvency of Borrower.

(f) The entry of a final, non-appealable judgment against Borrower in an amount in excess of Five Thousand and No/100 Dollars (\$5,000.00) which is not satisfied or bonded over in full within thirty (30) days following the date of entry.

(g) The issuing of any attachments or garnishment, or the filing of any lien against any material property of any Borrower.

(h) The taking of possession of any substantial part of the property of Borrower at the instance of any governmental authority.

(i) The assignment by Borrower of any equity in any of the pledged Collateral, or other material property of any Borrower in which Lender has a security interest without the written consent of Lender.

(j) The failure to do all things necessary to preserve and maintain the value and collectability of the Collateral, or other property of Borrower in which Lender has a security interest.

(k) Any written notification from the Town of Jupiter, Florida (the “**Town**”) that Borrower is in default or not in compliance with the terms and conditions of any Loan Documents or any conditions or agreements by which the Town has approved the Guarantee CD securing the Loan to Borrower, including, without limitation, the Economic Development Loan Pledge Agreement, the Town Resolution, the terms of the Town’s Bio-Tech Loan, or any other instruments of the Town related to the Loan.

Section 8 Remedies. Upon the occurrence of an Event of Default, Lender may at any time thereafter upon written notice to Borrower, exercise any one or more of the following rights, powers and remedies:

(a) Lender may accelerate the Maturity Date and declare the unpaid principal balance and accrued but unpaid interest on this Note, and all other amounts payable hereunder and under the other Loan Documents, at once due and payable, and upon such declaration the same shall at once be due and payable.

(b) Lender may set off the amount due against any and all accounts, credits, money, securities or other property now or hereafter on deposit with, held by or in the possession of Lender to the credit or for the account of Borrower, without further notice to or the consent of Borrower.

(c) Lender may exercise any of its other rights, powers and remedies under the Loan Documents or at law or in equity.

(d) Lender may assign the Loan Documents to the Town.

Section 9 Remedies Cumulative. All of the rights and remedies of Lender under this Note and the other Loan Documents are cumulative of each other and of any and all other rights at law or in equity, and the exercise by Lender of any one or more of such rights and remedies shall not preclude the simultaneous or later exercise by Lender of any or all such other rights and remedies. No single or partial exercise of any right or remedy shall exhaust it or preclude any other or

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further exercise thereof, and every right and remedy may be exercised at any time and from time to time. No failure by Lender to exercise, nor delay in exercising, any right or remedy shall operate as a waiver of such right or remedy or as a waiver of any Event of Default. Any judgment rendered on this Note shall bear interest at the maximum rate permitted pursuant to Chapter 687, Florida Statutes.

Section 10 Costs and Expenses of Enforcement. Borrower agrees to pay to Lender on demand all reasonable out-of-pocket costs and expenses incurred by Lender in seeking to collect this Note or to enforce any of Lender's rights and remedies under the Loan Documents, including court costs and reasonable attorneys' fees and expenses, whether or not suit is filed hereon, or whether in connection with bankruptcy, insolvency or appeal.

Section 11 Service of Process.

Borrower hereby consents to process being served in any suit, action, or proceeding instituted in connection with this Note by (a) the mailing of a copy thereof by certified mail, postage prepaid, return receipt requested, to Borrower in accordance with Section 14 of this Note and (b) serving a copy thereof upon Philippe Gastone, the agent hereby designated and appointed by Borrower as Borrower's agent for service of process. Borrower irrevocably agrees that such service shall be deemed to be service of process upon Borrower in any such suit, action, or proceeding. Nothing in this Note shall affect the right of Lender to serve process in any manner otherwise permitted by law and nothing in this Note will limit the right of Lender otherwise to bring proceedings against Borrower in the courts of any jurisdiction or jurisdictions, subject to any provision or agreement for arbitration or dispute resolution set forth in the Loan Documents.

Section 12 Heirs, Successors and Assigns. The terms of this Note and of the other Loan Documents shall bind and inure to the benefit of the heirs, devisees, representatives, successors and permitted assigns of the parties. The foregoing sentence shall not be construed to permit Borrower to assign the Loan except as otherwise permitted under the Loan Documents.

Section 13 General Provisions. Time is of the essence with respect to Borrower's obligations under this Note. Borrower and each party executing this Note as Borrower does hereby (a) waive demand, presentment for payment, notice of dishonor and of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices (except any notices which are specifically required by this Note or any other Loan Document), filing of suit and diligence in collecting this Note or enforcing any of the security herefor; (b) agree to any substitution, subordination, exchange or release of any such security or the release of any party primarily or secondarily liable hereon; (c) agree that Lender shall not be required first to institute suit or exhaust its remedies hereon against Borrower or others liable or to become liable hereon or to perfect or enforce its rights against them or any security herefor; (d) consent to any extensions or postponements of time of payment of this Note for any period or periods of time and to any partial payments, before or after maturity, and to any other indulgences with respect hereto, without notice thereof to any of them; and (e) submit (and waive all rights to object) to non-exclusive personal jurisdiction of any state or federal court sitting in the state and county in which payment of this Note is to be made for the enforcement of any and all obligations under this Note and the other Loan Documents; (f) waive the benefit of all homestead and similar exemptions as to this Note; (g) agree that their liability under this Note shall not be affected or impaired by any determination that any title, security interest or lien taken by Lender to secure this Note is invalid or unperfected; and (h) hereby subordinate to the Loan and the Loan Documents any and all rights against Borrower and any security for the payment of this Note, whether by subrogation, agreement or otherwise, until this Note is paid in full. A determination that any provision of this Note is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Note to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances. This Note may not be amended except in a writing specifically intended for such purpose and executed by the party against whom enforcement of the amendment is sought. Captions and headings in this Note are for convenience only and shall be disregarded in construing it. This Note and its validity, enforcement and interpretation shall be governed by the laws of the state in which payment of this Note is to be made (without regard to any principles of conflicts of laws) and applicable United States federal law. Whenever a time of day is referred to herein, unless otherwise specified such time shall be the local time of the place where payment of this Note is to be made. The term "Business Day" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which this Note is payable (excluding Saturdays and Sundays). Capitalized terms used herein without

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definition shall have the meanings ascribed to such terms in the Loan Agreement. The words “include” and “including” shall be interpreted as if followed by the words “without limitation.”

Section 14 Notices. All Notices required or which any party desires to give hereunder or under any other Loan Document shall be in writing and, unless otherwise specifically provided in such other Loan Document, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service or by certified United States mail, postage prepaid, addressed to the party to whom directed at the applicable address set forth below (unless changed by similar notice in writing given by the particular party whose address is to be changed) or by facsimile. Any Notice shall be deemed to have been given either at the time of personal delivery, when delivered on a Business Day, or, in the case of a recognized courier service, the Business Day following the day given to the courier service for deliver, or in the case of mail four (4) Business Days after being deposited in the United States Postal Service (with all postage paid) ; provided that service of a Notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in this Agreement or in any other Loan Document or to require giving of notice or demand to or upon any Person in any situation or for any reason.

The address of Borrower is:

Beacon Pharmaceutical Jupiter, LLC
Attn: Philippe Gastone
2000 PGA Blvd #4440
Palm Beach Gardens, FL 33408

The address of Lender are:

Seacoast National Bank
Attn: Commercial Loan Department
815 Colorado Avenue
Stuart, Florida 34994

With Copy to:
Seacoast National Bank
3001 PGA Blvd, Suite 200
Palm Beach Gardens, FL 33410
Attention: Della E. Porter, Vice President

Section 15. Additional Rights. Lender is hereby given a lien upon and a security interest in all property of Borrower now or at any time hereafter in the possession of Lender in any capacity whatsoever, including but not limited to any balance or share of any deposit, trust or agency account, as security for the payment of this Note, and Lender shall have the same rights as to such property as it has with respect to the collateral pledged by Borrower.

Section 16 No Usury. It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Section shall control every other covenant and agreement in this Note and the other Loan Documents. If applicable state or federal law should at any time be judicially interpreted so as to render usurious any amount called for under this Note or under any of the other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Loan, or if Lender’s

Initials: _____

exercise of the option to accelerate the Maturity Date, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of this Note, and the provisions of this Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use or forbearance of the Loan shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the maximum lawful rate from time to time in effect and applicable to the Loan (the "Maximum Rate") for so long as the Loan is outstanding. The Lender may, in determining the Maximum Rate, take advantage of: (i) the rate of interest permitted by Florida Statutes, Chapter 658, by reason of both Section 687.12 Florida Statutes ("Interest rates; parity among licensed lenders or creditors") and 12 United States Code, Sections 85 and 86, and (ii) any other law, rule, or regulation on effect from time to time, available to Lender which exempts Lender from any limit upon the rate of interest it may charge or grants to Lender the right to charge a higher rate of interest than that allowed by Florida Statutes, Chapter 687.

Section 17 Additional Provisions.

(a) THE LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

(b) THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

(c) BORROWER AND LENDER WAIVE TRIAL BY JURY IN RESPECT OF ANY DISPUTE AND ANY ACTION ON DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY BORROWER AND LENDER, AND BORROWER AND LENDER HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. BORROWER AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. BORROWER FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS NOTE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

IN WITNESS WHEREOF, Borrower has duly executed this Note under seal as of the date first above written.

"Borrower"

Beacon Pharmaceutical Jupiter, LLC, a Florida
limited liability company

By: _____
Name: Philippe Gastone
Title: Manager

Initials: _____