

12-13-2002

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

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U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Marathon Technologies Corporation

- Individual(s) Association General Partnership Limited Partnership Corporation-State DE Other

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 10/16/2002

2. Name and address of receiving party(ies)

Name: Green Mountain Capital, LP

Internal Address: Suite 3

Street Address: 25 Cross Road

City: Waterbury State: VT Zip: 05676

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

76/211025 76/732849 76/732850 76/361392

Additional number(s) attached Yes No

2,430,405 2,030,522 2,283,204

B. Trademark Registration No.(s)

2,181,366 2,621,745 2,582,809 2,072,089 2,055,099

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Susan M. Mulholland

Internal Address: Lucash, Gesmer & Updegrave

Street Address: 40 Broad Street

City: Boston State: MA Zip: 02109

6. Total number of applications and registrations involved:

12

7. Total fee (37 CFR 3.41) \$ 315.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Susan M. Mulholland

Name of Person Signing

Signature

12/13/02

Date

Total number of pages including cover sheet, attachments, and document: 7

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK REEL: 002632 FRAME: 0543

12-13-02

12/13/2002 TDIAZI 00000116 2430405 01 FC:8521 40.00 DP 02 FC:8522 275.00 OP

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR APPLICABLE STATE SECURITIES LAWS. THIS NOTE HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE, AND MAY NOT BE MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE SECURITIES ACT OF 1933 AND APPLICABLE STATE SECURITIES LAWS, OR AN OPINION OF COUNSEL SATISFACTORY TO THE MAKER THAT REGISTRATION IS NOT REQUIRED UNDER SUCH ACT AND SUCH STATE SECURITIES LAWS.

MARATHON TECHNOLOGIES CORPORATION

SECURED PROMISSORY NOTE

October 16, 2002

\$50,000.00

FOR VALUE RECEIVED, Marathon Technologies Corporation, a Delaware corporation (the "Maker"), hereby promises to pay to Green Mountain Capital, L.P. (the "Holder") at the Holder's principal address located at RD 1, Box 1503, Waterbury, VT 05676, or at such other address as the Holder may designate in writing, the principal sum of Fifty Thousand Dollars (\$50,000.00), together with accrued interest from the date hereof on the principal amount of this Note from time to time outstanding at a rate equal to ten percent (10%) per annum. Subject to the terms and conditions set forth herein, the entire sum of this Note, both principal and accrued interest, shall be due and payable ON DEMAND. Any payments of principal and interest hereunder shall be credited first to the accrued interest and the remainder applied to principal. The Maker agrees to use the proceeds of this Note for working capital purposes only.

This Note is one of several similar notes issued or to be issued in the aggregate principal amount of up to Eight Hundred Thousand Dollars (\$800,000) (or such greater amount as the Board of Directors of the Maker may hereafter approve). This Note and such other notes are collectively referred to as the "Notes." This Note is subject to the following terms and conditions:

The Maker may prepay this Note, at any time or from time to time, in whole or in part without penalty.

Holder may at any time sell, assign or transfer all or any part of the Note which the Holder owns or hereafter acquires; provided that any such transferee agrees to be bound by all provisions of this Note.

The Maker hereby grants to the Holder, for his own benefit and as agent for subsequent holders of the Note, to secure the payment and performance of all obligations of the Maker to such

persons arising pursuant to this Note, a security interest in the following property of the Maker and any and all additions, substitutions, accessions, proceeds and products thereto or thereof: all of the Maker's property, tangible or intangible, now or hereafter existing and wherever located, including, without limitation, all of its inventory, goods, materials, machinery, equipment, accounts, accounts receivable, contract rights, chattel paper, instruments, software programs, specifications, source code, engineering designs, trade secrets and other proprietary technology, notes, memoranda, drawings and other data, general intangibles, computer hardware and peripheral equipment, and all other assets of any kind now existing or hereafter arising (collectively, the "Collateral").

The Holder of this Note hereby designates Green Mountain Capital, L.P. as its Collateral Agent (the "Agent") to take any and all actions to enforce the rights of the Holder (and the Holder's successors in interest) its rights hereunder; provided, however, that the Agent shall have no authority to obligate the Holder to make any expenditures. Any and all actions taken by the Agent hereunder shall be in favor of and for the benefit of the Holders and their successors in interest. In the event of a sale of the Collateral as contemplated below, the Agent shall distribute the proceeds of such sale in accordance with each Holder's pro rata share of the obligations owed by the Maker. Holder acknowledges that Green Mountain Capital, L.P. is being appointed by each Holder as the Collateral Agent under each Note in order to achieve a fair and equitable treatment of all Holders under all Notes; accordingly, Holder agrees that the appointment of Green Mountain Capital, L.P. as its Collateral Agent hereunder shall be irrevocable, absent the written consent of Green Mountain Capital, L.P. or the written consent of Holders representing a majority in interest of the Notes then outstanding.

The Maker will keep the Collateral in good order and repair, and will not use the same in violation of law or any policy of insurance. The Holder or its representatives (including without limitation the Agent) may inspect the Collateral at any reasonable time, wherever located. The Maker will promptly pay when due all taxes and other assessments upon the Collateral for its use or operation.

In its discretion, the Holder may discharge taxes and other encumbrances at any time levied or placed on the Collateral, make repairs thereof, place and pay for insurance thereon, and pay any necessary filing fees. The Maker agrees to reimburse the Holder on demand for any and all expenditures so made, and until paid, the amount thereof shall be a debt secured by the Collateral. The Holder shall have no obligation to the Maker to make any such expenditures. The Holder may act as an attorney for the Maker in making, adjusting and settling claims under any insurance covering the Collateral.

The Maker may have possession and use of the Collateral until the occurrence of an Event of Default (as defined below). Upon the happening of any Event of Default, and as long as such Event of Default continues, the Holder shall have in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies under law, the rights and remedies of a secured party under the Uniform Commercial Code of the Commonwealth of Massachusetts, including without limitation

the right to take immediate possession of the Collateral. The Holder will give the Maker at least 10 day's prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale thereof is to be made. From the proceeds of the sale, the Holder shall be entitled to retain (i) all sums secured hereby, (ii) reasonable expenses of retaking, holding, preparing for sale and selling the Collateral, and (iii) reasonable legal expenses incurred by the Holder in connection with such sale.

The Maker and all endorsers and guarantors of this Note waive demand, notice, protest, notice of acceptance of this Note, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect both to the Notes and the Collateral, the Maker and all endorsers and guarantors of this Note assent to any extension or postponement of the time of payment or any other indulgence to any substitution, exchange or release of Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromise, or adjusting of any part thereof, all in such manner and at such time or times as the Holder may deem advisable. The Holder may exercise its rights with respect to the Collateral without regard to other Collateral or other sources of reimbursement of liability.

Each of the following events shall constitute an "Event of Default" under this Note:

(a) The Maker shall fail to pay any installment of principal or interest of the Note when due; or

(b) The Maker or any subsidiary shall fail to pay an indebtedness for borrowed money (other than as evidenced by the Note) owing by the Maker or such subsidiary (as the case may be), or any interest or premium thereon, when due (or, if permitted by the terms of the relevant document, within any applicable grace period), whether such indebtedness shall become due at maturity, by acceleration, or otherwise, or shall fail to perform any term, covenant or agreement on its part to be performed under any agreement or instrument (other than the Note) evidencing or securing or relating to any indebtedness owing by the Maker or any subsidiary, as the case may be, when required to be performed (or, if permitted by the terms of the relevant document, within any applicable grace period), if the effect of such failure to pay or perform is to accelerate, or to permit the holder or holders of such indebtedness, or the trustee or trustees under any such agreement or instrument to accelerate, the maturity of such indebtedness, unless such failure to pay or perform shall be waived by the holder or holders of such indebtedness or such trustee or trustees; or

(c) The Maker or any subsidiary shall be involved in financial difficulties as evidenced (i) by its admitting in writing its inability to pay its debts generally as they become due; (ii) by its commencement of a voluntary case under Title 11 of the United States Code as from time to time in effect, or by its authorizing, by appropriate procedure of its Board of Directors or other governing body, the commencement of such a voluntary case, (iii) by its filing an answer or other pleading admitting or failing to deny the material allegations of a petition filed against it commencing an involuntary case under said Title 11, or seeking, consenting to or acquiescing in the

relief therein provided, or by its failing to controvert timely the material allegations of any such petition; (iv) by the entry of an order for relief in any involuntary case commenced under said Title 11; (v) by its seeking relief as a debtor under any applicable law, other than said Title 11, of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by its consenting to or acquiescing in such relief; or (vi) by its making an assignment for the benefit of, or entering into a composition with, its creditors, or appointing or consenting to the appointment of a receiver or other custodian for all or a substantial part of its property; or

(d) Any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against a substantial part of the property of the Maker or any subsidiary and such judgment, writ, or similar process shall not be released, vacated or fully bonded within sixty (60) days after its issue or levy.

Upon any Event of Default, the entire unpaid principal sum of this Note, together with accrued and unpaid interest thereon, shall become immediately due and payable.

The Maker shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to satisfy the obligations. The Maker shall also be liable for all expenses of the Holders incurred in connection with collecting such deficiency, including, without limitation, the reasonable fees and disbursements of any attorneys employed by the Holders to collect such deficiency.

The Maker shall reimburse the Holders for all their expenses in connection with the exercise of their rights hereunder, including, without limitation, all reasonable attorneys' fees and legal expenses incurred by the Holders. Expenses of retaking, holding, preparing for sale, selling or the like shall include the reasonable attorneys' fees and legal expenses of the Holders. All such expenses shall be secured hereby.


The terms and conditions of this Note may be modified with the written consent of the Maker and the holders of an aggregate of a majority in interest of the Notes outstanding at that time and such modifications shall be effective as to all of the Notes then outstanding. In addition, the terms and conditions of this Note may be modified with the written consent of the Maker and the holder of this Note.

The Maker hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

The Maker agrees that any delay on the part of the Holder in exercising any right hereunder will not operate as a waiver of such right. This Note shall be binding upon and inure to the benefit of the Holder and his, her or its successors and assigns. This Note shall be construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to its choice of law or conflicts of laws rules.

This Note has been executed under seal on the day and year first above written.

MARATHON TECHNOLOGIES CORPORATION

By: 
Name: GEORGE C. TRANOS
Title: President

Acknowledged and Agreed:
By: _____
Name:
Title: