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**CONSIDERATIONS FOR PPP NOTE**

You should always consult with your bank attorney when preparing loan documents. We have put together some information for your consideration when utilizing your own note forms. We are also advised that forms vendors have either prepared a note or are in the process of preparing notes for use with the PPP program.

**NOTE TERMS MUST DISCLOSE THE TERMS OF THE PROGRAM**

Initial Deferment Period: No payments due for 6 months from the date of first disbursement of this loan. Interest will continue to accrue during the deferment period.

Maturity: This Note will mature two years from the date of first disbursement of this loan.

Interest: The interest rate on this Note is one percent (1%) per year. The interest rate is fixed and will not be changed during the life of the loan. Interest is calculated on an actual/365 method.

Payment Application

Lender will apply each installment payment first to pay interest accrued to the day Lender received the payment, then to bring principal current, and will apply any remaining balance to reduce principal.

Prepayment: Borrower may prepay this Note at any time without penalty. Borrower may prepay 20 percent or less of the unpaid principal balance at any time without notice.

If Borrower prepays more than 20 percent and the Loan has been sold on the secondary market, Borrower must:

- a. Give Lender written notice;
- b. Pay all accrued interest; and
- c. If the prepayment is received less than 21 days from the date Lender received the notice, pay an amount equal to 21 days interest from the date lender received the notice, less any interest accrued during the 21 days and paid under b. of this paragraph.

If Borrower does not prepay within 30 days from the date Lender received the notice, Borrower must give Lender a new notice.

Non-Recourse. Lender shall have no recourse against any individual shareholder, member or partner of Borrower for non-payment of the loan, except to the extent that such shareholder, member or partner uses the loan proceeds for an unauthorized purpose.

Demand Clause: Your note should not contain a demand clause.

Assignability: Your note should not contain a clause prohibiting assignment by payee to any third party.

Example wording for payment terms where the balance would amortize over 18 months:

Principal and interest will be deferred for six (6) months from the date of this Note. The outstanding balance in existence six (6) months from the date of this note will be used to calculate a principal and interest payment reflecting an amount that will fully amortize the balance over a period of eighteen (18) months.

### **Required SBA Language**

When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

### **Other Important Considerations:**

#### Loan Forgiveness:

The loan is being made to the Borrower pursuant to the Paycheck Protection Program (Program) administered by the Small Business Administration (SBA). Pursuant to the Program, all or a portion of the loan may be forgiven if Borrower uses the proceeds of the loan for its payroll costs and other expenses in accordance with the requirements of the Program. But if the loan is not fully forgiven, Borrower will remain liable for the full and punctual payment and satisfaction of the remaining principal balance of the loan plus accrued but unpaid interest.

#### Maker Confirmations:

- a. Borrower has received a copy of the Authorization.
- b. Borrower acknowledges that if Borrower defaults on the loan, SBA may be required to pay Lender under the SBA guarantee, and SBA may then seek recovery on the loan (to the extent any balance remains after loan forgiveness).
- c. Borrower will keep books and records in a manner satisfactory to Lender, furnish financial statements as requested by Lender, and allow Lender and SBA to inspect and audit books, records and papers relating to Borrower's financial or business condition.
- d. Borrower will not, without Lender's consent, changes its ownership structure, make any distribution of company assets that would adversely affect its financial condition, or transfer (including pledging) or dispose of any assets, except in the ordinary course of business.
- e. All certifications and statements made by Borrower in its application for credit are true and correct, and I understand that Lender is relying upon their accuracy and truthfulness.

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