

7a Wizard v 2011 What's New Detailed

Loan Information Section

From:

SBA approves, under Section 7(a) of the Small Business Act as amended [~~OPTION—~~, as well as Section(s) [~~SELECT—501, 502, or 501 and 502~~] of the American Recovery and Reinvestment Act of 2009], [~~or DFP, or 501 and DFP only—~~ and the Dealer Floor Plan Pilot Initiative as published in the Federal Register on July 6, 2009 (74 FR 32006),] Lender's application, received [**Date Accepted**], for SBA to guarantee [**Percent Guaranteed**] % of a loan ("Loan") in the amount of \$[**Loan Amount**] to assist:

To:

SBA approves, under Section 7(a) of the Small Business Act as amended Lender's application, received [**Date Accepted**], for SBA to guarantee [**Percent Guaranteed**] % of a loan ("Loan") in the amount of \$[**Loan Amount**] to assist:

Loan Information Section

Section A. Guarantee Fee

From:

Lender must pay the guarantee fee within 90 days of the approval date of this Authorization. Failure to timely pay the guarantee fee will result in cancellation of the SBA guarantee. The 90-day deadline may not be extended. Lenders are required to make their payments electronically. Payment can be made at www.pay.gov or by ACH if they have previously enrolled with the SBA. No part of the guarantee fee is refundable if Lender has made any disbursement. Lender may collect this fee from Borrower after initial disbursement of Loan. Borrower may use Loan proceeds to reimburse Lender for the guarantee fee.

To:

Lender must pay the guarantee fee within 90 days of the approval date of this Authorization. Failure to timely pay the guarantee fee will result in cancellation of the SBA guarantee. The 90-day deadline may not be extended. Lenders are required to make their payments electronically. Payment can be made at www.pay.gov or by ACH if they have previously enrolled with the SBA. No part of the guarantee fee is refundable if Lender has made any disbursement. Lender may collect this fee from Borrower after initial disbursement of Loan, except when an escrow closing is used, Lender may not collect the fee until all Loan funds have been disbursed to the Borrower from the escrow account. Borrower may use Loan proceeds to reimburse Lender for the guarantee fee.

Section A, Recovery Act Approval

From:

Payment of the guarantee fee will be made by SBA subject to Section 501 of the American Recovery and Reinvestment Act of 2009. Lender must not charge or collect this fee from the borrower. Borrower has no obligation to pay this fee when the fee has been paid by SBA.

To: (Paragraph has been deleted.)

Section D., Required Forms

To: (A new paragraph has been added):

***THE FOLLOWING LANGUAGE WILL APPEAR WHEN
A SMALL LOAN ADVANTAGE OR DEALER FLOOR PLAN
LOAN IS SELECTED***

NOTE: THIS IS A SMALL LOAN ADVANTAGE (SLA) LOAN OR A DEALER FLOOR PLAN (DFP) LOAN. A PLP LENDER MAKING AN SLA LOAN OR A LENDER WITH DELEGATED AUTHORITY UNDER THE DFP PILOT PROGRAM MAKING A DFP LOAN MAY USE ITS OWN NOTE AND GUARANTEE AGREEMENTS IN LIEU OF THE SBA NOTE AND GUARANTEE AGREEMENTS.

From:

2. Lender may use computer-generated versions of mandatory SBA Forms, as long as these versions are exact reproductions.

To:

2. Lender may use computer-generated versions of mandatory SBA Forms, as long as the text is identical.

Section E., Contingencies

From:

***Select Option A or Option B
Option A—non-Dealer Floor Plan Pilot Initiative Loans***

1. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750 or SBA Form 750B for short-term loans) and any required supplemental guarantee agreements, between Lender and SBA;

Option B—Dealer Floor Plan Pilot Initiative Loans

2. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750), any required supplemental guarantee agreements between Lender and SBA, and any Notices published in the Federal Register or issued directly by SBA which provide guidance on the Dealer Floor Plan Pilot Initiative;
3. Having paid the full guarantee fee in the time and manner required by this Authorization and the SOP;
4. Complying with the current SBA Standard Operating Procedures (SOP);

SBA Policy Notice 5000-882; SOP 50-10(5), pg. 212, Subpart "B", Chapter 7, Paragraph 3.a.

Select Option A or Option B

Option A–non-Dealer Floor Plan Pilot Initiative Loans

5. Completing disbursement no later than **[number of months]** months from the approval date of this Authorization, unless the disbursement period is extended by proper SBA procedures. (The final disbursement period cannot exceed 48 months from the approval date of this Authorization. Any undisbursed balance remaining after 48 months will be automatically cancelled by SBA);

Option B–Dealer Floor Plan Pilot Initiative Loans

6. Making initial disbursement of the Loan no later than **[number of months – default is 6]** months from the approval date of this Authorization, and making final disbursement in time for all repayments to be concluded by Loan maturity, unless either date is extended by proper SBA procedures;

To:

Select Option A or Option B

Option A–non-Dealer Floor Plan Pilot Program Loans

1. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750 or SBA Form 750B for short-term loans) and any required supplemental guarantee agreements, between Lender and SBA;

Option B–Dealer Floor Plan Pilot Program Loans

2. Having and complying with a valid SBA Loan Guarantee Agreement (SBA Form 750 and SBA Form 750B for short-term loans, if applicable), any required supplemental guarantee agreements between Lender and SBA, any Notices published in the Federal Register or issued directly by SBA which provide guidance on the Dealer Floor Plan Pilot Program and the Dealer Floor Plan Pilot Program Procedural Guide;
3. Having paid the full guarantee fee in the time and manner required by this Authorization and the SBA Standard Operating Procedures (SOP);
4. Complying with the current SOP;

SBA Policy Notice 5000-882; SOP 50 10, p. 229, Subpart B, Chapter 7, Paragraph III.A.

5. Completing disbursement no later than **[number of months]** months from the approval date of this Authorization, unless the disbursement period is extended by proper SBA procedures. (The final disbursement period cannot exceed 48 months from the approval date of this Authorization. Any undisbursed balance remaining after 48 months will be automatically cancelled by SBA.);

Select Option A or Option B

Option A–non-Dealer Floor Plan Pilot Program Loans

6. Completing disbursement no later than **[number of months]** months from the approval date of this Authorization, unless the disbursement period is extended by proper SBA procedures. (The final disbursement period cannot exceed 48 months from the approval date of this Authorization. Any undisbursed balance remaining after 48 months will be automatically cancelled by SBA);

Section F.

5. Repayment Terms

From:

Lender must insert onto SBA Note, Form 147, to be executed by Borrower, the following terms, without modification. Lender must complete all blank terms on the Note at time of closing:

To:

**THE FOLLOWING LANGUAGE WILL APPEAR WHEN
A SMALL LOAN ADVANTAGE OR DEALER FLOOR PLAN
LOAN IS SELECTED**

NOTE: THIS IS A SMALL LOAN ADVANTAGE (SLA) LOAN OR A DEALER FLOOR PLAN (DFP) LOAN. A PLP LENDER MAKING AN SLA LOAN OR A LENDER WITH DELEGATED AUTHORITY UNDER THE DFP PILOT PROGRAM MAKING A DFP LOAN MAY USE ITS OWN NOTE IN LIEU OF THE SBA NOTE.

Lender must insert onto SBA Note, Form 147, to be executed by Borrower, the following terms, without modification. Lender must complete all blank terms on the Note at time of closing:

Interest Rate Options:

Dealer Floor Plan paragraph added:

Dealer Floor Plan Repayment Terms Guidance:

For Dealer Floor Plan Pilot Program (DFP) loans, there are only two interest rate options, fixed (Option 1) and variable (Option 2). Repayment term options and requirements are limited under the DFP. Options and requirements are specifically noted as applicable to the appropriate programs.

Rate Options:

From:

Option 2—Variable Rate

The interest rate on this Note will fluctuate. The initial interest rate is [initial interest rate]% per year. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of the month in which SBA received the loan application, plus [% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%. The initial interest rate must remain in effect until the first change period begins.

To:

Option 2—Variable Rate

The interest rate on this Note will fluctuate. The initial interest rate is [initial interest rate]% per year. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of

the month in which SBA received the loan application, plus [% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%. The initial interest rate must remain in effect until the first change period begins unless reduced in accordance with SOP 50 10.

Section F.

5. Repayment Terms

From:

Option 3—Fixed and Variable Rate

The initial interest rate is [initial interest rate]% per year for [period]. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of the month in which SBA received the loan application, plus [% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%. The interest rate on this Note will then begin to fluctuate as described below. The initial interest rate must remain in effect until the first change period begins.

To:

Option 3—Variable Rate—Multiple Fluctuation Periods

The initial interest rate is [initial interest rate]% per year for [period]. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of the month in which SBA received the loan application, plus [% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%. The interest rate on this Note will then begin to fluctuate as described below. The initial interest rate must remain in effect until the first change period begins unless reduced in accordance with SOP 50 10.

From:

Option 4—SBA Rate Fixed / Lender Rate Variable

The interest rate is fixed at [fixed interest rate]% per year on the guaranteed portion of this Note. The interest rate on the non-guaranteed portion of this Note will fluctuate. The initial interest rate is [initial interest rate]% per year on this portion of the Note. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of the month in which SBA received the loan application, plus [% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%. The initial interest rate must remain in effect until the first change period begins.

To:

Option 4—SBA Rate Fixed / Lender Rate Variable

The interest rate is fixed at [fixed interest rate]% per year on the guaranteed portion of this Note. The interest rate on the non-guaranteed portion of this Note will fluctuate. The initial interest rate is [initial interest rate]% per year on this portion of the Note. This initial rate is the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate] in effect on the first business day of the month in which SBA received the loan application, plus [% over [prime rate/SBA

Optional Peg Rate/LIBOR Base Rate]]%. The initial interest rate must remain in effect until the first change period begins unless reduced in accordance with SOP 50 10.

From:

Option 5—SBA Rate Variable / Lender Rate Fixed

The interest rate on the guaranteed portion of this Note will fluctuate and the initial interest rate is **[initial interest rate]**% per year on this portion. This initial interest rate is the **[prime rate/SBA Optional Peg Rate/LIBOR Base Rate]** in effect on the first business day of the month in which SBA received the loan application, plus **[% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%**. The initial interest rate must remain in effect until the first change period begins. The interest rate on the non-guaranteed portion of this Note is fixed at **[fixed interest rate]**% per year.

To:

Option 5—SBA Rate Variable / Lender Rate Fixed

The interest rate on the guaranteed portion of this Note will fluctuate and the initial interest rate is **[initial interest rate]**% per year on this portion. This initial interest rate is the **[prime rate/SBA Optional Peg Rate/LIBOR Base Rate]** in effect on the first business day of the month in which SBA received the loan application, plus **[% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%**. The initial interest rate must remain in effect until the first change period begins unless reduced in accordance with SOP 50 10. The interest rate on the non-guaranteed portion of this Note is fixed at **[fixed interest rate]**% per year.

From:

Option 7—Split Variable And Fixed Rates

The interest rate on a percentage of the principal balance of this Note will fluctuate and the interest rate on the remaining percentage of the principal balance of this Note is fixed. The initial interest rate on **[first share of principal]**% of the outstanding principal balance is **[first interest rate]**% per year. This initial rate is the **[prime rate/SBA Optional Peg Rate/LIBOR Base Rate]** in effect on the first business day of the month in which SBA received the loan application, plus **[% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]]%**. The initial interest rate must remain in effect until the first change period begins. The interest rate on **[second share of principal]**% of the outstanding principal balance is fixed at **[second interest rate - fixed]**%.

To:

Option 7—Split Variable And Fixed Rates

The interest rate on a percentage of the principal balance of this Note will fluctuate and the interest rate on the remaining percentage of the principal balance of this Note is fixed. The initial interest rate on **[first share of principal]**% of the outstanding principal balance is **[first interest rate]**% per year. This initial

rate is the [**prime rate/SBA Optional Peg Rate/LIBOR Base Rate**] in effect on the first business day of the month in which SBA received the loan application, plus [**% over [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]**]. The initial interest rate must remain in effect until the first change period begins unless reduced in accordance with SOP 50 10. The interest rate on [**second share of principal**]% of the outstanding principal balance is fixed at [**second interest rate - fixed**].

Section F.

5. Repayment Terms

From:

PAYMENT TERM OPTIONS

Mandatory-Dealer Floor Plan Pilot Initiative Loans

Borrower must pay interest on the disbursed principal balance every month beginning one month from the month [**SELECT (same as in F.1.)**—this Note is dated—**OR**—of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT**—_____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note] in the month it is due.

Borrower must make additional payments as follows:

- a. Principal payments of at least the percentage of the sale proceeds equal to the percentage of the cost financed under the line must be made upon receipt of proceeds from the sale of inventory.

Optional-Dealer Floor Plan Pilot Initiative Loans

- b. **Curtailment:** The principal advance on each asset financed by this line must be reduced by [**Percent**]% for each full [**Inventory Days SELECT 30, 60, 90, 120, 180, 365**]-day period it remains in inventory, as shown on inventory reports provided to the Lender before each disbursement, and at least monthly.

To:

PAYMENT TERM OPTIONS

Mandatory-Dealer Floor Plan Pilot Program Loans

Borrower must pay interest on the disbursed principal balance every month beginning one month from the month [**SELECT (same as in F.1.)**—this Note is dated—**OR**—of initial disbursement on this Note]; monthly interest payments must be made on the [**SELECT**—_____ calendar day, first calendar day, second calendar day, etc., same day as the date of this Note, same day as the date of initial disbursement on this Note] in the month it is due.

Borrower must make additional payments as follows:

- c. **Sale of Collateral:** Upon sale of collateral held under the floor plan line, the borrower must remit full payment to the Lender within the time frame stated in Lender's Credit Memo.

- d. **Curtailement:** The principal advance on each asset financed by this line must be reduced by the percentage and time frame stated in Lender's Credit Memo.

Section F.

5. Repayment Terms

From:

The following paragraph must appear if SBA loan proceeds are used to finance commercial real estate.

SBA Policy Notice 5000-857, "Escrow Policy for Commercial Real Estate Taxes and Insurance for 7(a) Loans."

Lender may require Borrower to pay an additional amount into an escrow account for payment of real estate taxes and required insurance related to commercial real estate securing the loan.

To:

The following paragraph must appear if SBA loan proceeds are used to finance commercial real estate.

SOP 50 10 5(C), p. 230, Subpart B, Chapter 7, Paragraph III.B.2.c)(I)-- "Escrow Policy for Commercial Real Estate Taxes and Insurance for 7(a) Loans."

Lender and Borrower may agree to pay an additional amount into an escrow account for payment of real estate taxes and required insurance related to commercial real estate securing the loan. Any such account must comply with SOP 50 10.

Section F.

5. Repayment Terms

From:

OPTIONS FOR VARIABLE OR SPLIT RATE LOANS ONLY

The following must always appear in variable or split rate loans

The interest rate will be adjusted [**SELECT**—monthly, bimonthly, quarterly, semi-annually, annually, every calendar quarter, every calendar year, every [**number of months**] months, every [**number of years**] years **or** semi-annually, every [**number of years**] years, every calendar quarter, every calendar year] (the "change period").

[**select**--The "Prime Rate" is the prime rate in effect on the first business day of the month (as published in the Wall Street Journal) in which SBA received the application, or any interest rate change occurs. **or** The "SBA Optional Peg Rate" is the 'peg' rate published by SBA in the Federal Register for every calendar quarter. **or** The "LIBOR Base Rate" is the combination of the One Month London Interbank Offered Rate in effect on the first business day of the month (as published in the Wall Street Journal) in which SBA received the application, or any interest rate change occurs, plus an additional 3.0 percentage points.] Base Rates will be rounded to two decimal places with .004 being rounded down and .005 being rounded up.

The adjusted interest rate will be [% **above the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]**]% above the [**prime rate/SBA**

Optional Peg Rate/LIBOR Base Rate]. Lender will adjust the interest rate on the first calendar day of each change period. The change in interest rate is effective on that day whether or not Lender gives Borrower notice of the change.

To:

OPTIONS FOR VARIABLE OR SPLIT RATE LOANS ONLY

The following must always appear in ALL variable or split rate loans

The interest rate will be adjusted [**SELECT**—monthly, quarterly, semi-annually, annually, every calendar quarter, every calendar year, every [**number of months**] months, every [**number of years**] years **or** semi-annually, every [**number of years**] years, every calendar quarter, every calendar year] (the "change period").

[**Select**--The "Prime Rate" is the prime rate in effect on the first business day of the month (as published in a national financial newspaper or website) in which SBA received the application, or any interest rate change occurs. **or** The "SBA Optional Peg Rate" is the 'peg' rate published by SBA in the Federal Register for every calendar quarter. **or** The "LIBOR Base Rate" is the combination of the One Month London Interbank Offered Rate in effect on the first business day of the month (as published in a national financial newspaper or website) in which SBA received the application, or any interest rate change occurs, plus an additional 3.0 percentage points.] Base Rates will be rounded to two decimal places with .004 being rounded down and .005 being rounded up.

The adjusted interest rate will be [**% above the [prime rate/SBA Optional Peg Rate/LIBOR Base Rate]**]% above the [**prime rate/SBA Optional Peg Rate/LIBOR Base Rate**]. Lender will adjust the interest rate on the first calendar day of each change period. The change in interest rate is effective on that day whether or not Lender gives Borrower notice of the change.

The spread as identified in the Note may not be changed during the life of the Loan without the written agreement of the Borrower.

For variable rate loans, the interest rate adjustment period may not be changed without the written consent of the Borrower.

Section G. Use of Proceeds

From:

16. \$[**Amount**] to purchase the business known as [**name of business**] [**OPTION**—, according to the executed Purchase Agreement dated [**date**]].
17. \$[**Amount**] to purchase all outstanding stock of [**name of corporation**] held by [**Stockholder**].

To:

16. \$[**Amount**] to purchase the business known as [**name of business**] [**OPTION**—, according to the executed Purchase Agreement dated [**date**]], including \$[**Amount**] for intangible assets described as [**specifically identify intangible assets to be financed with loan proceeds**].

17. \$[Amount] to purchase all outstanding stock of [name of corporation] held by [Stockholder], including \$[Amount] for intangible assets described as [specifically identify intangible assets to be financed with loan proceeds].

From:

***For Dealer Floor Plan Pilot Initiative
with no refinancing—not repeatable***

22. Loan proceeds may only be used for the acquisition of titleable inventory for retail sales. Repayment of this line will occur as the acquired inventory is sold.

***For Dealer Floor Plan Pilot Initiative
with refinancing—repeatable***

23. \$[Amount] to be used to refinance a floor plan line of credit with [Lender's name].

To:

***For Dealer Floor Plan Pilot Program
for new (22a) or used (22b) titleable inventory (use only one)***

- 22a. \$[Amount] to be used for the acquisition of new titleable inventory for retail sales. Repayment of this line will occur as the acquired inventory is sold.

- 22b. \$[Amount] to be used for the acquisition of used titleable inventory for retail sales. Repayment of this line will occur as the acquired inventory is sold.

***For Dealer Floor Plan Pilot Program
with refinancing/replacement of existing debt—repeatable***

23. \$[Amount] to be used to refinance/replace a floor plan line of credit with [Lender's name].

Section G. Use of Proceeds

From:

***The following paragraphs appear when Option 23 is used
for Dealer Floor Plan Pilot Initiative Loans***

Prior to initial disbursement, Lender must ensure that:

- a. Collateral for any loan that is being refinanced is transferred to secure this Loan.
- b. Any outstanding receivable that would have been applied to pay down any refinanced loan will be applied to pay down this Loan in the same percentage.

To:

The following paragraphs appear when Option 23 is used for Dealer Floor Plan Pilot Initiative Program Loans

Prior to initial disbursement, Lender must ensure that:

- a. Collateral for any loan that is being refinanced/replaced is transferred to secure this Loan.
- b. Any outstanding receivable that would have been applied to pay down any refinanced loan will be applied to pay down this Loan in the same percentage.

Section G. Use of Proceeds

From:

The following paragraph will appear in Dealer Floor Plan Pilot Initiative Loans

All amounts listed above are approximate. Lender may not disburse Loan proceeds solely to pay the guarantee fee.

To:

The following paragraph will appear in Dealer Floor Plan Pilot Program Loans

All amounts listed above are approximate. Lender may not disburse Loan proceeds solely to pay the guarantee fee.

The following paragraph must always appear

All amounts listed above are approximate. Lender may not disburse Loan proceeds solely to pay the guarantee fee. Lender may disburse to Borrower, as working capital only, funds not spent for the listed purposes as long as those funds do not exceed 10% of the specific purpose authorized or \$10,000.00, whichever is less. An Eligible Passive Company may not receive working capital funds.

Section H. Collateral Conditions

A Dealer Floor Plan paragraph has been added:

THE FOLLOWING LANGUAGE WILL APPEAR WHEN A SMALL LOAN ADVANTAGE OR DEALER FLOOR PLAN LOAN IS SELECTED

NOTE: THIS IS A SMALL LOAN ADVANTAGE (SLA) LOAN OR A DEALER FLOOR PLAN (DFP) LOAN. A PLP LENDER MAKING AN SLA LOAN OR A LENDER WITH DELEGATED AUTHORITY UNDER THE DFP PILOT PROGRAM MAKING A DFP LOAN MAY USE ITS OWN GUARANTEE IN LIEU OF THE SBA GUARANTEE.

Collateral Conditions

From:

***The following Collateral Conditions must appear
in Dealer Floor Plan Pilot Initiative Loans***

4. Collateral must include a first perfected security interest in all titleable inventory acquired with any portion of the proceeds from the SBA-guaranteed floor plan line of credit.
5. If the Borrower has more than one floor plan line then the inventory supported by each line is to be separately accounted for and the sale proceeds (or at least the percentage of the sale proceeds equal to the percentage of the cost financed under the line) of any inventory acquired with any portion of the floor plan line guaranteed by SBA must be used to reduce the balance on that line. In addition, if there are multiple floor plan lines with multiple floor plan creditors the borrower must have appropriate delineated inter-creditor agreements to enable proper security interest perfection. Lender must obtain and retain copies of the inter-creditor agreements in its loan file.

To:

***The following Collateral Conditions must appear
in Dealer Floor Plan Pilot Program Loans***

4. Collateral must include a first lien position in all titleable inventory acquired with any portion of the proceeds from the SBA-guaranteed floor plan line of credit. This lien may be perfected by obtaining either (i) the title to the inventory reflecting no prior liens, or (ii) a first perfected security interest in all titleable inventory acquired with any portion of the proceeds from the SBA- guaranteed floor plan line of credit.
5. If the Borrower has more than one floor plan line then the inventory supported by each line is to be separately accounted for by the lender and the dealer and the sale proceeds (or at least the percentage of the sale proceeds equal to the percentage of the cost financed under the line) of any inventory acquired with any portion of the floor plan line guaranteed by SBA must be used to directly reduce the balance on that line. In addition, if there are multiple floor plan lines with multiple floor plan creditors the borrower must have appropriate delineated inter-creditor agreements to enable proper security interest perfection. Lender must obtain and retain copies of the inter-creditor agreements in its loan file.

Section H., Collateral Conditions

From:

8. **Assignment of Rents from Eligible Passive Company.** Lender must obtain a perfected assignment of all rents paid under the lease between the Eligible Passive Company and the Operating Company. The term of lease, with options to renew exercisable solely by the Operating Company, must be for at least the term of the Loan. The lease must be subordinate to Lender's Security Interest, Deed of Trust or Mortgage. Lease payments must be no more than is necessary to amortize debt plus pay expenses related to holding the property.

To:

8. **Assignment of Rents from Eligible Passive Company.** Lender must obtain a perfected assignment of all rents paid under the lease between the Eligible Passive Company and the Operating Company. The term of lease, with options to renew exercisable solely by the Operating Company, must be for at least the term of the Loan. The lease must be subordinate to Lender's Security Interest, Deed of Trust or Mortgage. Lease payments must be no more than is necessary to amortize debt plus pay expenses related to holding the property.

If in acquiring the property the Eligible Passive Company becomes the beneficiary or owner of the right to an existing mineral lease on the property, the Eligible Passive Company must assign its interest in the lease (together with its rights to all rental, mineral, royalty, bonus, or similar lease payments that might accrue by virtue of the existing mineral (oil and gas) lease to the Operating Company; and any such assignment must be subordinated to all Deeds of Trust or Mortgages. In addition, the Lender must take the additional actions described in SOP 50 10 as applicable.

Section H., Collateral Conditions

From:

Kentucky Mandatory Provision—The following language must appear in all guarantees (SBA Form 148 or 148L) signed by Kentucky residents:

"These provisions are for the purpose of KRS 371.065 only and do not waive or avoid guarantor's obligations on this guarantee in part or in whole. The amount of the maximum principal aggregate liability of each guarantor is the note amount plus interest at the note rate, unless the maximum liability box is checked on SBA Form 148L, which would limit liability to the stated maximum liability plus interest at the note rate. The date on which this guarantee terminates is the maturity date of the note plus 6 years, provided such termination shall not affect extensions or renewals of interest accruing on, or fees, costs or expenses incurred with respect to, such obligations on or after such date. The above termination date is extended by any event that delays or avoids the statutes of limitations."

To:

Kentucky Mandatory Provision—The following language must appear in all guarantees (SBA Form 148 or 148L) signed by Kentucky residents:

"These provisions are for the purpose of KRS 371.065 only and do not waive or avoid guarantor's obligations on this guarantee in part or in whole. The amount of the maximum principal aggregate liability of guarantor is the loan amount plus interest at the note rate, unless the maximum liability box is checked on SBA Form 148L, which would limit liability to the stated maximum liability plus interest at the note rate. The date on which this guarantee terminates is the maturity date of the note plus 6 years, provided such termination shall not affect extensions or renewals of interest accruing on, or fees, costs or expenses incurred with respect to, such obligations on or after such date. The above termination date is extended by any event that delays or avoids the statutes of limitations."

Section I, Additional Conditions

From:

9. Environmental Requirements

- a. Lender may not disburse the Loan until it has:
 - (1) completed the review for potential environmental contamination required in SOP 50-10(5) (“Environmental Investigation”) on each business real property site taken as collateral, and;
 - (2) sufficiently minimized the risk from any adverse environmental findings discovered in the Environmental Investigation, or otherwise, as required by SOP 50-10(5), Subpart "B", Chapter 4 (Environmental Policies and Procedures) and applicable appendices.

To:

9. Environmental Requirements

- a. Lender may not disburse the Loan until it has:
 - (1) completed the review for potential environmental contamination required in SOP 50 10 on each commercial real property site taken as collateral, and;
 - (2) sufficiently minimized the risk from any adverse environmental findings discovered in the Environmental Investigation, or otherwise, as required by SOP 50 10 and applicable appendices.

Section I., Additional Conditions

4. Operating Information

From:

- a. **Verification of Financial Information**—Lender must submit IRS Form 4506-T (SBA version) to the Internal Revenue Service to obtain federal income tax information on Borrower, or the Operating Company if the Borrower is an EPC, for the last 3 years (unless Borrower or Operating Company is a start-up business). If the business has been operating for less than 3 years, lender must obtain the information for all years in operation. This requirement does not include tax information for the most recent fiscal year if the fiscal year-end is within 6 months of the date SBA received the application. Lender must compare the tax data received from the IRS with the financial data or tax returns submitted with the Loan application, and relied upon in approving the Loan. Borrower must resolve any significant differences to the satisfaction of Lender and SBA. Failure to resolve differences may result in cancellation of the Loan.

If the Loan involves a change of ownership, Lender must verify financial information provided by the seller of the business in the same manner as above.

If Lender does not receive a response from the IRS or copy of the tax transcript within 10 business days of submitting the IRS Form 4506-T, then Lender may close and disburse the loan provided that Lender sends a second request following precisely the procedures detailed in SOP 50-10(5) and Lender performs the verification and resolves any significant differences discovered, even if the Loan is fully disbursed.

To:

- a. **Verification of Financial Information**—Lender must submit IRS Form 4506-T (SBA version) to the Internal Revenue Service to obtain federal income tax information on Borrower, or the Operating Company if the Borrower is an EPC, for the last 3 years (unless Borrower or Operating Company is a start-up business). If the business has been operating for less than 3 years, lender must obtain the information for all years in operation. This requirement does not include tax information for the most recent fiscal year if the fiscal year-end is within 6 months of the date SBA received the application. If the applicant has filed an extension for the most recent fiscal year, Lender must obtain a copy of the extension along with evidence of payment of estimated taxes. Lender must compare the tax data received from the IRS with the financial data or tax returns submitted with the Loan application, and relied upon in approving the Loan. Borrower must resolve any significant differences to the satisfaction of Lender and SBA. Failure to resolve differences may result in cancellation of the Loan.

If the Loan involves a change of ownership, Lender must verify financial information provided by the seller of the business in the same manner as above.

If the IRS responds and the transcript reflects "Record not Found" for any tax year, Lender must follow the procedures detailed in SOP 50 10 to determine what steps must be taken to satisfy the SBA tax verification requirement.

If Lender does not receive a response from the IRS or copy of the tax transcript within 10 business days of submitting the IRS Form 4506-T, then Lender may close and disburse the loan provided that Lender sends a second request following precisely the procedures detailed in SOP 50 10 and Lender performs the verification and resolves any significant differences discovered, even if the Loan is fully disbursed.

Section I., Additional Conditions

5. Injections

From:

- b. **Standby Debt Injection**—At least \$[**Amount**] cash has been injected into the business. This cash is for [**Description**]. Borrower may obtain this cash from a loan that is Standby Debt until Borrower pays Lender in full.

To:

- b. **Standby Debt Injection**—At least \$[**Amount**] cash has been injected into the business. This cash is for [**Description**]. Borrower may obtain this cash from a loan that is Standby Debt until Borrower pays Lender in full. Any such debt must be covered by a standby agreement substantially equivalent to SBA Form 155, with no payment permitted.

Section I., Additional Conditions II

8. Business Valuation

To: (Business Valuation paragraphs added.)

BUSINESS VALUATION (OPTIONAL)

SOP 50 10, pp. 195-197, Subpart B, Chapter 4, Paragraph II.C.5.— Business Valuation Requirements—Change of Ownership. For 7a and CLP applications submitted to the LGPC, the business valuation must be submitted as part of the loan application; for applications submitted under delegated authority, the business valuation may be obtained and reviewed after the issuance of an SBA loan number and prior to closing. If Lender is processing the application under delegated authority and requests the business valuation after issuance of an SBA loan number, the credit memorandum must include an estimate of the value of the business and must be updated after receipt of the business valuation to include a comparison of the loan amount and the business valuation.

8. Business Valuation

- a. Prior to disbursement, and in accordance with SOP 50 10, Lender must request and obtain a business valuation of **[name of business]**, showing a value of **[\$Amount]**, exclusive of the appraised value of real estate and equipment.
- b. Lender must obtain a copy of the financial information relied upon by the individual who performed the business valuation and verify that information against the seller's IRS transcripts to ensure the accuracy of the information.
- c. Any amount in excess of the business valuation may not be financed with the SBA guaranteed loan.

Section I., Additional Conditions II

9. Construction Provisions

From:

9. Construction Provisions

- a. **Building Standards:** In the construction of a new building or an addition to an existing building, the construction must conform with the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings" (NEHRP), or a building code that SBA has identified as having substantially equivalent provisions. Lender must obtain from Borrower evidence of compliance with these requirements. Examples of evidence include a certificate issued by a licensed building architect, construction engineer or similar professional, or a letter from a state or local government agency stating that an occupancy permit is required and that the local building codes upon which the permit is based include the Seismic standards.
- b. Lender may charge Borrower a one-time fee not to exceed 2% of the portion of the Loan designated for construction. The actual fee must not exceed the cost of the extra service.
- c. Prior to closing, if an "as completed" appraisal was obtained prior to construction, Lender must also get a certification from the appraiser after construction is completed to determine if the appraisal needs to be adjusted to reflect substantial changes in the final project from the original plans and specifications.

To:

10. **Construction Provisions**

- a. **Building Standards:** In the construction of a new building or an addition to an existing building, the construction must conform with the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings" (NEHRP), or a building code that SBA has identified as having substantially equivalent provisions. Lender must obtain from Borrower evidence of compliance with these requirements. Examples of evidence include a certificate issued by a licensed building architect, construction engineer or similar professional, or a letter from a state or local government agency stating that an occupancy permit is required and that the local building codes upon which the permit is based include the Seismic standards.
- b. Lender may charge Borrower a one-time fee not to exceed 2% of the portion of the Loan designated for construction. The actual fee must not exceed the cost of the extra service.
- c. Prior to closing, if an "as completed" appraisal was obtained prior to construction, Lender must obtain a statement from the appraiser after construction is completed that the building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based.

If the SBA guaranteed loan was used to cover the construction period, prior to closing Lender must notify the appropriate SBA CLSC of any deviation(s) and work with the SBA CLSC to determine an appropriate course of action, including securing additional collateral. Lender's notification to SBA must comply with SOP 50 10.

If the appraiser is unable to issue a statement that the building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based, but is able to provide a new appraisal demonstrating that the market value meets or exceeds the original estimate of value, then no additional action by Lender is necessary.

Section I., Additional Conditions II

11. Certifications and Agreements

From:

Note: Paragraph (9) and (10) may be repeated if necessary

Select one of the following 2 options

Option 1 – Mandatory for Non-Citizens with at least 50% ownership of the OC or EPC

- 9. Prior to first disbursement, Lender must verify with US Citizenship and Immigration Services, using Form G-845, that **[Name]** has Lawful Permanent Resident status.

Option 2 – Mandatory for Non-Citizens with 20-49% ownership of the OC or EPC

- 10. Prior to first disbursement, Lender must verify with US Citizenship and Immigration Services, using Form G-845, that **[Name]** has Lawful Permanent Resident status or legal alien status.

To:

Note: Paragraph 10 may be repeated if necessary

10. Prior to first disbursement, Lender must verify with US Citizenship and Immigration Services, using Form G-845, that [Name] has Lawful Permanent Resident status or legal alien status.

Section I., Additional Conditions II

11.b.(2) Certifications and Agreements

To: (Adverse Change paragraph added.)

Adverse Change (MANDATORY)

- (2) There has been no adverse change in Borrower's (and Operating Company) financial condition, organization, operations, or fixed assets since the date the Loan application was signed.

Section I., Additional Conditions II

11.b.(4), (5) and Certifications and Agreements

From:

***Immigration Laws
(MANDATORY for Recovery Act Section 502)***

Section 502 of the American Recovery and Reinvestment Act of 2009.

- (5) Immigration Laws—Neither Borrower nor Operating Company has been determined by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring an alien, recruiting an alien, or referring an alien for a fee for employment in the United States, knowing that the person is an unauthorized alien.

***Alternate Funding For Restricted Recovery Act Uses
(MANDATORY for Recovery Act Sections 501 and 502)***

- (6) No working capital loan proceeds from this loan will be used for any costs or expenses associated with a swimming pool, aquarium, zoo and/or golf course.

***Alternate Funding For Restricted Recovery Act Uses
(MANDATORY for Recovery Act Sections 501 and 502)***

- (7) If any proceeds from this loan will be used for working capital, none of the working capital proceeds will be used for any costs or expenses associated with a swimming pool, aquarium, zoo and/or golf course.

To: (Immigration and 501 and 502 paragraphs deleted)

Section I., Additional Conditions II

11.b.(7) Certifications and Agreements

From:

- (7) **Current Taxes**—Borrower and Operating Company are current on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.

To:

- (8) **Current Taxes**—Borrower and Operating Company are current (or will be current with any loan proceeds specified for eligible tax payments) on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.

Section I, Additional Conditions II

11.b.(6) Credit Card Debt

From: (New paragraph added)

Credit Card Debt (MANDATORY for Refinancing Credit Card Debt)

SOP 50 10, pp. 143-144, Subpart B, Chapter 2, Paragraph IV.E.4.h)—Policies Regarding Debt Refinancing, and p. 233, Subpart B, Chapter 7, Paragraph III.D.1.k).

- (6) **Business Related Purpose**—The total of the payments by this Loan on Borrower's credit card obligation(s) is not greater than the total of Borrower's specific business-related purchases charged to the credit card(s).

Section I., Additional Conditions II

11.c.(6) Certifications and Agreements

From:

- (6) **Occupancy**—Occupy, at all times during the term of the Loan, at least 51% of the total Rentable Property and 100% of the renovated Rentable Property. Borrower will not use Loan proceeds to improve or renovate any of the Rentable Property leased to third parties.
- (7) **Occupancy**—Comply with the following provisions: (a) Borrower must lease 100% of the Rentable Property to Operating Company; (b) Operating Company may sublease up to 49% of the Rentable Property; (c) Borrower will not use Loan proceeds to improve or renovate any of the Rentable Property to be sub-leased.
- (8) **Occupancy**—(a) Immediately occupy of at least 60% of the Rentable Property; (b) Continue to occupy at least 60% of the Rentable Property for the term of the Loan; (c) Lease long term no more than 20% of the Rentable Property to one or more tenants; (d) Plan to occupy within three years some of the remaining Rentable Property not immediately occupied or leased long term; (e) Plan to occupy within ten years all of the Rentable Property not leased long term.
- (9) **Occupancy**—Comply with the following provisions: (a) Borrower must lease 100% of the Rentable Property to Operating Company; (b) Operating Company must immediately occupy at least 60% of the Rentable Property; (c) Operating Company will lease long term no more than 20% of the Rentable Property to one or more tenants; (d) Operating Company must plan to occupy within three years some of the remaining Rentable Property not immediately occupied or leased long term; (e) Operating Company must plan to occupy within ten years all of the Rentable Property not leased long term.

To:

- (6) **Occupancy**—Occupy at least 51% of the total Rentable Property and may lease up to 49% for business or residential use. Borrower will not use Loan proceeds to improve or renovate any of the Rentable Property leased to third parties. Borrower may provide up to 49% of the Rentable Property to be occupied by Borrower for use by a resident owner or manager only if the nature of the business demands it.
- (7) **Occupancy**—Comply with the following provisions: (a) Borrower must lease 100% of the Rentable Property to Operating Company; (b) Operating Company may sublease up to 49% of the Rentable Property for business or residential use; and (c) Operating Company will not use Loan proceeds to improve or renovate any of the Rentable Property that is to be sub-leased. Operating Company may provide up to 49% of the Rentable Property occupied by Operating Company for use by a resident owner or manager only if the nature of the business demands it.
- (8) **Occupancy**—(a) Occupy at least 60% of the Rentable Property; (b) Continue to occupy at least 60% of the Rentable Property for the term of the Loan; (c) Lease long term no more than 20% of the Rentable Property to one or more tenants for business or residential use; (d) Plan to occupy within three years some of the remaining Rentable Property not immediately occupied or leased long term; (e) Plan to occupy within ten years all of the Rentable Property not immediately occupied or leased long term; and (f) will not use Loan proceeds to improve the space not immediately occupied by Borrower to enhance the leasehold value to tenant beyond that necessary for the Borrower's intended use as a future occupant under (d) and (e) above, or to enhance the leasehold value to a tenant under (c) above. However, Borrower may provide up to 49% of the total Rentable Property occupied by Borrower for use by a resident owner or manager only if the nature of the business demands it.
- (9) **Occupancy**—Comply with the following provisions: (a) Borrower must lease 100% of the Rentable Property to Operating Company; (b) Operating Company must immediately occupy at least 60% of the Rentable Property; (c) Operating Company must continue to occupy at least 60% of the Rentable Property for the term of the Loan; (d) Operating Company will lease long term no more than 20% of the Rentable Property to one or more tenants; (e) Operating Company must plan to occupy within three years some of the remaining Rentable Property not immediately occupied or leased long term; (f) Operating Company must plan to occupy within ten years all of the Rentable Property not immediately occupied or leased long term; and (g) Operating Company will not use Loan proceeds to improve the space not immediately occupied by Operating Company to enhance the leasehold value to tenant beyond that necessary for the Operating Company's intended use as future occupant under (e) and (f) above, or to enhance the leasehold value to a tenant under (d) above. However, Operating Company may provide up to 49% of the total Rentable Property occupied by Operating Company for use by a resident owner or manager only if the nature of the business demands it.

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