

## SECONDARY PARTICIPATION GUARANTY AGREEMENT

### IMPORTANT INFORMATION

THIS FORM IS TO BE USED FOR THE INITIAL TRANSFER ONLY. ALL SUBSEQUENT TRANSFERS MUST USE THE DETACHED ASSIGNMENT SBA FORM 1088. LOANS SOLD USING SBA FORM 1084 MUST BE CERTIFICATED PRIOR TO RESALE: USE SBA FORM 1085.

**A. LENDER CERTIFICATIONS.** The LENDER CERTIFIES, by signing this document among other things that: (See paragraphs 3, 10 and 20 of the Terms and Conditions herein)

- (1) Lender, including its officers, directors and employees, has no knowledge of a default by Borrower and has no knowledge or information that would indicate the likelihood of a default,
- (2) Lender has paid the SBA guaranty fee,
- (3) The loan is fully disbursed, and
- (4) Lender acknowledges that it has no authority to unilaterally repurchase the Guaranteed Interest from Registered Holder without the written consent of the SBA.

**B. BORROWER PAYMENTS.** Lender shall send to the Fiscal and Transfer Agent ("FTA") the FTA share of all Borrower payments received after settlement of the loan sale. LENDER WILL NOT SEND ANY PAYMENTS DIRECTLY TO THE REGISTERED HOLDER OR TO THE BROKER/DEALER. Lender will retain a copy of this Form. Lender will not receive a return copy of this Form after settlement. The Wire transfer receipt from the settlement through FTA will be the Lender's notification that the sale is complete.

**C. LENDER PAYMENT AND LATE PAYMENT PENALTY.** Lender payment and remittance information (SBA Form 1502) shall be due at FTA on the third calendar day of every month, or the next business day if the third is not a business day. On any payment not received in the offices of FTA by 5 PM Eastern Time on the second business day after the due date. FTA will, on behalf of SBA, levy a late payment penalty of five percent (5%) of the amount remitted late, or \$100, whichever is greater (subject to a maximum penalty of \$5,000 per month). This penalty will be paid through FTA along with the late penalty identified in paragraph 6(c) that is due to FTA. (See paragraph 6 of the Terms and Conditions.)

**D. PAYMENT MODIFICATIONS.** Lender may approve one deferral of payment for up to three consecutive monthly payments without obtaining prior permission from Registered Holder. Lender shall immediately notify FTA and SBA of any deferral. Any other payment modification must receive prior approval by Registered Holder. Requests for payment modification must be forwarded to FTA which will forward the proposed modification to Registered Holder or provide the name of such Registered Holder to Lender for direct negotiations at Registered Holder's discretion. (See Paragraph 2 of the Terms and Conditions.)

**E. BORROWER PREPAYMENTS.** For loans approved by or on behalf of SBA after February 14, 1985. Lender must give ten (10) business days advance written notice to FTA to allow time for FTA to request that Registered Holder return the Certificate. On the date of prepayment, Lender will wire funds to FTA consisting of principal and accrued interest through the date immediately preceding the date funds are wired, plus any penalty or other fees due to FTA. (See Paragraph 15 of the Terms and Conditions.)

**F. LENDER REPURCHASES.** Unless all conditions in paragraph 20 are met. Lender may repurchase a loan only on a willing buyer-willing seller basis. Lender liquidity or a desire to add loans to a portfolio is not acceptable reasons to pay off a loan at par. (See Paragraphs 3 and 20 of the Terms and Conditions.)

**G. PROGRAM FEES.** There is a 50 basis point fee collected from all payments received from lender, which is transmitted to SBA to defray program expenses. In addition, FTA will withhold from the settlement transaction one-half of the premium amount in excess of 10% of the loan balance. This amount is also sent to SBA to defray program expenses and will not be refunded under any circumstances. (See Section I of the Terms and Conditions.)

## **TERMS AND CONDITIONS**

The Small Business Administration, an Agency of the United States Government ("SBA") and the Lender named below ("Lender") entered into a guaranty agreement on SBA Form 750 ("750 Agreement") applicable to a loan ("Loan") made by Lender in participation with SBA to the Borrower ("Borrower") named below evidenced by Borrower's Note and any modifications thereto ("Note") a copy of which is attached hereto and incorporated by reference. Lender is the beneficiary under the 750 Agreement of SBA's guaranty of the specified percentage of the outstanding balance of the Loan ("Guaranteed Interest").

### **Section I: Borrower Information and Lender Certifications**

Lender \_\_\_\_\_ Borrower \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_ Zip \_\_\_\_\_ \_\_\_\_\_ Zip \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

**LENDER CERTIFIES THE FOLLOWING AS OF THE DATE OF LENDER'S SIGNATURE:**

Date of 750 Agreement \_\_\_\_\_ Percent of SBA Guaranty \_\_\_\_\_

Date of Note \_\_\_\_\_ Original Face Amount \$ \_\_\_\_\_

SBA Loan Authorization Date \_\_\_\_\_ (Date of SBA Form 529B)

Outstanding Principal Amount of Loan \$ \_\_\_\_\_

Outstanding Principal Amount of Guaranteed Interest \$ \_\_\_\_\_  
(This is the "Par Value")

**THE SBA GUARANTY FEE WAS PAID ON** \_\_\_\_\_  
[Date]

Date of First Disbursement of Loan \_\_\_\_\_  
[Date]

Date of Final Disbursement of Loan \_\_\_\_\_  
[Date]

Guaranteed portion has a [ ] fixed rate or [ ] variable rate (check one).  
If variable: Base Rate: \_\_\_\_\_  Prime  LIBOR  SBA Peg Rate

Unguaranteed portion has a [ ] fixed rate or [ ] variable rate (check one).  
If variable: Base Rate: \_\_\_\_\_  Prime  LIBOR  SBA Peg Rate

Interest is paid to, but not Including \_\_\_\_\_.  
[Date]

Interest is calculated on [ ] 30/360 or [ ] Actual Days/365 (check one).  
**(OTHER METHODS ARE PROHIBITED)**

**THIS INTEREST ACCRUAL SHALL BE MAINTAINED FOR THE LIFE OF THE LOAN.**

SBA shall retain a program fee equal to 1/2 of one percent per year of the guaranteed principal amount outstanding. Such fee shall be collected by the FTA from all payments received from Lender. FTA shall transmit such fees to SBA on a regular basis, no less frequently than monthly.

There shall be a minimum servicing fee required by SBA. This fee shall be published from time to time in the *Federal Register*. The minimum servicing fee as of the date of publication of this

form is 0.3% per annum for all loans. There shall also be a minimum premium protection fee for any Guaranteed Interest sold at a price greater than Par Value. This fee shall be published from time to time in the *Federal Register*. The minimum premium protection fee as of the date of publication of this form is 0.7% per annum. For any Guaranteed Interest sold at a price greater than Par Value, the total minimum fees, as of the date of publication of this form, are 1.0% per annum.

Except for the period between final disbursement and the first interest adjustment date, lender's total fees must remain constant for the life of the loan. Lender's total fees, as computed on the unpaid principal amount of the Guaranteed Interest shall be entered next to the phrase "Lender's Permanent Fee" below. If this Agreement relates to a variable rate loan, the total fee may be adjusted for the period from final disbursement to the first adjustment date to conform the rate to market rates. If such an adjustment is used, enter the initial fee next to the phrase "Lender's Initial Fee" below.

Lender's Permanent Fee \_\_\_\_\_

Lender's Initial Fee \_\_\_\_\_

- Optional-Variable Rate Loans Only-If initial fee is different than permanent fee.
- Lender's Initial Fee must conform to the minimum fee requirements described above.

Price paid for the Guaranteed Interest. (Net of accrued interest. Otherwise include ALL money and other items of value exchanged.)

Price paid by purchaser: \$ \_\_\_\_\_ % of Par \_\_\_\_\_

SBA shall retain a program user fee equal to 50% of the portion of the sale price, which is in excess of 110 percent of the principal amount outstanding of the guaranteed portion. Such fee shall be collected by the FTA and shall be remitted by FTA to SBA on a regular basis, no less frequently than monthly. SBA will not refund such program user fee under any circumstances.

CASH FLOW YIELD based upon Constant Prepayment Rate. (Enter both mortgage and bond equivalent yield.) For a variable rate loan, the yield should be based upon the current net rate and should be entered as a spread from the Prime Rate. EXAMPLE: Prime + 1% based upon 10% Prime Rate.

Constant Annual Prepayment Rate assumption \_\_\_\_\_ % per annum

Certificate Interest Rate: \_\_\_\_\_ % (Borrower's Note rate less applicable fees)

Certificate Cap \_\_\_\_\_ % Certificate Floor \_\_\_\_\_ % (if applicable)

Mortgage Yield:

(Fixed Rate Loan) \_\_\_\_\_ %  
(Variable Rate Loan) Base Rate: \_\_\_\_\_  Prime  LIBOR  SBA Peg Rate  
(+/-) \_\_\_\_\_ % based on \_\_\_\_\_ % Base

Bond Equivalent Yield:  
(Fixed Rate Loan) \_\_\_\_\_ %  
(Variable Rate Loan) Base Rate: \_\_\_\_\_  Prime  LIBOR  SBA Peg Rate  
(+/-) \_\_\_\_\_ % based on \_\_\_\_\_ % Base

Lender hereby assigns the Guaranteed Interest to Purchaser/Registered Holder as follows:

Name \_\_\_\_\_

Address \_\_\_\_\_

Zip code

Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

Under the penalties of perjury, Purchaser/ Registered Holder certifies that its **Taxpayer Identification Number** is \_\_\_\_\_ and that it is not subject to backup withholding pursuant to an Internal Revenue Service Notice. Failure to provide a Taxpayer Identification Number will subject interest earned to backup withholding.

Registered Holder requests SBA to issue through FTA a Guaranteed Interest Certificate ("Certificate") evidencing ownership of the Guaranteed interest in the name of Registered Holder (such person or entity, or any subsequent transferee, during its respective period of ownership of the Certificate to be called "Registered Holder"). SBA, Lender and Registered Holder (for itself and for any subsequent Registered Holder) agree to the appointment by SBA of FTA to serve as the agent to transfer Certificates and to receive loan repayments, and to transmit such payments to the Registered Holder.

A written notification to or demand upon SBA pursuant to this Agreement shall be made through FTA to:

SBA Servicing Office \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

SBA Servicing Office Code (Please see attached list of Office Codes at the end of this document) \_\_\_\_\_

## **Section II: Lender, Registered Holder and FTA Rights and Responsibilities.**

**1. Lender's Sale of Guaranteed Interest.** Lender has sold the Guaranteed Interest and acknowledges that it has received value for that Guaranteed Interest. Lender has given notice and acknowledgment of the transfer of the Guaranteed Interest by completing the following legend on the Note:

The guaranteed portion of this Note has been transferred to a Registered Holder for value.

Dated \_\_\_\_\_  
(Lender)

Lender has delivered or hereby delivers to FTA a photocopy of the Note and any modifications thereto with the legend; such photocopy shall be incorporated into this Agreement. This legend shall serve as notification for any future transfer of the Guaranteed Interest. The date of the legend shall be on or before the date of settlement for the sale of the guaranteed interest.

The photocopy of the note and any modifications thereto must have a legend stating that the photocopy is a true and certified copy of the original.

**2. Loan Servicing.** Lender shall remain obligated under the terms and conditions of the 750 Agreement, and shall continue to service the Loan in the manner set forth in the 750 Agreement. Modifications to the 750 Agreement or the Note that do not affect the repayment terms of the Note may be effected by Lender or SBA without the consent of Registered Holder (for itself and any subsequent Registered Holder). Lender, at the request of borrower, may grant one deferment of Borrower's scheduled payments for a continuous period not to exceed three (3) months of past or future installments. Lender shall immediately notify FTA and the SBA field office in writing of any deferment. The notification will include (i) the SBA Loan Number, (ii) the Borrower's name, (iii) the terms of such deferment, (iv) the date Borrower is to resume payment and (v) reconfirmation of the basis of interest calculation (e.g. 30/360 or Actual Days/365). Interest is not waived, only deferred. Subsequent to the deferment period, payments received from Borrower will first be applied to accrued interest until such time as interest is paid to a current status, then to principal and interest. Registered Holder may not demand repurchase of the Guaranteed interest during the deferment period, or before Borrower's failure to pay the first scheduled installment following the deferment period. Lender shall not authorize any additional deferment, or any extension of Loan maturity without the prior written consent of the Registered Holder.

No change in terms and conditions of repayment of the Note other than the deferment authorized in this paragraph shall be made by Lender or SBA without the prior written consent of Registered Holder. A request for such payment modification must be forwarded by Lender to FTA. FTA will forward the proposed modification to Registered Holder. The Registered Holder must respond to the request within thirty (30) calendar days of the date of the request from FTA. Lack of response will be construed by Lender and FTA as nonconsent, and appropriate action under Paragraphs 10, 11 or 20 of this Agreement will be taken. FTA, at the discretion of

Registered Holder, may provide the name of Registered Holder to Lender for direct negotiation of the modification.

**3. Representations and Acknowledgment of Lender.** Lender hereby certifies that the Loan has been made and fully disbursed to Borrower, and that the full amount of the guaranty fee has been paid to SBA. The outstanding principal amount of the Guaranteed Interest and date to which interest is paid as certified by Lender is accepted by SBA and has been warranted by SBA to the Registered Holder as of the SBA Warranty Date. The Warranty Date is the date this Agreement is settled by Lender and Registered Holder through FTA. Lender shall be liable to SBA for any damage to SBA resulting from any error in (i) the certified principal amount, (ii) percentage of Guaranteed Interest, and/or (iii) date to which interest is paid. Lender also represents that as of the Warranty Date, neither it nor any of its directors, officers, employees, or agents has or should have through the exercise of reasonable diligence, any actual or constructive knowledge of any default by Borrower on the Note, or has any information indicating the likelihood of a default by Borrower or the likelihood of prepayment of the Loan by Borrower by refinancing or otherwise.

If Borrower makes the first three payments required by the Note after the Warranty Date in the month in which they are due and the payments are the full amounts required by the Note, the Lender shall have no liability to refund the premium.

If the borrower prepays the loan for any reason within 90 days of the Warranty Date, Lender must refund any premium received.

If the borrower fails to make the first three monthly payments due after the Warranty Date and the borrower enters uncured default within 275 calendar days from the Warranty Date. Lender shall refund any premium received. Borrower payments must be received by the Lender in the month in which they are due and must be full payments as defined in the Borrower's note.

Liability of lender for refund of premium will not be affected by any deferment granted under Paragraph 2 or other payment modification granted during the 90 day period.

SBA shall bear no liability for refund of premium. Lender's failure to refund such premium to Registered Holder may, as determined by SBA, constitute a significant violation of the Rules and Regulations of the Secondary Market.

SBA will not refund the program user fee collected from the premium under any circumstances.

If Lender has repurchased the Guaranteed Interest pursuant to Paragraph 10 or 20, and if the Borrower subsequently makes installment payments on the Note In full for a period of twelve (12) consecutive months, Lender may sell the Guaranteed Interest it has repurchased.

Lender hereby acknowledges that it has no authority pursuant to this Agreement to unilaterally repurchase the Guaranteed Interest from Registered Holder at par without the written consent of SBA.

**4. Obligations and Representations of Registered Holder.** SBA shall purchase the Guaranteed Interest from Registered Holder pursuant to the terms of this Agreement regardless of whether SBA has any knowledge of possible negligence, fraud or misrepresentation by Lender or Borrower, provided neither Registered Holder nor any person or entity having the beneficial interest in the Guaranteed Interest participated in, or at the time it purchased the Guaranteed Interest had knowledge of, such negligence, Fraud or misrepresentation.

Subject to the provisions of 18 U.S.C. §1001 (relating among other things to false claims) Registered Holder, and any person or entity having the beneficial interest therein, hereby warrants that it was not the Borrower, Lender or an "Associate" of Lender, or anyone standing in the same relationship to Borrower. ("Associate" is defined in Title 13, Code of Federal Regulations, Part 120.) Registered Holder warrants that it had neither participated in nor been aware of any negligence, Fraud or misrepresentation by Lender or Borrower with respect to the Note or related Loan documentation. Neither execution of this Agreement by SBA, nor purchase by SBA from Registered Holder shall constitute any waiver by SBA of any right of recovery against Lender, Registered Holder, or any other person or entity.

Registered Holder (for itself and each subsequent Registered Holder) hereby acknowledges that the Loan may be terminated on a date other than Its maturity date. At that time, the Certificate will be called for redemption, at par, and the Registered Holder must submit an affidavit attesting to the provisions of this paragraph. The Certificate will cease to accrue interest as of the date of such termination, regardless of whether the Certificate is surrendered and the affidavit is received.

**5. Issuance of Guaranteed Interest Certificates.** SBA, Lender, and Registered Holder (for itself and each subsequent Registered Holder) agree that ownership of the Guaranteed Interest shall be evidenced by a Certificate to be issued by SBA. SBA shall issue such Certificate by designating and authorizing such issuance by FTA, or through its own facilities.

FTA shall be the custodian of the executed original of this Agreement. The Agreement shall be delivered to FTA immediately after execution by Lender and Registered Holder. Each Registered Holder shall receive the Certificate described herein. Registered Holder may obtain from FTA a copy of the executed Agreement pertaining to the Guaranteed Interest represented by the Certificate upon payment of a reproduction fee.

Upon execution of this Agreement and delivery to FTA, FTA shall issue to Registered Holder (or to Registered Holder's assignee if FTA is provided written information on a timely basis) the Certificate evidencing the ownership of the Guaranteed Interest in the Loan. If Registered Holder is not the person or entity having the beneficial interest in the Certificate. Registered Holder hereby represents that it has obtained authorization from such holder of beneficial interest appointing Registered Holder as agent for such person or entity with respect to all transactions arising out of the respective obligations under this Agreement.

The Certificate shall identify the Guaranteed Interest and shall state, among other things: (i) Name of Registered Holder, (ii) the Principal Amount of Guaranteed Interest as of the Warranty Date, (iii) the Certificate Interest Rate, and (iv) the Borrower's Payment Date.

Transfer of the Guaranteed Interest by Registered Holder may be effected by the transferee: (i) obtaining from the transferor the executed Detached Assignment and Disclosure Form (SBA Form 1088), (ii) presenting the Certificate and executed Detached Assignment and Disclosure Form to FTA for registration of transfer and issuance of a new Certificate, (iii) paying to FTA a Certificate issuance fee set from time to time by SBA, and (iv) presenting to FTA the exact spelling of the name in which the new Certificate is to be issued, complete address and tax identification number of the new Registered Holder, name and telephone number of the person handling the transfer, and complete instructions for delivery of the new Certificate.

## **6. Obligations of Lender.**

(a) FTA must receive from Lender by the third calendar day of every month, or the next business day thereafter if the third is not a business day, ("FTA Due Date") the FTA's share of all sums Lender received from Borrower as regularly scheduled payments during the preceding month. By the same date, Lender shall provide the following information on Mandatory Remittance Form (SBA Form 1502), (or an exact facsimile format), with respect to each Loan, which Lender has sold to a Registered Holder and which, is registered with the FTA. Lender acknowledges that "each Loan" means all loans registered with the FTA regardless of which version of SBA Form 1086 or 1085 was executed at the time of sale or transfer. SEE PAYMENT CALCULATION EXAMPLE ATTACHED TO THIS AGREEMENT.

1. The SBA Loan Number
2. The Alpha abbreviation for the SBA field office
3. The Note interest rate (or rates if the interest rate on a variable rate loan changed during the payment period)
4. The interest amount due the FTA
5. The principal amount due the FTA
6. The total amount due the FTA for the particular Loan
7. The time period covered by the interest rate(s) in Item 3
8. The number of days in the interest period
9. The calendar basis (30/360 or Actual Days/365)
10. The closing principal balance for the Loan
11. A grand total for Items 4, 5 and 6 of all loans sold

12. A late payment penalty (if applicable)

- (b) With the exception of prepayments pursuant to Paragraph 15 of this Agreement, payments received other than as regularly scheduled in the previous month must be remitted by Lender to FTA within two (2) business days of receipt of collected funds. Such remittance shall include the information described In Items 1 to 12 above.
- (c) As stated in subparagraph (a) above. Lender remittance is due to FTA by the FTA Due Date. **POSTMARKS ARE NOT CONSIDERED AS PROOF OF RECEIPT. THE REQUIREMENT IS RECEIPT BY FTA.** If Lender remittance, including complete payment information as specified in subparagraph (a) is not received in the office of the FTA by 5 PM Eastern Time on the second business day after the FTA Due Date. Lender shall pay:
  - (i) a late payment penalty to FTA equal to the interest on the unremitted amount at the rate provided in the Note, less the rate of Lender's servicing fee; and
  - (ii) a late payment penalty to FTA calculated at a rate of twelve percent (12%) per annum, on the unremitted amount; and
  - (iii) a late payment penalty to SBA (collected by FTA), which is the greater of \$100 or five percent (5%) of the unremitted amount.

There is no limit on the penalty calculated in (i) and (ii) above. There is a \$5,000 per month per reporting unit limit for the penalty identified in (iii) above. **SEE EXAMPLE OF LATE PAYMENT PENALTY CALCULATION ATTACHED TO THIS AGREEMENT.**

If these penalty fees are not included in the remittance, FTA, on behalf of SBA, shall levy such late payment penalties on Lender. Failure by Lender to pay such penalty and collection fees within ten (10) business days of receipt of a bill for such fees may constitute a significant violation of the Rules and Regulations of the Secondary Market. FTA and SBA reserve the right to withhold these penalty fees from settlement of any future Guaranteed Interest sale, or any payment made by SBA or FTA to Lender.

FTA will retain the penalty and collection fees due FTA and forward the fee due SBA at the end of each month.

- (d) Lender agrees to work with SBA and FTA, at no charge, to reconcile immediately any Loan in which the interest paid-to-date on the Lender's books differs from the records of the FTA by three (3) days or more. Lender agrees to provide a transcript of account within ten (10) business days of receipt of a request from SBA or FTA. Failure of Lender to provide a transcript upon request may cause the Lender to be fined \$100 by SBA.
- (e) Lender's total fees as computed on the unpaid principal amount of the Guaranteed Interest for the period of actual services performed by Lender shall remain as specified in

Section I above for the life of the loan. These Lender fees are not transferable except to an entity to which servicing of the loan is assigned under the provisions of the Form 750 Agreement and SBA Regulations and Standard Operating Procedures.

- (f) Lender agrees to deposit the pro rata share of borrower's payment due to the FTA in a trust account with the name "Colson Services Corp., FTA, in trust for the individual security beneficiaries".

## **7. Obligations of FTA.**

- (a) FTA shall have the obligation to remit to Registered Holder payments received pursuant to Paragraph 6 of this Agreement (less applicable fees and penalties, if any), as follows:
  - (i) Investor payment date will be the fifteenth of the month or next business day if the fifteenth is not a business day. Any payment received by the FTA up to the second business day prior to the investor payment date will be sent to the Investor on the investor payment date.
  - (ii) Any payment received by FTA on or after the second business day prior to the Investor payment date of the month following Borrower's scheduled payment will be remitted to Registered Holder within two (2) business days of receipt of immediately available funds by FTA. Any late payment penalty received by FTA pursuant to subparagraphs 6(c)(i) and 6(c)(ii) of this Agreement allocated to the period after the fifteenth day, or the next business day if the fifteenth is not a business day, of such following month shall be remitted to the Registered Holder. The balance of such penalties shall be retained by FTA.
  - (iii) Other amounts received from Lender by FTA will be held and applied as required by this Agreement.
  - (iv) With the prior written consent of SBA, FTA may offset from payments due to Registered Holder any prior overpayments made to Registered Holder.
- (b) Prepayments pursuant to Paragraph 15 of this Agreement or full redemption payments received by FTA from Lender or SBA shall be remitted by FTA to Registered Holder by wire transfer within two (2) business days of receipt of immediately available funds by the FTA. Payment on full redemption of the Certificate will be made only after presentation of the Certificate to FTA by Registered Holder. FTA shall retain a final transfer fee upon redemption.
- (c) Each remittance by FTA to Registered Holder shall be accompanied by a statement of (i) the amount allocable to interest, (ii) the amount allocable to principal, and (iii) the remaining principal balance as of the date on which such allocations were calculated.
- (d) If FTA fails to make timely remittance to Registered Holder in accordance with this Paragraph 7, FTA shall pay to Registered Holder, (i) interest on the unremitted amount at

the rate provided in the Note less applicable fees, plus (ii) a late payment penalty calculated at a rate of 12% per annum on the amount of such payment, plus (iii) a fee of, \$100 per loan to SBA. The fee identified in (iii) shall be limited to not more than \$50,000 per month.

- (e) FTA agrees to identify to Lender each month any Loan in which the paid-to-date on its books differs by three (3) days or more from the paid-to-date on the books of Lender, provided the information required by Paragraph 6(a) has been submitted to FTA by Lender. Such identified differences will be reconciled on a timely basis.
- (f) FTA agrees to issue Certificates within two business days of settlement or receipt of Form of Detached Assignment.
- (g) FTA agrees to acknowledge any request from Registered Holder for late payment claims within ten (10) business days of receipt.
- (h) FTA agrees to forward to Registered Holder, within five (5) business days of receipt, any servicing request requiring concurrence of Registered Holder. FTA agrees to forward Registered Holder's response to Lender within five (5) business days of receipt. If FTA does not receive a response from Registered Holder within thirty (30) calendar days from the date of the request. Registered Holder will be deemed to have submitted a response of nonconsent. FTA is directed to take appropriate action pursuant to Paragraphs 10, 11 or 20 of this Agreement.
- (i) Where the Guaranteed Interest is a part of a Pool pursuant to Section 120.700 of the SBA Rules and Regulations as amended, the FTA, as manager of the pool, will, on behalf of Registered Holder of Guaranteed Loan Pool Certificates, agree to servicing actions by Lender that have been approved by SBA that will not affect the rights of the Certificate Holder.
- (j) FTA will provide to each SBA field office. in a format approved by SBA, on or before the last business day of each month a report of the execution of Secondary Market Guaranty Agreements (SBA Form 1086) during the previous month.
- (k) FTA agrees to pay accrued interest for any loan, which FTA fails to include in the late payment report described in Paragraph 10(a). FTA shall be responsible for interest beginning 90 days after the interest paid to date of the loan and continuing until 30 days after the SBA field office receives notification of the arrearage.

**8. Transferability of Guaranteed Interest.** Each Registered Holder maintains under this Agreement the right to assign the Guaranteed Interest. Each Registered Holder of the Guaranteed Interest shall be deemed to have represented that to the best of its knowledge, it has, and so long as it is a Registered Holder will have no interest in the Borrower, the Note or the collateral hypothecated to the Loan, other than the Guaranteed Interest held under this Agreement. Each Registered Holder represents that it will not service or attempt to service the Loan, or secure or attempt to secure additional collateral from Borrower.

Without the consent of SBA, Lender or FTA, Registered Holder may transfer the ownership of the Guaranteed Interest to a subsequent assignee (other than the Borrower, Lender, or an "Associate" of the Lender as defined in Title 13, Code of Federal Regulations, Part 120, or anyone standing in the same relationship to the Borrower). The effective date of any transfer of the Guaranteed Interest shall be the date on which such transfer is registered on the books of FTA. Any payment or action by FTA or SBA to the transferor Registered Holder prior to the effective date of the transfer of the Guaranteed Interest shall be final and fully effective. Neither SBA nor FTA shall have any further obligation to the transferee Registered Holder with respect to such payment or action, and any adjustment between the transferor and transferee resulting from such payment or action by SBA or FTA shall be the responsibility and obligation solely of the transferor and transferee.

FTA will make payments on payment date to the person or entity that on the books of FTA is the Registered Holder as of the close of business on the Record date. The Record Date is the last business day of the prior month. Any other adjustment between transferee and transferor is their responsibility and obligation. At any given time, there shall only be one Registered Holder entitled to the benefits of ownership of the Guaranteed Interest. Upon transfer of the Guaranteed Interest, the transferor shall cease to have any right in the Guaranteed Interest or any obligation or commitment under this Agreement.

FTA shall serve as the central registry of Certificate ownership.

**9. Certificates Lost, Destroyed, Stolen, Mutilated or Defaced.** Procedures for claim resulting from loss, theft, destruction, mutilation or defacement of a Certificate are found in Title 13, Code of Federal Regulations, Part 120. Upon written request, FTA will provide such procedures to any claimant.

**10. Repurchase of Guaranteed Interest by Lender.**

- (a) FTA will provide to each SBA field office on or before the last business day of the month a list of Loans which are in arrears based on criteria supplied to FTA by SBA.

Within five (5) business days of the receipt of the list, the SBA field office will contact Lender to determine the status of the Loan. A Loan requires action where (i) Lender's records indicate the interest paid-to-date is more than sixty (60) days in arrears or (ii) default by Borrower in payment of any installment of principal and interest has continued uncured for more than sixty (60) days. SBA will, in consultation with the Lender, decide on an appropriate remedial action under Paragraph 2 of this Agreement, or determine whether Lender will be offered the option to purchase the guaranteed portion. This decision will be made by SBA within ten (10) business days of the first contact with Lender.

SBA will notify the FTA in writing of the action to be taken within five (5) business days of the decision.

Where the decision is for Lender to purchase the Guaranteed Interest, FTA, at its option, may request a transcript of account from Lender. Lender agrees to provide the transcript of account within ten (10) business days of receipt of the request from FTA. Lender's failure to comply with the request for transcript may result in a \$100 penalty payable to SBA.

FTA and Lender will reconcile the transcript of account within ten (10) business days of the receipt of the transcript by FTA. If Lender and FTA cannot agree on the balance and interest paid-to-date within such ten (10) business days. FTA will immediately send the Lender's and FTA's transcript to the SBA field office for reconciliation. The reconciliation by the SBA field office will be final. SBA will notify Lender and FTA of the reconciliation immediately.

Within ten (10) business days of the reconciliation of the account of a Loan that the Lender is to repurchase, the Lender will transmit and FTA will receive ten (10) business days advance written notice of the date of purchase. Within two (2) business days of receipt of such notification, FTA will notify Registered Holder of the repurchase date and request Registered Holder to forward the Certificate to FTA.

On the date of purchase, Lender, without further notification from FTA, will forward by wire transfer a payment to FTA that includes the outstanding principal balance of the Guaranteed Interest plus interest through the date immediately preceding the date of the wire transfer.

- (b) Upon receipt of the purchase amount from Lender (or from SBA pursuant to Paragraph 11 of this Agreement). FTA shall remit to Registered Holder within two (2) business days the outstanding principal balance of the Guaranteed Interest plus interest through the date immediately preceding the date of Lender purchase. FTA may deduct from such amount a final transfer charge for the final transfer and redemption of the Certificate. The amount of such final transfer charge will not exceed the normal transfer charge for certificates.
- (c) Upon repurchase of the Guaranteed Interest by Lender, the rights and obligations of Lender, FTA and SBA shall be governed by the 750 Agreement and any continuing provisions of this Agreement.

## **11. Purchase by SBA.**

- (a) Written notices will be given to Lender and FTA when SBA is to purchase the Guaranteed Interest. Within five (5) business days of such notice. Lender and FTA will provide a transcript and final statement of account of the Guaranteed Interest to SBA. Failure by Lender or FTA to provide the transcript may result in a \$100 penalty payable to SBA by the party failing to comply. SBA will reconcile the transcripts and the reconciliation will be final.

Within ten (10) business days of final reconciliation of the account, SBA will provide ten (10) business days advance written notice to FTA of the date of purchase. FTA, within two (2) business days of the receipt of the written notice, will notify Registered Holder of the repurchase date and request Registered Holder to forward the Certificate to FTA.

On the purchase date, SBA will arrange to have funds wired to FTA. Upon receipt of the purchase amount from SBA, FTA shall remit to Registered Holder, within two (2) business days, the outstanding principal plus accrued interest through the date immediately preceding the date of SBA purchase.

- (b) SBA's payment of accrued interest to the payment date on a fixed interest rate Note shall be at the Note rate less the Lender's servicing fee. On Notes with a variable interest rate, SBA's payment of accrued interest shall be at that rate in effect on the date of the earliest uncured Borrower default, if the loan is in default, or at the rate in effect at the time of purchase, less the lender's fees if the loan is not in default.
- (c) If Lender fails to furnish a current transcript statement as required by this paragraph and paragraph 13(a)(i) within ten business days after SBA's request therefor, then SBA may rely on the certified statement of account with supporting documentation, from FTA. If any such information shall be inaccurate, whether inadvertently or otherwise, an appropriate adjustment in settlement will be made as expeditiously as possible.
- (d) SBA shall not be liable for any amount attributable to any late payment charges pursuant to Paragraph 6 of this Agreement that may be due FTA or Registered Holder.
- (e) Upon written demand by SBA. Lender shall immediately repay to SBA the amount by which the amount paid by SBA exceeds the amount of SBA's obligation to Lender under the 750 Agreement, and the amount paid by SBA for any payments by Borrower which were not remitted by Lender to FTA, including accrued interest thereon, plus accrued interest at the Note interest rate computed on the unpaid balance of the Guaranteed Interest from the date of purchase by SBA to date of repayment by Lender.
- (f) Upon purchase of the Guaranteed Interest by SBA pursuant to this Paragraph, the rights and obligations of Lender and SBA shall be governed by the 750 Agreement and any continuing provisions of this Agreement. SBA shall be deemed a transferee of the Guaranteed Interest and the final Registered Holder thereof with all the rights and privileges of such Registered Holder under this Agreement.

## **12. Default by Lender.**

- (a) Pursuant to Paragraph 10(a) of this Agreement. FTA notifies the SBA field office of Loans, which are past due. SBA contacts the Lender to determine status of the Loans.
- (b) When SBA determines that the Lender has failed for any reason to remit to FTA the payments required pursuant to Paragraph 6 of this Agreement, SBA may purchase the Guaranteed Interest under the provisions of Paragraph 11 of this Agreement, provided

however, under no circumstances shall SBA be liable for any amount attributable to any late payment charge.

- (c) If SBA purchases the Guaranteed Interest from Registered Holder because of default by Lender, and if Borrower has not been in uncured default on any payment due under the Note for more than sixty (60) calendar days, SBA shall have the option:
  - (i) to require Lender to purchase the Guaranteed Interest from SBA for an amount equal to the amount paid by SBA to Registered Holder plus accrued interest (at the interest rate provided in the Note) from the date of the SBA purchase to the date of the Lender's repurchase, plus a penalty equal to twenty percent (20%) of the amount paid by SBA, or
  - (ii) to require Lender to pay SBA a penalty equal to twenty percent (20%) of the amount paid by SBA to Registered Holder.
- (d) If on the date SBA purchases the Guaranteed Interest from Registered Holder pursuant to this Paragraph, Borrower shall be in uncured default for more than sixty (60) calendar days, then the provisions of Paragraphs 11 (e) and 11 (f) of this Agreement will become applicable in lieu of subparagraph (c) of this paragraph.
- (e) If Lender fails to furnish a current transcript statement as required by paragraph 13(a)(i) within ten business days after SBA's request therefor, then SBA may rely on the certified statement of account with supporting documentation from FTA. If any such information shall be inaccurate, whether inadvertently or otherwise, an appropriate adjustment in settlement will be made as expeditiously as possible.

### **13. Other Obligations of the Lender.**

- (a) Lender hereby consents to the purchase of the Guaranteed Interest by SBA in accordance with Paragraphs 11 and 12 of this Agreement. Lender shall, within ten business days of a request therefor, and without charge, furnish to SBA and FTA (i) a transcript of account, (ii) a current certified statement of the unpaid principal and interest then owed by Borrower on the Note, and (iii) a statement covering any payments by Borrower not remitted by Lender to FTA.
- (b) Upon request by FTA at any time, Lender shall issue at no charge a certified statement of the outstanding principal amount of the Guaranteed Interest and the effective interest rate on the Note as of the date of such certified statement.
- (c) Lender agrees that failure to provide the information requested pursuant to Paragraphs 10, 11, 12 and 13 of this Agreement may result in a \$100 penalty payable to SBA.
- (d) Lender agrees that purchase of the Guaranteed Interest pursuant to Paragraphs 11 or 12 of this Agreement does not release or otherwise modify any of Lender's obligations to SBA

arising from the Loan or the 750 Agreement, and that such purchase by SBA does not waive any of SBA's rights against Lender.

- (e) Lender agrees that SBA, as final owner of the Guaranteed Interest under this Agreement, in addition to all rights under the 750 Agreement, shall also have the right to offset against Lender all rights inuring to SBA under this Agreement against SBA's obligation to Lender under the 750 Agreement.
- (f) Lender agrees to assign, transfer and deliver the Note and related loan documents to SBA upon written demand from SBA after purchase of the Guaranteed Interest pursuant to this Agreement.

#### **14. Default by Fiscal and Transfer Agent.**

- (a) If FTA receives any payment from Lender or SBA and fails to remit to Registered Holder pursuant to Paragraph 7 of this Agreement, Registered Holder shall have the right to make written demand on FTA for any payment not remitted by FTA.
- (b) If FTA fails to remit any such payment within ten (10) business days of such demand, Registered Holder shall have the right to make written demand on the SBA Servicing Office identified in this Agreement.
- (c) Upon receipt of written demand from Registered Holder, SBA will verify non-payment by FTA, if non-payment by FTA is verified. SBA, within thirty (30) days of verification of non-payment by FTA, will (i) make payment directly to Registered Holder of the amount of the unremitted payment plus interest at the Certificate rate to day of payment by SBA, or (ii) purchase the Guaranteed Interest pursuant to Paragraph 11 of this Agreement.
- (d) FTA shall repay SBA within ten (10) business days after receipt of written demand from SBA an amount equal to the unremitted amount plus interest computed at the interest rate on the Certificate on the unpaid balance of the Guaranteed Interest from the date of the failure of FTA to remit to the Registered Holder to the date of FTA's repayment to SBA. Such payment will not affect FTA's liability for a late payment charge under Paragraph 7 of this Agreement.

#### **15. Prepayment or Refinancing by Borrower.**

- (a) A borrower may prepay a Loan guaranteed by SBA at any time without penalty. A prepayment subject to this Paragraph is any payment, which is greater than twenty percent (20%) of the principal amount outstanding at the time of prepayment.
- (b) For loans approved by SBA or on behalf of SBA prior to February 15, 1985, the Lender shall forward any prepayment amount pertaining to the Guaranteed Interest to the FTA within three (3) business days of receipt.

- (c) For loans approved by SBA or on behalf of SBA after February 14, 1985, Lender shall transmit written notice to FTA of Borrower's intent to make a partial or total prepayment of principal. Such prepayment can be by refinancing or otherwise. The prepayment date is the date prior to maturity that Lender has established with the FTA, and on which immediately available funds shall be delivered to FTA. The written notice shall be received by the FTA at least ten (10) business days prior to prepayment date, and it shall be Lender's responsibility to verify receipt of such notice by FTA. Lender's notice to FTA shall include:
- (i) The SBA loan number and borrower name
  - (ii) The prepayment date
  - (iii) The principal amount being prepaid
  - (iv) The accrued interest due the FTA as of prepayment date (interest shall accrue through and including the calendar day immediately preceding the prepayment date)
  - (v) A certification by Lender that, to the best of Its knowledge and belief, the prepayment funds are either Borrower's own funds or funds borrowed by Borrower (whether or not guaranteed by SBA) pursuant to a separate transaction
  - (vi) A certification from an officer of the Lender that the prepayment is in accordance with the terms of this Agreement, the Note and applicable law

The Certifications are intended to guard against Lender's unilateral repurchase of the Guaranteed Interest from the Registered Holder without prior written consent of SBA.

Lender's failure to provide such timely certification may result in a \$100 penalty payable to SBA.

- (d) On the prepayment date, Lender will wire the amount due to FTA without notification from FTA. If funds are not received by FTA on the prepayment date, Lender shall have thirty (30) calendar days from the date originally identified as the prepayment date to forward the prepayment funds. The funds will accrue interest through the day immediately prior to the date payment is received by FTA. If funds are not received within this thirty (30) day period, a new written notice is required in accordance with subparagraph (c) above.
- (e) FTA shall, upon receipt of notice pursuant to subparagraph (c) of this Paragraph, advise the Lender in writing of any discrepancy between the prepayment information supplied by the lender and the FTA's current records. Lender agrees to work with FTA to resolve errors or miscalculations that were made by the Lender or FTA during the course of the loan and which are discovered subsequent to the prepayment.

(f) FTA will remit the prepayment amount to Registered Holder in accordance with Paragraph 7 of this Agreement.

**16. Option to Purchase by SBA.** Pursuant to the 750 Agreement, SBA shall at any time have the option to purchase from the Registered Holder the outstanding balance of the Guaranteed Interest at the Note rate less the Lender's servicing fee. Failure of the Registered Holder to submit the Certificate to FTA for redemption on the date of prepayment specified by SBA or FTA will not entitle the Registered Holder to accrued interest beyond such date.

**17. Separate or Side Agreements.** Separate or side agreements (i) between Lender and Registered Holder, (ii) between a Registered Holder and a subsequent transferee of the Guaranteed Interest, (iii) between FTA and Lender, or (iv) between FTA and any Registered Holder shall not in any way obligate SBA to make any payment except as provided in this Agreement, nor shall it modify the nature or extent of SBA's rights or obligations under the terms of this Agreement or of the 750 Agreement. Any such side agreement, which has the effect of distorting the information supplied to SBA, is prohibited.

**18. Indemnity and Force Majeure.** Each party to this Agreement (including FTA) for itself and its successors and assigns, agrees to indemnify and hold harmless any other party (including FTA) from and against any costs, liabilities, and related expenses arising from the performance of its duties or otherwise arising under this Agreement; provided that no indemnification shall be provided under this Agreement for action or failure to act which constitutes negligence, breach of authority, or bad faith.

If any party hereto (including FTA) is in doubt as to the applicability of this Agreement to a communication it has received, it may refer the matter to SBA for an opinion as to whether it may take, suffer or omit any action pursuant to such communications.

Under no circumstances shall any party hereto (including FTA) be held liable to any person or entity for special or consequential damages or for attorneys' fees or expenses in connection with its performance under this Agreement.

If any party hereto (including FTA) shall be delayed in its performance hereunder or prevented entirely or in part from completing such performance due to causes or events beyond its control, such delay or non-performance shall be excused and the reasonable time for performance in connection with this Agreement shall be extended to include the period of such delay or non-performance. Causes or events include but are not limited to: (i) Act of God; (ii) postal malfunction; (iii) interruption of power or other utility, transportation, or communication service; (iv) act of civil or military authority; (v) sabotage; (vi) national emergency; (vii) war; (viii) explosion, flood, accident, earthquake or other catastrophe; (ix) fire; (x) strike or other labor problem; (xi) legal action; (xii) present or future law, government order, rule or regulation; or (xiii) shortage of suitable parts, materials, labor or transportation. In disputes between FTA and Lender, or between FTA and Registered Holder, SBA reserves the right to require FTA to take appropriate action as SBA determines, and if legal action is required, SBA will pay reasonable attorney's fees incurred by FTA in taking such action.

**19. Fees and Penalties.** Lender and Registered Holder shall be responsible for payment of fees and penalties required of them by this Agreement which are in effect on the Settlement Date, and as published from time to time in the Federal Register. If any fees or penalties required in this Agreement, (including but not limited to those described in Paragraphs 5, 6, 10, 11, 12, 13, and 15), are not remitted on a timely basis by Lender, FTA and SBA reserve the right to withhold such fees and penalties from the settlement of any future Guaranteed Interest sale or payment on any defaulted guaranteed loan in the Lender's portfolio.

**20. Emergency Repurchase Authority by Lender.** In certain critical situations in which the Borrower's ability to remain in business is directly dependent on a change in the provisions relating to the installment payments by Borrower. SBA may permit Lender to repurchase the Guaranteed Interest from Registered Holder. Lender must submit to the SBA field office a written request, which includes the following:

- (i) Current financial statements of the Borrower,
- (ii) A written decline from Registered Holder to a specific request for a change in the terms and conditions of the payment, or a written statement from FTA that no response was received from Registered Holder or the Guaranteed Interest is part of a Pool,
- (iii) A statement that the proposed change in the terms and conditions of the Loan is solely for the benefit of Borrower, and
- (iv) A certification by Lender that it will make the requested change in the terms and conditions if repurchase is approved by SBA.

The SBA Field Office must review the financial statements of Borrower and any other appropriate information and conclude that (i) a situation exists that Borrower's business will probably fail if the change is not approved, and (ii) that it is probable that the business will survive and resume payment if the change is approved. If all conditions are met, the SBA field office may approve the purchase of the Guaranteed Interest by Lender.

Guaranteed Interests purchased pursuant to this Paragraph may not be resold unless the Borrower has made all payments as scheduled in the Note for a period of twelve (12) months.

**21. Inconsistent Provisions and Caption Headings.** Any inconsistency between this Agreement and the 750 Agreement shall be resolved in favor of this Agreement. Any inconsistency between this Agreement and Title 13, Code of Federal Regulations, shall be resolved in favor of Title 13. The provisions of the Secondary Market Regulations (Title 13, Code of Federal Regulations, Part 120) in effect on the Settlement Date, and as may be amended from time to time in the Federal Register, apply to this Agreement unless explicitly stated to be inapplicable. The caption headings for the various Paragraphs herein are for case of reference only and are not to be deemed part of these Terms and Conditions.

In consideration of the mutual promises herein contained, the parties agree to all the provisions of this Agreement. IN WITNESS WHEREOF, the parties have executed this multi-page Agreement this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ in New York State.

\_\_\_\_\_  
(Registered Holder) SMALL BUSINESS ADMINISTRATION  
By: \_\_\_\_\_ By: Administrator, \_\_\_\_\_  
Title: \_\_\_\_\_ Small Business Administration  
Date: \_\_\_\_\_

\_\_\_\_\_  
(Lender) Examined and Accepted by  
Fiscal and Transfer Agent  
By: \_\_\_\_\_ By: \_\_\_\_\_  
Title: \_\_\_\_\_ COLSON SERVICES CORP.  
2 Hanson Place, 7<sup>th</sup> Floor,  
Date: \_\_\_\_\_ Brooklyn, New York 11217

**NOTICE:** THE GUARANTEE OF SBA RELATES TO THE UNPAID PRINCIPAL BALANCE OF THE GUARANTEED INTEREST AND THE INTEREST DUE THEREON. ANY PREMIUM PAID BY THE REGISTERED HOLDER FOR THE GUARANTEED INTEREST IS NOT COVERED BY SBA'S GUARANTEE AND IS SUBJECT TO LOSS IN THE EVENT OF PREPAYMENT OR DEFAULT.

**This form is required to obtain a benefit.**

PLEASE NOTE: The estimated burden for completing this form is 1 hour per response. You are not required to respond to any collection of information unless it displays a currently valid OMB approval number. Comments on the burden should be sent to U.S. Small Business Administration, Chief, AIB, 409 3<sup>rd</sup> St., S.W., Washington D.C. 20416 and Desk Officer for the Small Business Administration, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. OMB Approval (3245-0185 ). **PLEASE DO NOT SEND FORMS TO OMB.**

**ATTACHMENT 1a -- SBA FORM 1086  
SAMPLE CALCULATION  
LENDER'S AND INVESTOR'S SHARE OF A BORROWER'S PAYMENT**

Total Borrower Payment Received By Lender \$ 3,450.05

**Total Interest Payment Calculation**

Borrower's Balance	\$288,857.10
Multiplied by	
Borrower's Interest Rate	8.750%
Multiplied by	
Number of Paid Interest Days	31
Divided by	
Interest Calendar Basis	365

**Total Interest Payment \$ 2,146.64**

**Investor's Share Interest Payment**

Borrower's Balance	\$288,857.10
Multiplied by	
Percentage of Loan Sold to Investor	75.000%
Multiplied by	
Interest Rate Sold	7.750%
Multiplied by	
Number of Paid Interest Days*	31
Divided by	
Interest Calendar Basis*	365

**Investor's Share of Interest Payment to be Remitted to FTA \$1,425.98**

**Lender's Share of Interest Payment**

Borrower's Balance	\$288,857.10
Multiplied by	
Percentage of Loan Retained by Lender	25.000%
Multiplied by	
Borrower's Interest Rate	8.750%
Multiplied by	
Number of Paid Interest Days	31
Divided by	
Interest Calendar Basis	365

**Lender's Share of Interest Payment to be Retained by Lender \$ 536.66**

**Lender's Servicing Fee**

Total Interest	\$ 2,146.64
Minus	
Investor's Interest	\$ 1,425.98
Minus	
Lender's Interest	\$ 536.66

**Lender's Servicing Fee to be Retained by Lender \$ 184.00**

\*NOTE: Figures shown are for illustrative purposes only. This example utilizes an actual number of days in each month with a 365 days per year basis. This same procedure may also be utilized for a constant 30 days in each month with a 360 days per year basis.

**ATTACHMENT 1b -- SBA FORM 1086**

**SAMPLE CALCULATION**  
**LENDER'S AND INVESTOR'S SHARE OF A BORROWER'S PAYMENT**

Total Borrower Payment Received By Lender	\$3,450.05
<b><u>Total Principal Payment</u></b>	
Borrower's Total Payment	\$3,450.05
Minus	
Total Interest	\$2,146.64
<b>Total Principal Payment</b>	<b>\$1,303.41</b>
<b><u>Investor's Share of Principal Payment</u></b>	
Total Principal Payment	\$1,303.41
Multiplied by	
Percentage of Loan Sold to Investor	75.000%
<b>Investor's Share of Principal Payment to be Remitted to FTA</b>	<b>\$ 977.56</b>
<b><u>Lender's Share of Principal Payment</u></b>	
Total Principal Payment	\$1,303.41
Minus	
Investor's Principal Payment	\$ 977.56
<b>Lender's Share of Principal Payment to be Retained by Lender</b>	<b>\$ 325.85</b>
<b><u>Total to be Remitted to the FTA</u></b>	
Investor's Share of Interest Payment	\$1,425.98
Plus	
Investor's Share of Principal Payment	\$ 977.56
<b>Total to be Remitted to FTA</b>	<b>\$2,403.54</b>
<b><u>Total to be Retained by the Lender</u></b>	
Lender's Share of Interest Payment	\$ 536.66
Plus	
Lender's Share of Principal Payment	\$ 325.85
Plus	
Lender's Servicing Fee	\$ 184.00
<b>Total to be Retained by Lender</b>	<b>\$1,046.51</b>
<b><u>Payment Distribution Proof</u></b>	
Borrower's Total Payment	\$3,450.05
Minus	
Total to be Remitted to the FTA	\$2,403.54
Minus	
Total to be Retained by Lender	\$1,046.51
<b>Payment Distribution Proof</b>	<b>\$ 0.00</b>

**ATTACHMENT 2 -- SBA FORM 1086**

**SBA FIELD OFFICE CODES**

<b>Office Code</b>	<b>City</b>	<b>Office Code</b>	<b>City</b>
<b>REGION 1</b>		<b>REGION 6</b>	
0101	Boston, MA	0682	Albuquerque, NM
0172	Augusta, ME	0610	Dallas, TX
0189	Concord, NH	0677	El Paso, TX
0156	Hartford, CT	0671	Houston, TX
0150	Montpelier, VT	0669	Little Rock, AR
0165	Providence, RI	0639	Harlingen (LRGV), TX
0130	Springfield, MA	0678	Lubbock, TX
		0679	New Orleans, LA
		0680	Oklahoma City, OK
		0681	San Antonio, TX
		0637	Corpus Christi, TX
		0623	Fort Worth, TX
<b>REGION 2</b>		<b>REGION 7</b>	
0296	Buffalo, NY	0736	Cedar Rapids, IA
0299	Newark, NJ	0761	Des Moines, LA
0202	New York, NY	0709	Kansas City, MO
0252	Hato Rey, PR	0766	Omaha, NE
0248	Syracuse, NY	0768	St. Louis, MO
0206	Elmira, NY	0767	Wichita, KS
0235	Melville, NY	0721	Springfield, MO
0219	Rochester, NY		
<b>REGION 3</b>		<b>REGION 8</b>	
0373	Baltimore, MD	0897	Casper, WY
0390	Clarksburg, WV	0811	Denver, CO
0303	Philadelphia, PA	0875	Fargo, ND
0358	Pittsburgh, PA	0885	Helena, MT
0304	Richmond, VA	0883	Salt Lake City, UT
0353	Washington, DC	0876	Sioux Falls, SD
0325	Charleston, WV		
0316	Harrisburg, PA		
0318	Wilkes-Barre, PA		
0341	Wilmington, DE		
<b>REGION 4</b>		<b>REGION 9</b>	
0405	Atlanta, GA	0942	Fresno, CA
0459	Birmingham, AL	0951	Honolulu, HI
0460	Charlotte, NC	0944	Las Vegas, NV
0464	Columbia, SC	0914	Los Angeles, CA
0470	Jackson, MS	0988	Phoenix, AZ
0491	Jacksonville, FL	0954	San Diego, CA
0457	Louisville, KY	0912	San Francisco, CA
0455	Miami, FL	0920	Santa Ana, CA
0474	Nashville, TN	0995	Agana, Guam
0438	Gulfport, MS	0931	Sacramento, CA
		0992	Fresno (CLSC)
<b>REGION 5</b>		<b>REGION 10</b>	
0507	Chicago, IL	1084	Anchorage, AK
0549	Cleveland, OH	1087	Boise, ID
0593	Columbus, OH	1094	Spokane, WA
0515	Detroit, MI	1086	Portland, OR
0562	Indianapolis, IN	1013	Seattle, WA
0563	Madison, WI		
0508	Minneapolis, MN		
0545	Cincinnati, OH		
0543	Milwaukee, WI		
0547	Marquette, MI		
0517	Springfield, IL		

**ATTACHMENT 3a -- SBA FORM 1086**

**EXAMPLE OF A PENALTY CALCULATION  
FOR LATE LENDER REMITTANCE OF A BORROWER PAYMENT**  
(See Paragraph 6 (c))

**Example 1**

Assume:

1. that a \$1,000 payment received by Lender as a regularly scheduled Borrower payment is received by the FTA on the tenth of the month (a business day) following receipt by Lender:
2. that the interest rate on the note less the Lender's servicing fee is 7.75%:
3. that interest is calculated on a 30/360 day basis

(a) The late penalty is the greater of \$100 or 5% of the payment amount. \$100.00  
subject to a \$5,000 maximum on the Lender's total monthly remittance.  
\$1,000 x 5% \$50. The penalty is \$100.

(b) A penalty equal to the interest on the unremitted amount at the rate provided in the Note (less the rate of the Lender's servicing fee).

Unremitted amount	\$1,000.00
Multiplied by Note Rate minus Lender's servicing fee	7.75%
Multiplied by number of late days	5
Divided by interest calendar basis	<u>360</u>
	\$1.08

(c) A late penalty charge calculated at a rate of 12% per annum on the unremitted amount.

Unremitted amount	\$1,000
Multiplied by 12%	12.0%
Multiplied by number of late days	5
Divided by interest calendar basis	<u>360</u>
	\$1.67

**TOTAL PENALTY \$102.75**

**ATTACHMENT 3b -- SBA FORM 1086**

**EXAMPLE OF A PENALTY CALCULATION  
FOR LATE LENDER REMITTANCE OF A BORROWER PAYMENT**

(See Paragraph 6 (c))

**Example 2**

Assume:

1. that a \$5,145.96 payment received by lender as a regularly scheduled Borrower payment is received by the FTA on the fifteenth of the month (a business day) following receipt by the Lender;
2. that the interest rate on the note less the Lender's servicing fee is 7.75%;
3. that interest is calculated on an actual/365 day basis

(a) The late penalty is the greater of \$100 or 5% of the payment amount, subject to a \$5,000 maximum on the Lender's total monthly remittance.  $\$5,145.96 \times 5\% = \$257.30$ . The penalty is \$257.30. \$257.30

(b) A penalty equal to the interest on the unremitted amount at the rate provided in the Note (less the rate of the Lender's servicing fee).

Unremitted amount	\$5,145.96
Multiplied by the Note rate minus Lender's servicing fee	7.75%
Multiplied by number of late days	10
Divided by interest calendar basis	<u>365</u>
	\$10.93

(c) A late penalty charge calculated at a rate of 12% per annum on the unremitted amount.

Unremitted amount	\$5,145.96
Multiplied by 12%	12.0%
Multiplied by number of late days	10
Divided by interest calendar basis	<u>365</u>
	\$16.92

**TOTAL PENALTY** **\$285.15**