

**Information & Instructions:: Promissory note summary**

**PREVIEW**

1. A promissory note records an obligation owed by the maker to the payee.
2. The promissory note is a form of commercial paper that may be assigned, sold or discounted pursuant to the terms of the note.
3. It should set forth the monies owed by the maker to the payee, the interest payable to the payee, a schedule of payments, events of default, and possibly include a security instrument.

**Information & Instructions:: Promissory note**

1. Per Section 26.02 of the Texas Business Commerce Code, consumer loans over \$50,000 must be in writing and provide the following notice:

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**THIS WRITTEN LOAN AGREEMENT REPRESENTS THE AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

2. The promissory note in the next section provides for simple interest and payments on an equal monthly installment basis.
3. The note permits prepayment and contains a security interest provision for either personal property or real estate as a lien.
4. The note has standard default provisions, and provides for reimbursement of attorney's fees resulting from collection.
5. The note contains a usury disclaimer.
6. The note also provides for the personal liability of the maker.

**THIS DOCUMENT**

**Form: Promissory note**

[Date]  
[Address],  
[County], Texas

**THANK YOU**

**PROMISSORY NOTE**

FOR VALUE RECEIVED, the undersigned [name], hereafter referred to individually and collectively as "Maker," promises to pay to the order of [lender's name], hereafter referred to as "Holder," the sum of \$ [principal amount] lawful and legal tender of the United States of America, together with interest of [interest rate] per cent per annum and payable as stated below:

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1. Interest Rate. Interest shall accrue on the principal and unpaid balance of \$ [principal amount] at the rate of \_\_\_\_\_ percent per annum prior to maturity, and after maturity at the maximum rate permitted by law, but in no event less than \_\_\_\_\_ percent per annum.

2. Payment. This Note is due and payable as follows: the principal and interest shall be due and payable in [Number] equal installments of [amount of payment], commencing on [date], and continuing thereafter on the first day of [month] until the principal and interest is paid in full.

a. Any check, draft, money order or other instrument given in payment of all or any portion of this Note may be accepted by payee and handled in collection in the customary manner, but the same shall not constitute payment under this Note or diminish any rights of Holder except to the extent that actual cash proceeds of such instrument are unconditionally received by the Holder.

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3. Prepayment. Maker, at any time subsequent to the execution of this Note, shall have the right to prepay this Note in whole or in part at any time, and in such amounts as maker shall so desire, and from time to time as maker sees fit, prior to maturity. Interest shall immediately cease to accrue as of the date of prepayment on any amount of the principal that is so prepaid. Any prepayment of the principal shall be credited to the payment of the installments last accruing under this Note. Prepayment of a part of this Note shall not affect the Maker's obligations to continue the regular payments stated in this Note.

4. Security. For purposes of securing the Holder and the payment of this Note when due, the undersigned hereby pledges, transfers and delivers to the Holder, the following described property: [describe].

# THIS DOCUMENT

5. Vendor's Lien. Payment of this Note is secured by Vendor's Lien and superior title is expressly retained in a Deed bearing the same date as this Note executed by [name] to the Maker of this Note upon the real property described below. This lien is additionally secured by a Deed of Trust bearing the same date as this Note to [name], Trustee.

6. Default. It is agreed that time is of the essence of this Note. If default is made in any part of the principal or interest of the Note as the same becomes due and payable upon the performance of any obligation, agreement, or covenant contained in any instrument securing payment of this Note, then in either event, the Note holder shall have the option to declare the entire unpaid balance of both the principal and accrued interest immediately due and payable without notice, and may foreclose any and all liens securing payments for the same. Failure of the Holder to exercise this option shall not constitute a waiver of Holder's right to exercise such option in the event of any subsequent default.

# THANK YOU

a. It is further agreed that all past due principal and interest shall bear interest from the date it is due until paid, at the maximum lawful rate that the undersigned may legally contract under the laws of the State of Texas or under other

applicable federal law. In any event, all past due principal and interest shall bear interest rate of \_\_\_\_\_ percent.

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7. Attorney's Fees. In the event of default under this Note, or under any of the accompanying instruments securing payment of this Note, or if this Note is placed in the hands of an attorney or agency for collection, regardless of whether or not suit is filed, or if this Note is collected by suit or legal process including, but not limited to, through the probate court or bankruptcy proceedings, Maker agrees to pay an additional sum equal to \_\_\_\_\_ percent of all sums then due on the Note, including principal and interest, as attorney's fees and expenses of collection, or such greater amount as may be reasonable.

8. Waivers. Maker and any and all sureties, guarantors and endorsers of this Note, and all other parties now or hereafter liable on this Note, severally waive grace, demand, presentment for payment, protest, notice of any kind (including, but not limited to, notice of dishonor, notice of protest, notice of intention to accelerate, and notice of acceleration), and diligence in collecting and bringing suit against any party hereto and agree

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- a. to all extensions and partial payments, with or without notice, before or after maturity;
- b. to any substitution, exchange or release of any security now or hereafter given for this Note;
- c. to the release of any party primarily or secondarily liable on this Note; and
- d. that it will not be necessary for Holder, in order to enforce payment of this Note, to first institute or exhaust Holder's remedies against Maker or any other party liable thereon or against any security for this Note.

# THIS DOCUMENT

9. Usury Exclusion. All agreements between Maker and Holder are expressly limited such that in no contingency or event shall the amount paid or agreed to be paid to Holder for the use, forbearance, or detention of the money to be lent under this Note exceed the maximum amount permissible under the applicable Federal and State Usury laws. It is the intention of Maker and Holder to conform strictly to the State and Federal Usury laws applicable to this loan transaction, and to permit the highest rate of interest according to law. Therefore, in this Note, or in any of the documents securing payment of this Note or otherwise relating to this Note, the aggregate of all interest and any other charges constituting interest under the applicable law, whether contracted for, chargeable, or receivable under this Note or otherwise in connection with this loan transaction, shall under no circumstances exceed the maximum amount of interest permitted by law. If any excess of interest is provided for, or is adjudicated to be so provided for, in this Note or in any of the documents securing payment of this Note or otherwise relating to this Note, then in such event:

# THANK YOU

- a. the provisions of this paragraph shall govern and control;
- b. neither Maker nor Maker's heirs, legal representatives, successors, assigns or any other party liable for the payment of this Note shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum permitted

by law;

**PREVIEW**

- c. any excess of interest shall be deemed a mistake and is hereby canceled automatically, and any excess of interest paid shall, at the option of Holder, be refunded to Maker or credited to the principal amount of the Note;
- d. the effective rate of interest shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable law, as it now or may later be construed by courts of appropriate jurisdiction;
- e. the determination of the rate of interest shall be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the loan, all interest at any time contracted for, charged or received from Maker in connection with the loan.

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10. Personal Liability. This Note shall be the joint and several obligation of all Makers and endorsers and shall be binding upon them, individually and severally, their heirs, legal representatives, successors, and assigns. Each Maker and endorser hereby, jointly and severally, waive presentment for payment, demand, protest, and notice hereof, and [his or her] honor and diligence in collecting on notice of exercise of the option to accelerate the maturity of this Note, and the time of the payment may be extended from time to time without notice and without releasing any of the parties.

11. Assignment. This instrument, and all rights and powers under this instrument, together with the property so secured, if any, may be transferred and assigned by Holder on such time and on such terms as Holder may deem advisable, and assignee shall succeed to all the rights and powers of Holder under this instrument.

**THIS DOCUMENT**

12. Construction. This Note shall be governed by and construed under the laws of the State of Texas and the laws of the United States of America.

[For consumer loans over \$50,000 include the following notice:

**THIS WRITTEN LOAN AGREEMENT REPRESENTS THE AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.]**

**THANK YOU**

Signed on \_\_\_\_\_.

Maker:

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