

Private Placement Memorandum Preferred Shares Line-by-Line Instructions

All areas requiring your input are highlighted in Red Type, which makes it easy for you edit and customize the template for your offering.

This guide is a compliment to the document titled “PPM Preferred Shares – Numbered Lines”. It walks you through the various sections of the PPM, so that there is no guessing on you part.

LINE #	DISCUSSION
1	<p>Write or type in the name of the Recipient and a unique Memorandum Number for each memorandum distributed. If distributed electronically, distribute the PPM in PDF format.</p> <p>To avoid duplicate numbers if there is more than one partner marketing the transaction, have each partner begin with a unique number, e.g. 100, 200, 300, etc.</p> <p>Also be sure to track the state of residency for each recipient as this information will be required for your Form D. You also will be required to make state filings (since each state has different thresholds and requirements, check with your attorney).</p>
6	<p>This is the name of your acquisition vehicle. We recommend setting up a corporation through which to raise your capital and make the acquisition. Setting up a corporation or LLC is inexpensive and easy to do on your own. Additionally, there are several online services that make it very streamlined.</p> <p>Consult with your legal and tax advisors on which form your entity best meets your situation.</p> <p>Also remember that if you set up the acquisition vehicle after finding a company to acquire, you will need to assign the Letter of Intent over to the acquisition vehicle.</p>
7	<p>State of incorporation.</p>
11 & 12	<p>Minimum and maximum dollar amounts with which you will close your offering. For our purposes (an acquisition), the spread of the min/max should be fairly tight, with a good rule of thumb of targeting the minimum at ~80% of the maximum.</p> <p>Make sure you have built in to your deal a mechanism to fund the difference, e.g. an agreement to fund more in bank or seller debt.</p>

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	<ul style="list-style-type: none">▪ This <u>Preferred Return</u> section is optional. It was included to emphasize i) that you can be as creative as you want to, and ii) to provide you an example of how you can communicate an expected return to your investors. Since securities laws prohibit you from advertising expected returns, this is a way to communicate what was targeted as the expected return for the Preferred Shares. The mechanics involved structuring a “preferred return” to the Preferred Shares of 25%, meaning that the Sponsors would not realize any value on their common stock until the Preferred Shares achieved a 25% IRR (note that the Preferred Shares already have a preferred return of 12% by virtue of their dividend). Furthermore, the Sponsors communicated their confidence in the performance of this investment by accepting dilution (putting up their common equity) until the preferred return was achieved. As a side note, on this particular transaction, the investors asked for more equity in lieu of the 25% preferred return.▪ The <u>Offering Amount</u> in this section should mirror what you have in the table at line 27.▪ <u>Minimum Commitment</u> – the targeted amounts you are seeking from your investors. You can, and should, provide for the ability to accept lesser amounts. The trade-off to think about when deciding on the minimum offering amount is 1) too many investors if the minimum is set low, and 2) losing prospective investors by virtue of setting the minimum too high, even though you may state that you will accept commitments for lesser amounts.▪ The <u>ABC Capital, Inc. Capital Commitment</u> section addresses the amount that you, as the “Sponsor” of the transaction, are committing to invest. Substitute “ABC Capital, Inc.” for the name of your entity, if you have one, or your name, names if there is more than one person sponsoring the transaction. As with the acquisition vehicle, we highly recommend that you form a vehicle through which to sponsor your transaction – it is <u>inexpensive and easy</u>. As with the acquisition vehicle, consult with your legal and tax advisors on the best structure for your situation.▪ The <u>Liquidation Preference</u> section describes how the proceeds from a liquidity event (a sale or liquidation of the Issuer) are allocated to the various capital providers. Also known as the “waterfall”, proceeds are first applied against the senior debt, then subordinated debt, preferred (which may consist of one or more series of preferred, each having a liquidation

LINE #	DISCUSSION
	<p>preference over the one preceding it), and finally common equity.</p> <ul style="list-style-type: none"> The <u>Affirmative Covenant</u> section describes what the obligations of the Issuer are with respect to the Preferred Shareholders and the protection of their investment. The covenants listed here are usual and customary affirmative covenants. The <u>Redemption</u> section describes under what conditions the Preferred Shares are to be repurchased by the Issuer. Again, these are usual and customary redemption provisions. <p>Note that the term of the Preferred Shares can be shorter or longer than the five years illustrated here.</p> <ul style="list-style-type: none"> As with the Affirmative Covenants, the <u>Negative Covenants</u> are provided for the benefit of the Preferred Shareholders, and are not typical. <u>Voting Rights</u> are also usual and customary provisions for the protection of the Preferred Shareholders. The first right of refusal provision under <u>Transfer Restrictions</u> provides that a selling Preferred Shareholder first offer his shares to existing Preferred Shareholders under the same terms and conditions to be offered to a third party buyer.
132 - 290	<p>The Risk Factors section is where you describe all the actual and potential risks of the transaction. The key when identifying and discussing the risks of your transaction is to be as transparent as possible.</p> <p>The examples used herein are illustrative of the issues you want to discuss. You may or may not have different risks facing your business.</p>
148 - 155	<p>This risk should be discussed in the context of your situation.</p>
208 – 214 224 – 258 276 – 284	<p>These risks are usual and customary for a private offering and are independent of the business you are in.</p>
292 – 302	<p>This Conflict of Interest section (including lines 215 – 223 in the Risk Factors section) can be eliminated if your role with the Issuer post-transaction will solely be as a principal operator/officer.</p>
303 - 310	<p>This section begins to describe the transaction. Follow the template, substituting and editing as the specifics to your transaction dictates.</p>
312	<p>This diagram presents the transaction graphically, and is fairly straightforward in its description of the transaction. For example, in the upper left-hand corner, Preferred Shares get issued by WAC (the Issuer) to the Investors in exchange for \$2.0 million from the Investors.</p>