

**Note Fixed Rate Defeasance – TAH Express (Revised 05-20-2019)**

**( \_\_\_-\_\_-2018)**

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| **Borrower:** |  |
| **Lender:** |  |
| **Effective Date:** |  |

FOR VALUE RECEIVED, Borrower (jointly and severally if more than one), promises to pay to the order of Lender the Principal Amount shown below, plus interest, according to the terms provided in this Note (“**Note**”).

**1. Key Terms.**

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| **Principal Amount**: US $\_\_\_\_\_\_\_\_\_\_\_\_ | **First Payment Date**: \_\_\_\_\_\_\_\_ |
| **Loan Term:** \_\_\_\_months | **Maturity Date**: \_\_\_\_\_\_\_\_\_\_\_\_ |
| **Amortization Period**: \_\_\_ months |  |
| **Fixed Annual Interest Rate**: \_\_\_\_\_\_\_% | **Monthly Principal and Interest Payment Amount**: $\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Cut-off Date:** the 12th Payment Date |  |
| **Defeasance Date**:the 2nd anniversary of the “start up date” of the current REMIC trust (within the meaning of Section 860G(a)(9) of the Tax Code) that holds all or any portion of the Loan, if applicable. | **Defeasance Period**:the period beginning the day after the Defeasance Date until but not including the first day of the Window Period. The Defeasance Period only applies if this Note is assigned to a REMIC trust prior to the Cut-off Date. |
| **Yield Maintenance Period**: the period from and including the Effective Date until, but not including:  (1) the day that this Note is assigned to a REMIC trust, if this Note is assigned prior to the Cut-off Date, or    (2) the first day of the Window Period, if this Note is not assigned to a REMIC trust or if this Note is assigned to a REMIC trust on or after the Cut-off Date. | **Lockout Period:** the period beginning on the day that this Note is assigned to a REMIC trust until and including the Defeasance Date.  The Lockout Period only applies if this Note is assigned to a REMIC trust prior to the Cut-off Date. |

**Check here (\_\_) and complete the following for full or partial term interest-only loans:**

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| **Interest-Only Period:** \_\_\_ months |
| **Per Diem Interest-Only Payment Amount:** $\_\_\_\_\_\_\_\_\_\_\_\_  *(expressed to the fifth decimal place)* |
| **First Principal and Interest Payment Date:** \_\_\_\_\_\_\_\_\_\_\_\_ |

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| **Property Jurisdiction (State)**: |
| *(see Schedule 2 for applicable State-specific provisions)* |
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| **Lender Address for Payment**: |
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**2. Interest.**

(a) **Interest Rate.** Interest will accrue on the outstanding principal balance of this Note at the Fixed Annual Interest Rate, subject to the provisions of Section 5 of this Note related to the Default Annual Interest Rate.

(b) **Interest Due for Partial Month.** Unless Lender disburses the Principal Amount to Borrower on the first day of a month, Borrower must pay interest for that partial first month.

(c) **Interest Calculation.**

(i) Lender will determine and allocate interest using an actual/360 interest schedule (interest is payable for the actual number of days in each month, and each month’s interest is calculated by multiplying the unpaid Principal Amount as of the 1st day of the month for which interest is being calculated by the Fixed Annual Interest Rate, dividing the product by 360, and multiplying the quotient by the number of days in the month for which interest is being calculated). The amount of each payment attributable to principal and the amount attributable to interest will be based on an actual/360 interest schedule so it will vary based upon the number of days in the month for which such payment is paid.

(ii) For convenience, to calculate the actual monthly principal and interest payment amounts, Lender will use a 30/360 interest calculation payment schedule (each year is treated as consisting of twelve 30-day months).

(iii) If Lender receives any monthly payment before its Payment Date, Lender will be deemed to have received the payment on its Payment Date for the purpose of calculating interest due.

(iv) Any accrued interest remaining past due for 30 days or more may be added to and become part of the unpaid Principal Amount and any reference to “**accrued interest**” will refer to accrued interest which has not yet become part of the unpaid Principal Amount. Any amount added to the Principal Amount pursuant to the Loan Documents will bear interest at the applicable rate or rates specified in this Note and will be payable with such interest upon demand by Lender and, absent such demand, as provided in this Note for the payment of principal and interest.

**3. Payments.**

(a) **Time of Payments.** Borrower will make a payment every month on the first day of each month (each, a “**Payment Date**”) beginning on the First Payment Date. Borrower will make these payments every month until Borrower has paid the entire Principal Amount, accrued interest on the Principal Amount, and any other charges that Borrower may owe Lender, whether described in this Note or in any other Loan Document. Each payment will be applied as of its scheduled Payment Date, and, if the payment consists of both principal and interest, it will be applied to accrued interest before principal. If, on the Maturity Date, Borrower still owes amounts under this Note or any other Loan Document, Borrower will pay those amounts in full on the Maturity Date.

(b) **Payments if there is no Interest-Only Period.** If Section 1 does not specify an Interest-Only Period, then beginning on the First Payment Date, each monthly payment will be equal to the Monthly Principal and Interest Payment Amount.

(c) **Payments** **if there is an Interest-Only Period.** If Section 1 specifies an Interest-Only Period, then beginning on the First Payment Date, each monthly payment during the Interest-Only Period will only be for the amount of interest due on the unpaid Principal Amount. Each monthly payment during the Interest-Only Period will vary, and will equal the Per Diem Interest-Only Payment Amount multiplied by the number of days in the month prior to the Payment Date. If the Interest-Only Period is less than the Loan Term, then beginning on the First Principal and Interest Payment Date, each monthly payment will be equal to the Monthly Principal and Interest Payment Amount.

(d) **Manner and Place of Payment.** Borrower will authorize Lender to make arrangements so that all payments under this Note are transferred by automated clearinghouse transfer initiated by Lender directly from an account at a U.S. bank in the name of Borrower to an account designated by Lender.

**4. Borrower’s Right to Prepay and for Defeasance.**

(a) This Section 4(a) will apply until this Note is assigned to a REMIC trust, and it will also apply if this Note is assigned to a REMIC trust after the Cut-off Date.

If this Note is assigned to a REMIC trust prior to the Cut-off Date, see Section 4(b).

(i) **Prepayment**. If Lender receives any principal payment or other amounts before the Maturity Date other than the monthly payments specified in Sections 1 and 3, it will be considered a prepayment (“**Prepayment**”). Borrower may not make a partial Prepayment unless expressly permitted by the Loan Documents. If Lender accepts and applies any partial Prepayment, Lender will not change the Payment Dates nor will it change the Monthly Principal and Interest Payment Amount. Lender may apply any Prepayment to any amounts due under this Note as Lender determines, including to any accrued and unpaid interest on the Principal Amount and the Prepayment Charge specified on Schedule 1 (as more fully described on Schedule1), if applicable, before applying a Prepayment to reduce the Principal Amount.

(ii) **Prepayment Charge.** Borrower must pay the Prepayment Charge specified on Schedule 1 in connection with any Prepayment under this Note, whether voluntary or involuntary or resulting from a default by Borrower, except any Prepayment (A) occurring as a result of the application of any Insurance proceeds or Condemnation award, (B) required under the terms of the Loan Agreement in connection with a Condemnation proceeding, or (C) made during the Window Period (as defined on Schedule 1).

(iii) **Designation of Payment Date for Full Prepayment**. If Borrower gives at least 30 days’ prior Notice to Lender, then Borrower may make a full Prepayment on a Payment Date. If the Payment Date is not a Business Day, then the “Payment Date” for this full Prepayment will mean the Business Day immediately before the Payment Date and the calculation of any required Prepayment Charge will be made as if the prepayment had actually been made on the scheduled Payment Date. Borrower must pay to Lender (A) all principal, (B) the Prepayment Charge, (C) all accrued and unpaid interest and (D) all other sums due to Lender at the time of such Prepayment.

(iv) **Designation of Day other than a Payment Date for Full Prepayment**. If Borrower gives at least 30 days’ prior Notice to Lender, then Borrower may make a full Prepayment on a Business Day that is not a Payment Date. However, Lender will only accept this Prepayment if Borrower pays to Lender all amounts due under Section 4(a)(iii), including all interest that would have been due if the Prepayment had actually been made on the Payment Date immediately after the designated Business Day.

(v) **Prepayment Charge NOT a Penalty**. Borrower recognizes that any Prepayment, whether voluntary or involuntary or resulting from a default by Borrower, will result in Lender’s incurring loss, including reinvestment loss, additional expense and frustration or impairment of Lender’s ability to meet its commitments to third parties. Borrower agrees to pay to Lender upon demand damages for the detriment caused by any Prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower agrees that the formula for calculating the Prepayment Charge in this Note represents a reasonable estimate of the damages that Lender will incur because of a Prepayment. Borrower further acknowledges that the Prepayment Charge set forth in this Note is a material part of the consideration for the Loan, and that the terms of this Note are in other respects more favorable to Borrower as a result of the Borrower’s voluntary agreement to the Prepayment Charge.

(b) This Section 4(b) will apply after this Note is assigned to a REMIC trust, if such assignment occurred prior to the Cut-off Date.

If this Note has not been assigned to a REMIC trust, or was assigned to a REMIC trust after the Cut-off Date, see Section 4(a).

(i) **Prepayment.** If Lender receives any principal payment or other amounts before the Maturity Date other than the monthly payments specified in Sections 1 and 3, it will be considered a prepayment (“**Prepayment**”). Borrower may not make a partial Prepayment unless expressly permitted by the Loan Documents. If Lender accepts and applies any partial Prepayment, Lender will not change the Payment Dates nor will it change the Monthly Principal and Interest Payment Amount. Lender may apply any Prepayment to any amounts due under this Note as Lender determines, including to any accrued and unpaid interest on the Principal Amount, before applying a Prepayment to reduce the Principal Amount.

(ii) **Prepayment Charge.** Borrower may not voluntarily prepay any portion of the principal balance of this Note, including a full Prepayment, during the Lockout Period or during the Defeasance Period. If any portion of the principal balance of this Note is prepaid during the Lockout Period or during the Defeasance Period by reason of the application by Lender of any proceeds of collateral or other security to any portion of the unpaid principal balance of this Note or following a determination that the prohibition on voluntary prepayments during the Lockout Period or during the Defeasance Period is in contravention of applicable law, then Borrower must pay a prepayment premium equal to 5.0% of the amount of the principal being prepaid in connection with any Prepayment under this Note, whether voluntary or involuntary or resulting from a default by Borrower, except any Prepayment (A) occurring as a result of the application of any Insurance proceeds or Condemnation award, (B) required under the terms of the Loan Agreement in connection with a Condemnation proceeding, or (C) made during the Window Period (as defined on Schedule 1).

(iii) **Designation of Payment Date for Full Prepayment**. Subject to Section 4(b)(ii) and Section 4(c)(i), if Borrower gives at least 30 days’ prior Notice to Lender, then Borrower may make a full Prepayment on a Payment Date. If the Payment Date is not a Business Day, then the “Payment Date” for this full Prepayment will mean the Business Day immediately before the Payment Date. Borrower must pay to Lender (A) all principal, (B) the Prepayment Charge, (C) all accrued and unpaid interest and (D) all other sums due to Lender at the time of such Prepayment.

(iv) **Designation of Day other than a Payment Date for Full Prepayment**. Subject to Section 4(b)(ii) and Section 4(c)(i), if Borrower gives at least 30 days’ prior Notice to Lender, then Borrower may make a full Prepayment on a Business Day that is not a Payment Date. However, Lender will only accept this Prepayment if Borrower pays to Lender all amounts due under Section 4(b)(iii), including all interest that would have been due if the Prepayment had actually been made on the Payment Date immediately after the designated Business Day.

(v) **Prepayment Charge NOT a Penalty**. Borrower recognizes that any Prepayment, whether voluntary or involuntary or resulting from a default by Borrower, will result in Lender’s incurring loss, including reinvestment loss, additional expense and frustration or impairment of Lender’s ability to meet its commitments to third parties. Borrower agrees to pay to Lender upon demand damages for the detriment caused by any Prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower agrees that the formula for calculating the Prepayment Charge in this Note represents a reasonable estimate of the damages that Lender will incur because of a Prepayment. Borrower further acknowledges that the Prepayment Charge set forth in this Note is a material part of the consideration for the Loan, and that the terms of this Note are in other respects more favorable to Borrower as a result of the Borrower’s voluntary agreement to the Prepayment Charge.

(c) This Section 4(c) will apply only if the Loan is assigned to a REMIC trust prior to the Cut-off Date.

(i) **No Right to Prepay Following Defeasance**. If, after the expiration of the Lockout Period, Borrower defeases the Loan as described in Section 10.23 of the Loan Agreement during the Defeasance Period, Borrower will not have the right to voluntarily prepay any of the principal of this Note at any time.

**(ii) Loan Document Modifications Following Defeasance.** If, after the expiration of the Lockout Period, Borrower defeases the Loan as described in Section 10.23 of the Loan Agreement during the Defeasance Period, each of the following modifications is deemed made to this Note or the Loan Agreement as indicated:

(A) Section 8 of this Note is amended by adding the following a new paragraph at the end of the Section:

If Borrower obtains a release of the Mortgaged Property from the lien of the Security Instrument pursuant to Section 10.23 of the Loan Agreement, the Indebtedness will be secured by the Pledge Agreement and reference will be made to the Pledge Agreement for other rights of Lender as to collateral for the Indebtedness.

(B) Article III of the Loan Agreement is amended by adding the following new paragraph at the end of the Article:

If Borrower obtains a release of the Mortgaged Property from the lien of the Security Instrument pursuant to Section 10.23 of this Loan Agreement, Borrower will have no personal liability under this Note or the Pledge Agreement for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under this Note or the Pledge Agreement (other than any liability under Section 6.12 or Section 10.02 of this Loan Agreement for events that occur prior to the Defeasance Closing Date, whether discovered before or after the Defeasance Closing Date), and Lender’s only recourse for the satisfaction of the Indebtedness and the performance of such obligations will be Lender’s exercise of its rights and remedies with respect to the collateral held by Lender under the Pledge Agreement as security for the Indebtedness.

(C) Section 6 of this Note is amended by adding the following new paragraph at the end of the Section:

If Borrower obtains a release of the Mortgaged Property from the lien of the Security Instrument pursuant to Section 10.23 of the Loan Agreement, all Notices, demands and other communications required or permitted to be given pursuant to this Note will be given in accordance with the Pledge Agreement.

**5. Borrower’s Failure to Pay as Required; Defaults.**

(a) **Late Charge for Overdue Payments.** If Lender has not received the full amount of any monthly payment by the 10th day of any month or any amount due under any Loan Document within 9 days after it is due (unless applicable law requires a longer period of time before a late charge may be imposed), then Borrower must pay a late charge to Lender (“**Late Charge**”). The amount of the Late Charge will be 5% of any overdue payment or amount (unless applicable law requires a lower amount to be charged). Borrower will pay this Late Charge promptly but only once with respect to each late payment. If the Loan is not fully amortizing, no Late Charge will be due on the final payment of the unpaid Principal Amount owed on the Maturity Date.

(b) **Interest Rate after Default.** If Lender has not received the full amount of any monthly payment for 30 days or more after the Payment Date or any other Event of Default has occurred and is continuing, then the interest rate under this Note will increase to the Fixed Annual Interest Rate plus 4% (“**Default Annual Interest Rate**”) beginning on that Payment Date or the date any other Event of Default commences. If Borrower has not paid the entire Principal Amount by the Maturity Date, the Default Annual Interest Rate will continue until and including the date on which the entire unpaid portion of the Principal Amount is paid in full.

(c) **Default.** If Borrower does not pay the full amount of each payment on the date it is due, or if any other Event of Default occurs and is continuing, Borrower will be in default.

(d) **Lender’s Damages.** Borrower acknowledges that its failure to make timely payments will increase Lender’s expenses and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the Late Charge and the Default Annual Interest Rate both represent fair and reasonable estimates of Lender’s additional expenses.

(e) **Acceleration.** If Borrower continues to be in default, the entire unpaid Principal Amount, any accrued interest, any Prepayment Charge, and all other amounts payable under this Note and any other Loan Document will immediately become due and payable, at the option of Lender, without any prior Notice to Borrower (unless applicable law requires Notice). Lender will calculate any Prepayment Charge as if Prepayment occurred on the date of acceleration. If Prepayment occurs thereafter, Lender will recalculate the Prepayment Charge as of the actual Prepayment date.

**6. Notices and Written Modifications.** All Notices required or permitted to be given under this Note must be given in accordance with Section 10.03 of the Loan Agreement. Any modification or amendment to this Note will not be effective unless it is in writing and signed by Borrower and Lender.

**7. Personal Liability.** The provisions of Article III of the Loan Agreement are incorporated by reference into this Note to the same extent and with the same force as if fully set forth in this Note.

**8.** **Security.** The Indebtedness is secured by, among other things, the Security Instrument, and reference is made to the Security Instrument and the Loan Agreement for other rights with respect to collateral for the Indebtedness.

**9. Payment of Lender’s Costs and Expenses.** Lender will have the right to be paid back by Borrower for Lender’s entire costs and expenses, including Attorneys’ Fees and Costs, resulting from any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Loan Documents, including those costs and expenses incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay) or judicial or nonjudicial foreclosure proceeding. Borrower agrees that, in connection with each request by Borrower under this Note or any other Loan Document, Borrower must pay all Attorneys’ Fees and Costs and expenses incurred by Lender, regardless of whether the matter is approved, denied or withdrawn.

**10. Waivers.**

(a) **Presentment and Notice of Dishonor.** Borrower and all endorsers and Guarantors and all other third party obligors waive presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness.

(b) **Forbearance.** Any forbearance by Lender in exercising any right or remedy under this Note or any other Loan Document, or otherwise afforded by applicable law, will not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the applicable Payment Date, or in an amount which is less than the required payment, will not be a waiver of Lender’s right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Application by Lender of any security for Borrower’s obligations under this Note will not constitute an election of remedies by Lender so as to preclude the exercise of any other right or remedy available to Lender.

(c) **Waiver Of Trial By Jury. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND LENDER EACH KNOWINGLY AND VOLUNTARILY, WITH THE BENEFIT OF, OR THE OPPORTUNITY TO CONSULT WITH, COMPETENT LEGAL COUNSEL, (i) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY, AND (ii) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE.**

**11. Commercial Purpose.** Borrower represents that Borrower is incurring the Indebtedness solely for the purpose of carrying on a business or commercial enterprise, and not for consumer, personal, family, household or agricultural purposes.

**12. Counting of Days.** Any reference in this Note to a period of “**days**” means calendar days, not Business Days, except where otherwise specifically provided.

**13. Captions.** The captions or headings of the Sections of this Note are for convenience only and will be disregarded in construing this Note.

**14. Governing Law.** This Note will be governed by the laws of the Property Jurisdiction.

**15. Defined Terms.** Capitalized terms used but not defined in this Note, including the Key Terms set forth in the table in Section 1 of this Note, will have the meanings given to such terms in the Loan Agreement. “**Loan Agreement**” means the Loan Agreement by and between Borrower and Lender, effective as of the Effective Date of this Note, as amended, modified or supplemented from time to time.

**16. Time of the Essence.** TIME IS OF THE ESSENCE as to each and every provision of this Note requiring payment.

**17. Successors and Assigns.** This Note will bind the respective successors and assigns of Borrower and Lender, and the rights granted by this Note will inure to Lender’s successors and assigns. Borrower understands that Lender may transfer this Note. Anyone who takes this Note by transfer and who is entitled to receive payments under this Note will also be called “**Lender**.”

**18. Loan Charges.** Neither this Note nor any of the other Loan Documents will be construed to create a contract requiring payment of interest at a rate greater than the maximum amount of interest allowed by applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, then: (a) any such Loan charge will be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be applied to Principal. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

**19. State-Specific Provisions.** State-specific provisions, if any, for the Property Jurisdiction identified in Section 1 are included on Schedule 2 to this Note.

20. Community Property Provision (Non-Entity Borrower(s) Only). If Borrower (or any Borrower, if more than one) is a married person, and the state of residence of Borrower or Borrower’s spouse is a community property jurisdiction, Borrower (or each such married Borrower, if more than one) agrees that Lender may satisfy Borrower’s obligations under this Note and all Loan Documents to the extent of all of Borrower’s separate property and Borrower’s interest in any community property.

21. Attached Schedules, Riders and Exhibits. The following Schedules, Riders, if any, and Exhibits, if any, are attached to, and incorporated fully into, this Note:

|X| Schedule 1 – Prepayment Charge

|X| Schedule 2 – State-Specific Provisions by Property Jurisdiction

22. Sealed Instrument. Where applicable law provides, Borrower intends that this Note will be deemed to be signed and delivered as a sealed instrument.

**[SIGNATURES]**

**[ADD SEALS AND WITNESSES, IF APPLICABLE]**

**SCHEDULE 1**

**Yield Maintenance Prepayment Charge**

|  |  |
| --- | --- |
| **Yield Maintenance Prepayment Charge** | |
| The Window Period is: | The 3 consecutive calendar month period prior to the Maturity Date. |
| The Prepayment Charge is: | For any Prepayment made during the Yield Maintenance Period, the Prepayment Charge will be whichever is the greater of subsections (A) and (B) below:  (A) 1.0% of the principal being prepaid; or  (B) the product obtained by multiplying:  (1) the principal being prepaid or accelerated,  *by*  (2) the excess (if any) of the Monthly Note Rate over the Assumed Reinvestment Rate,  *by*  (3) the Present Value Factor.  For purposes of determining the Prepayment Charge above, the following definitions will apply:  **Monthly Note Rate:** 1/12 of the interest rate then in effect under this Note, expressed as a decimal calculated to 5 digits.  **Prepayment Date:** in the case of a voluntary Prepayment, the date on which the Prepayment is deemed to be made pursuant to Section 4(a)(iv) of this Note; in the case of the application by Lender of collateral or security to a portion of the unpaid principal amount, the date of such application.  **Assumed Reinvestment Rate:** 1/12 of the yield rate expressed as a decimal to 2 digits, as of the close of the trading session which is 5 Business Days before the Prepayment Date, found among the Daily Treasury Yield Curve Rates, commonly known as Constant Maturity Treasury (“**CMT**”) rates, with a maturity equal to the remaining Yield Maintenance Period, as reported on the U. S. Department of the Treasury website.  If no published CMT maturity matches the remaining Yield Maintenance Period, Lender will interpolate as a decimal to 2 digits the yield rate between (a) the CMT with a maturity closest to, but shorter than, the remaining Yield Maintenance Period, and (b) the CMT with a maturity closest to, but longer than, the remaining Yield Maintenance Period, as follows:    A = yield rate for the CMT with a maturity shorter than the remaining Yield Maintenance Period  B = yield rate for the CMT with a maturity longer than the remaining Yield Maintenance Period  C = number of months to maturity for the CMT maturity shorter than the remaining Yield Maintenance Period  D = number of months to maturity for the CMT maturity longer than the remaining Yield Maintenance Period  E = number of months remaining in the Yield Maintenance Period  If the U. S. Department of the Treasury ceases publication of the CMT rates, the Assumed Reinvestment Rate will equal the yield rate on the first U. S. Treasury security which is not callable or indexed to inflation and which matures after the expiration of the Yield Maintenance Period.  The Assumed Reinvestment Rate may be a positive number, a negative number or zero.  If the Assumed Reinvestment Rate is a positive number or a negative number, Lender will calculate the Prepayment Charge using such positive number or negative number, as appropriate, as the Assumed Reinvestment Rate in Section (B)(2) above and in the calculation of the Present Value Factor.  If the Assumed Reinvestment Rate is zero, Lender will calculate the Prepayment Charge twice as set forth in (I) and (II) below and will average the results to determine the actual Prepayment Charge.  (I) Lender will calculate the Prepayment Charge using an Assumed Reinvestment Rate of one basis point (+0.01%) in Section (B)(2) above and in the calculation of the Present Value Factor.  (II) Lender will calculate the Prepayment Charge using an Assumed Reinvestment Rate of negative one basis point  (-0.01%) in Section (B)(2) above and in the calculation of the Present Value Factor.  **Present Value Factor:** the factor that discounts to present value the costs resulting to Lender from the difference in interest rates during the months remaining in the Yield Maintenance Period, using the Assumed Reinvestment Rate as the discount rate, with monthly compounding, expressed numerically as follows:    **n** = the number of months remaining in the Yield Maintenance Period; provided, however, if a Prepayment occurs on a Payment Date, then the number of months remaining in the Yield Maintenance Periodwill be calculated beginning with the month in which such Prepayment occurs and if such Prepayment occurs on a Business Day other than a Payment Date, then the number of months remaining in the Yield Maintenance Period will be calculated beginning with the month immediately following the date of such Prepayment.  **ARR** = Assumed Reinvestment Rate |

**SCHEDULE 2**

**State-Specific Provisions by Property Jurisdiction**

**[SELECT THE APPROPRIATE PROPERTY JURISDICTION AND DELETE ALL OTHER OPTIONS]**

|  |  |
| --- | --- |
| **Property Jurisdiction** | **State-Specific Provision(s)** |
| Alabama | None |
| Alaska | **NOTICE TO BORROWER:** The mortgagor or trustor (Borrower) is personally obligated and fully liable for the amount due under this Note as provided in Article III of the Loan Agreement. The mortgagee or beneficiary (Lender) has the right to sue on this Note and obtain a personal judgment against the mortgagor or trustor (Borrower) for satisfaction of the amount due under Article III of the Loan Agreement either before or after a judicial foreclosure of the Security Instrument under AS 09.45.170 - 09.45.220. |
| Arizona | Borrower agrees to pay an effective contracted rate of interest equal to the rate of interest resulting from all interest payable as provided in this Note, plus an additional rate of interest resulting from all “Other Sums.” The “**Other Sums**” will consist of all fees, charges, or any other sums (other than interest payable as provided in this Note) paid or payable by Borrower, whether pursuant to this Note, any of the Loan Documents, or any other document or instrument in any way pertaining to this lending transaction that may be deemed to be interest for the purpose of any law of the State of Arizona that may limit the maximum amount of interest to be charged with respect to this lending transaction. The Other Sums will be deemed to be interest for the purposes of any such law only. |
| Arkansas | None |
| California | If a Guarantor is liable for only a portion of the Indebtedness, Borrower hereby waives its rights under California Civil Code Section 2822(a) to designate the portion of the Indebtedness that will be satisfied by Borrower’s partial payment.  The following is added at the end of Section 4(b)(ii):  In addition, if any portion of the principal balance of this Note is prepaid during the Lockout Period or during the Defeasance Period following a determination that the prohibition on involuntary prepayment following an acceleration after an Event of Default during the Lockout Period or during the Defeasance Period is in contravention of applicable law, then Borrower agrees that such prepayment will be deemed an attempt to evade such prohibition on prepayment and Borrower must pay to Lender, upon demand by Lender, a prepayment premium equal to 5% of the amount principal being prepaid.  Borrower hereby expressly waives any right it may have, under California Civil Code Section 2954.10 or otherwise, to prepay this Note, in whole or in part, without Prepayment Charge, upon acceleration of the Maturity Date, and agrees that if for any reason a Prepayment of any or all of this Note is made, whether voluntarily or upon or following any acceleration of the Maturity Date by Lender, then Borrower will pay the Prepayment Charge calculated pursuant to Schedule 1 to this Note. By initialing this provision in the space below this paragraph, Borrower declares that Lender’s agreement to make the Loan at the interest rate provided for, and for the term set forth in, this Note constitutes adequate consideration, given individual weight by Borrower, for this waiver and agreement.  INITIALS OF BORROWER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Colorado | None |
| Connecticut | **WAIVER OF PREJUDGMENT REMEDY, HEARING AND NOTICE.**  **THE UNDERSIGNED ACKNOWLEDGES THAT THIS IS A “COMMERCIAL TRANSACTION” AS SUCH IS DEFINED IN CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES, AS AMENDED. THE UNDERSIGNED FURTHER ACKNOWLEDGES THAT, PURSUANT TO SUCH SECTION, IT HAS A RIGHT TO NOTICE OF AND HEARING PRIOR TO THE ISSUANCE OF ANY “PREJUDGMENT REMEDY.” THE UNDERSIGNED WAIVES ALL RIGHTS TO SUCH NOTICE, JUDICIAL HEARING, OR PRIOR COURT ORDER IN CONNECTION WITH ANY SUIT ON THIS NOTE OR ANY EXTENSIONS OR RENEWALS OF THE SAME OR ON THE MORTGAGE SECURING THIS NOTE.** |
| Delaware | None |
| District of Columbia | None |
| Florida | None |
| Georgia | None |
| Hawaii | None |
| Idaho | None |
| Illinois | None |
| Indiana | Borrower must make all payments of principal and interest under this Note without relief from valuation and appraisement laws. For purposes of Section 9 of this Note and Section 3.04(b)(ii) of the Loan Agreement, Attorneys’ Fees and Costs means (i) fees and out‑of‑pocket costs of Lender’s and Loan Servicer’s attorneys, as applicable, including costs of Lender’s and Loan Servicer’s in-house counsel, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping, and similar costs and expenses; (ii) costs and fees of expert witnesses, including appraisers; and (iii) investigatory fees. |
| Iowa | **IMPORTANT: READ BEFORE SIGNING.**  **THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS NOTE MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.**  **Borrower acknowledges receipt of a copy of this Note, the Security Instrument, the Loan Agreement and all other Loan Documents.**  INITIALS OF BORROWER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Kansas | None |
| Kentucky | None |
| Louisiana | Wherever the phrase “jointly and severally” appears in this Note, the phrase is amended to read “jointly and severally and solidarily.” |
| Maine | **NOTICE: BORROWER MAY NOT MAINTAIN ANY ACTION ON ANY AGREEMENT WITH LENDER TO LEND ADDITIONAL MONEY, EXTEND ADDITIONAL CREDIT, FORBEAR FROM COLLECTION OF THE INDEBTEDNESS OR MAKE ANY OTHER ACCOMMODATION FOR THE REPAYMENT OF THE INDEBTEDNESS, UNLESS THE AGREEMENT ON WHICH THE ACTION IS BROUGHT, OR SOME MEMORANDUM OF IT, IS IN WRITING AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO SIGN FOR LENDER.** |
| Maryland | None |
| Massachusetts | None |
| Michigan | None |
| Minnesota | None |
| Mississippi | None |
| Missouri | None |
| Montana | None |
| Nebraska | None |
| Nevada | None |
| New Hampshire | None |
| New Jersey | None |
| New Mexico | Pursuant to Section 58-6-5 NMSA 1978, a contract, promise, or commitment to loan money or to grant, extend, or renew credit, or any modification thereof, in an amount greater than $25,000.00 not primarily for personal, family or household purposes made by a financial institution is not enforceable unless made in writing and signed by the party to be charged or that party’s authorized representatives. |
| New York | None |
| North Carolina | Section 5(a) of this Note is restated as follows:  (a) **Late Charges for Overdue Payments.** If Lender has not received the full amount of any monthly payment or any amount due under any Loan Document within 15 days after it is due, then Borrower must pay a late charge to Lender (“**Late Charge**”) immediately and without demand by Lender. The amount of the Late Charge will be 4% of any overdue payment or amount. Borrower will pay this Late Charge promptly but only once on each late payment. If the Loan is not fully amortizing, no Late Charge will be due on the final payment of the unpaid Principal Amount owed on the Maturity Date. |
| North Dakota | **PURSUANT TO NORTH DAKOTA CENTURY CODE SECTION 32-19-06.1, BORROWER IS HEREBY PUT ON NOTICE THAT LENDER MAY HAVE THE RIGHT TO PROCEED TO OBTAIN AND COLLECT A DEFICIENCY JUDGMENT, TOGETHER WITH FORECLOSURE OF THE MORTGAGED PROPERTY UNDER APPLICABLE LAWS.** |
| Ohio | None |
| Oklahoma | None |
| Oregon | None |
| Pennsylvania | None |
| Rhode Island | None |
| South Carolina | None |
| South Dakota | None |
| Tennessee | None |
| Texas | Section 18 of this Note is restated as follows:  **18. Loan Charges.** Borrower and Lender intend at all times to comply with the law of the State of Texas governing the maximum amount of interest payable on or in connection with this Note and the Indebtedness (or applicable United States federal law to the extent that it permits Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under this Note or under any other Loan Document, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or as a result of acceleration of the maturity of this Note, or if any Prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Lender expressly intend that all excess amounts collected by Lender will be applied to reduce the unpaid Principal balance of this Note (or, if this Note has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of this Note, the Loan Agreement and any other Loan Documents immediately will be deemed reformed and the amounts thereafter collectible under this Note or any other Loan Document reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under this Note or any other Loan Document. The right to accelerate the Maturity Date of this Note does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Lender does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Lender for the use, forbearance or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in this Note, the Loan Agreement or any other Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of this Note, the total amount of interest that Borrower is obligated to pay and Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Loan Agreement or other Loan Documents (such as for the payment of Taxes, Insurance premiums and similar expenses or costs). |
| Utah | None |
| Vermont | None |
| Virginia | None |
| Washington | **NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW**. |
| West Virginia | None |
| Wisconsin | **If any Borrower is an individual, complete the below, selecting the applicable provision. Repeat as necessary for multiple individual Borrowers.**  **MARITAL PURPOSE STATEMENT**  The undersigned acknowledges and agrees that the obligations incurred by him or her under this Note are incurred in the interest of his or her marriage or family, whether existing now or in the future.  Sign Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **OR**  The undersigned has delivered to Lender a Marital Property Agreement affirmatively electing to “opt out” of the Wisconsin Marital Property Act in accordance with Wisconsin Statutes Chapter 766.  Sign Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **OR**  The undersigned affirms that he/she does not reside in Wisconsin.  Sign Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Wyoming | None |