**Rider to Loan Agreement**

**Reverse Tax-Deferred Exchange**

(Revised 6-14-2022)

The following changes are made to the Loan Agreement that precedes this Rider:

A. The following table is added to Section 1.05:

|  |  |  |
| --- | --- | --- |
| **Reverse Tax-Deferred Exchange** | | |
| Exchange Termination Date: | | 180 days after the Effective Date |
| Exchange Owner: | |  |
| Exchange Owner Affiliate: | |  |
| Qualified Intermediary: | |  |
| Exchange Interests: *(choose one)* | | |
|  | 100% of the ownership interests in Borrower | |
|  | 100% of the ownership interests in the sole member of Borrower | |
| *(See Sections 3.04, 3.05, 6.09, 6.29, 7.02, 7.03, and 9.01)* | | |

B. Section 3.04(e) is deleted and replaced with the following:

(e) Any losses, expenses, damages or liability, as determined by Lender, associated directly or indirectly with the Reverse Tax-Deferred Exchange.

C. Section 3.05(j) is deleted and replaced with the following:

(j) Borrower fails to cause the EAT to transfer all of the Exchange Interests to the Exchange Owner or, if applicable, to the Exchange Owner Affiliate, by the applicable date required in Section 7.03(a)(ix).

D. Section 6.09(m) is deleted and replaced with the following:

(m) The Property Manager approved by Lender must manage the Mortgaged Property in accordance with Section 6.09 at all times during the term of the Master Lease and after the Exchange Transfer.

E. Section 6.29 is deleted and replaced with the following:

**6.29** **Reverse Tax-Deferred Exchange.** Borrower will complete the Exchange Transfer in accordance with the timing and all other requirements set forth in Section 7.03(a)(ix).

F. Section 7.02(d) is deleted and replaced with the following:

(d) A pledge of the Exchange Interests by the EAT to the Exchange Owner or, if applicable, Exchange Owner Affiliate, in order to secure the EAT’s obligations under the Exchange Loan and to complete the Exchange Transfer.

G. Section 7.03(a)(ix) is deleted and replaced with the following:

(ix) Exchange Transfer. A Transfer of 100% of the Exchange Interests to the Exchange Owner or, if applicable, to the Exchange Owner Affiliate, if Borrower satisfies the requirements set forth in Section 7.04 and each of the following conditions is satisfied:

(i) Notwithstanding Sections 7.04(a), Borrower provides Lender with either (A) at least 15 Business Days prior Notice of the proposed Exchange Transfer, together with the Transfer Processing Fee, if the Relinquished Property will be sold prior to the Exchange Termination Date, or (B) Notice of the Exchange Transfer within 5 Business Days after Borrower’s receipt of notice that the Relinquished Property will not be sold prior to the Exchange Termination Date, together with the Transfer Processing Fee.

(ii) The Notice must be accompanied by copies of the following for Lender’s review and approval:

(A) Drafts or executed copies of the documentation necessary to complete the Exchange Transfer, including a copy of the assignment of the Exchange Interests to the Exchange Owner or, if applicable, the Exchange Owner Affiliate.

(B) Then-current Certificate of Good Standing for the Borrower and the Exchange Owner or, if applicable, the Exchange Owner Affiliate.

(C) Drafts or executed copies of an Affirmation from each Guarantor that the Guaranty remains in full force and effect.

(iii) Within 10 Business Days after the Exchange Transfer, Borrower provides Lender with executed copies of all of the documentation delivered to Lender in draft form as required by Section 7.03(a)(ix)(ii) above and any other documents Lender may require to evidence the Exchange Transfer.

(iv) The Exchange Transfer is completed by either (A) the Exchange Termination Date, if the Relinquished Property is sold on or prior to the Exchange Termination Date, or (B) 5 Business Days after the Exchange Termination Date, if the Relinquished Property is not sold on or prior to the Exchange Termination Date.

H. Sections 9.01(ss), (tt), (uu), (vv), and (ww) are deleted and replaced with the following:

(ss) Any Tax-Deferred Exchange Documentation is amended or modified without the prior written consent of Lender (other than the termination of the Tax-Deferred Exchange Documentation after the Exchange Transfer in connection with the Reverse Tax-Deferred Exchange is completed).

(tt) The partnership or operating agreement of the Exchange Owner or if applicable the Exchange Owner Affiliate is amended in any material respect without the consent of the Lender, other than to reflect the transfer of the Exchange Interests from the EAT to the Exchange Owner or, if applicable, the Exchange Owner Affiliate.

(uu) The EAT fails to consummate the Exchange Transfer by the date set forth in Section 7.03(a)(ix).

(vv) Any lien or pledge of the Exchange Interests is not released on or prior to the date of the Exchange Transfer.

(ww) The Tax-Deferred Exchange Documentation is not terminated on or prior to the date of the Exchange Transfer.

I. The following definitions are added to Article XII:

“**EAT**” is an Exchange Accommodation Titleholder that is a special purpose, limited liability company that owns the Exchange Interests as of the date of this Loan Agreement to facilitate the Reverse Tax-Deferred Exchange.

“**Exchange Interests**” are the ownership interests specified in Section 1.05.

“**Exchange Loan**” is a loan to the EAT, from the Exchange Owner or the Exchange Owner Affiliate, in an amount which, when added to the proceeds of the Loan, will allow the EAT to cause the Borrower to acquire the Mortgaged Property in connection with the Reverse Tax-Deferred Exchange.

“**Exchange Owner**” is specified in Section 1.05. The Exchange Owner must own the Relinquished Property. After the Exchange Transfer, the Exchange Owner will be a Designated Entity for Transfers.

“**Exchange Owner Affiliate**” is an Affiliate of the Exchange Owner and is specified in Section 1.05. The Exchange Owner Affiliate must acquire 100% of the Exchange Interests in the event the Reverse Tax-Deferred Exchange does not occur. After the Exchange Transfer, the Exchange Owner Affiliate will be a Designated Entity for Transfers.

“**Exchange Termination Date**” is as specified in Section 1.05.

**“Exchange Transfer**” means the Transfer of all the Exchange Interests to the Exchange Owner or the Exchange Owner Affiliate.

“**Qualified Intermediary**” is as specified in Section 1.05.

“**Relinquished Property**” is the to-be identified property that will be relinquished (i.e., sold by the Exchange Owner) in the Reverse Tax-Deferred Exchange.

“**Reverse Tax-Deferred Exchange**” is a reverse tax-deferred like-kind exchange pursuant to Section 1031 of the Tax Code and Revenue Procedure 2000 - Section 1031.

“**Tax-Deferred Exchange Documentation**” consists of the following:

(i) “**Qualified Exchange Accommodation Agreement**” is the agreement between the Qualified Intermediary/EAT and the Exchange Owner.

(ii) “**Master Lease**” is the master lease between the Borrower, as lessor, and the Exchange Owner, as lessee of 100% of the Mortgaged Property.

(iii) “**Subordination Agreement**” is the agreement from Borrower in favor of Lender, pursuant to which Borrower subordinates the Master Lease to the lien of the Security Instrument and to all other interests of Lender under the Loan Documents.

(iv) “**Security Agreement and Assignment of Leases, Rents and Fixture Filing**” is an assignment from the Exchange Owner in favor of Borrower with respect to the leases with the subtenants and the rents from the subtenants payable to the Exchange Owner under the Master Lease.

(v) “**Collateral Assignment of Security Agreement and Assignment of Leases and Rents and Fixture Filing**” is an assignment of the Exchange Owner Assignment of Leases and Rents by the Borrower in favor of Lender.

(vi) “**Collateral Assignment of Management Agreement and Subordination of Management Fees**” is an assignment of the Management Agreement by the Exchange Owner and the Property Manager in favor of Lender.

(vii) Any other agreements, assignments, or other documentation required or otherwise entered into by Borrower, Exchange Owner, Exchange Owner Affiliate, or Property Manager in connection with the Reverse Tax Deferred Exchange.