

# NOTE

\_\_\_\_\_,  
[Date]

\_\_\_\_\_,  
[City]

\_\_\_\_\_,  
[State]

\_\_\_\_\_  
[Property Address]

## 1. BORROWER'S PROMISE TO PAY

In return for a loan that Borrower has received, Borrower promises to pay U.S. \$\_\_\_\_\_ (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is

\_\_\_\_\_  
Borrower will make all payments under this Note in the form of cash, check or money order.

Borrower understands that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is also called the "Lender."

## 2. INTEREST

Prior to default, interest will be charged on unpaid principal until the full amount of Principal has been paid. Borrower will pay interest at a yearly rate of \_\_\_\_\_%.

After default, interest will be charged on unpaid principal at the interest rate stated in Section 7 of this Note.

## 3. SCHEDULED PAYMENTS

### (A) Time and Amount of Payments

### (B) Place of Payments

Borrower will make payments at \_\_\_\_\_  
or at a different place if required by Lender

## 4. INTEREST CALCULATION

Interest on this Note is computed on a 30/360 simple interest basis; that is, with the exception of odd days in the first payment period, monthly interest is calculated by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by a month of 30 days. Interest for the odd days is calculated on the basis of the actual days to the next full month and a 360-day year. **Unless required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.**

## 5. PREPAYMENTS

Any prepayments of scheduled installments that are made on a date that is not an installment payment date must be accompanied by interest to the next installment payment date and that such prepayment will not be credited to the Borrower's account until such installment payment date.

Any prepayments, partial or in whole, other than scheduled installment payments must be accompanied by unpaid interest accrued on such principal amount from the date to which interest was last paid to the next installment payment date, together with any Yield Maintenance Amount that may be applicable, and such prepayment shall not be considered as having been received and will not be credited to the Borrower's account until such installment payment date. If the Borrower makes a prepayment there will be no delays in the due dates of Borrower's installment payments unless the Lender agrees in writing to those delays and that unless the Borrower and Lender agree otherwise, the Lender at its sole discretion may reamortize the Note on the basis of the new principal balance; otherwise the making of a prepayment will operate only to discharge the Note at an earlier date.

## 6. ACCELERATION FEE

Unless prohibited by applicable law, an Acceleration Fee shall be due and payable upon acceleration of the indebtedness evidenced by this Note on account of a default, whether voluntary or involuntary, under this Note or the mortgage or deed of trust, security agreement or other instrument providing security for this Note, or any call option in any such mortgage or deed of trust, security agreement or other instrument providing security for this Note, or in the event of acceleration for any other reason. The Acceleration Fee shall be calculated in the same manner as the Yield Maintenance Amount set forth in the provision captioned "Yield Maintenance for Fixed-Rate Loans" as set forth in this Note.

## 7. YIELD MAINTENANCE FOR FIXED-RATE LOANS.

The Borrower agrees that, upon the payment of the principal amount of this Note (in whole or in part) before its scheduled payment date and before the Yield Maintenance Date (as defined below), whether such payment occurs voluntarily or

involuntarily, the Borrower shall (except in connection with any prepayment that occurs, with the Lender's approval, as a result of the application to the mortgage or deed of trust of hazard insurance proceeds or condemnation award proceeds), with such payment, pay to the Lender a Yield Maintenance Amount (the "Yield Maintenance Amount") equal to the greater of:

- (a) One percent (1%) of the amount of the principal payment, and
- (b) An amount calculated by multiplying:
  - (i) The difference, expressed as a decimal calculated to five (5) digits and divided by the number of payment periods per year, between the interest rate payable on this Note (net of all servicing fee rates) and the Treasury Rate (as defined below); times
  - (ii) The amount of the principal prepayment; times
  - (iii) The present value factor, calculated as described below:

The present value factor shall be equal to the number resulting from the following mathematical calculations:

Step A. Add one (1) and the Treasury Rate (as defined below).

Step B. Raise the sum determined in Step A to the power of an exponent equal to the opposite of (i.e., a negative number) the number of payment periods remaining between the prepayment date and the Yield Maintenance Date (as defined below).

Step C. Subtract the number resulting from Step B from one (1).

Step D. Divide the result of Step C by the Treasury Rate to reach the final result.

In order to assist in understanding the calculation of the fraction as stated in this paragraph, this fraction is also stated by the following mathematical formula:

$$(1-(1+r)^{-n})/r$$

\*Where "r" is the Treasury Rate and "n" is the number of payment periods remaining between the prepayment date and the Yield Maintenance Date.

The term "Treasury Rate" means a rate per annum, expressed as a decimal calculated to five digits, equal to the yield (adjusted to the payment frequency on the Note) on the interpolated Treasury Constant Maturity maturing on the Yield Maintenance Date as published by the Board of Governors of the Federal Reserve System or as reported by the Department of the Treasury as of the fifth business day preceding the date the Borrower notifies the Lender of the Borrower's intent to make a principal prepayment.

The term "Yield Maintenance Date" means the date six months prior to the final maturity date of this Note; except that, if any earlier date is specified in this Note as the date after which this Note may be prepaid without the payment of any Yield Maintenance Amount, such earlier date shall be the Yield Maintenance Date.

## **8. BORROWER'S FAILURE TO PAY AS REQUIRED**

### **(A) Late Charge for Overdue Payments**

If any installment of principal or interest is not received by the Lender by the end of the 10th calendar day after the date it is due, a late fee shall be payable on such defaulted payment at a rate which is equal to 5% per annum above the current rate of interest under this note, subject to a minimum interest charge of 5% of such defaulted payment.

### **(B) Default**

If Borrower does not pay the full amount of each installment on the date it is due, Borrower will be in default.

### **(C) Notice of Default**

If Borrower is in default and if allowed by applicable law, Lender may send Borrower a written notice telling Borrower that if Borrower does not pay the overdue amount by a certain date Lender may require Borrower to pay immediately the full amount of Principal which has not been paid and all the interest that Borrower owes on that amount.

### **(D) No Waiver By Lender**

Even if, at a time when Borrower is in default, Lender does not require Borrower to pay immediately in full as described above, Lender will still have the right to do so if Borrower is in default at a later time.

### **(E) Payment of Lender's Costs and Expenses**

If Lender has required Borrower to pay immediately in full as described above, Lender will have the right to be paid back by Borrower for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. If allowed by applicable law those expenses include, for example, reasonable attorneys' fees.

## **9. INTEREST AFTER DEFAULT**

Upon default, including failure to pay upon final maturity, at Lender's option, Lender may add any unpaid interest to principal and such sum will bear interest there from until paid at the rate provided in this Note (including any increased interest rate). Upon Borrower's failure to pay all amounts declared due pursuant to this section, Lender, at its option, may increase the interest rate on this Note five (5) percentage points.

## **10. ANNUAL FINANCIAL STATEMENTS**

Borrower agrees to provide Lender with updated financial statements and other requested financial reports, including tax returns, annually on the anniversary date of the date of this Note or at such other reasonable times as Lender may request. The failure of Borrower to provide annual financial statements or other requested reports within a reasonable time may be declared to

be a default of this Note by Lender and Lender may exercise all remedies under Section 6 of this Note or as provided elsewhere in this Note.

#### **11. DISSEMINATION OF INFORMATION**

If Lender determines at any time to sell, transfer or assign this Note, the Security Instrument and any other security instruments, and any or all servicing rights with respect thereto, or to grant participations therein ("Participations") or issue, in a public offering or private placement, mortgage pass-through certificates or other securities evidencing a beneficial interest in the loan ("Securities"), Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor, or their respective successors in such Participations and/or Securities ("collectively, the "Investor"), any rating agency rating such Securities and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Indebtedness and to Borrower, any guarantor, any indemnitors and the Property, which shall have been furnished by Borrower, any guarantor or any indemnitors, as Lender determines necessary or desirable.

#### **12. LENDER ADVANCES**

Lender may make advances under the mortgage or deed of trust, security agreement or other instrument providing security for this Note, to protect the Lender's interest in any mortgage or deed of trust, security agreement or other instrument providing security for this Note from loss of value or damage. Any money so advanced (including reasonable costs of recovery and attorneys' fees) plus interest at the default rate stated in Section 9 of this Note shall become an obligation due and owing under the terms of this Note immediately upon the date advanced by Lender and is an obligation of Borrower secured by the mortgage or deed of trust, security agreement or other instrument providing security for this Note.

#### **13. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the Property Address above or at a different address if Borrower gives Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by delivering it or by mailing it by first class mail to Lender at the address stated in Section 3(B) above or at a different address if Borrower is given a notice of that different address.

#### **14. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. Lender may enforce its rights under this Note against each person individually or against all of those persons together. This means that any one of the persons signing this Note may be required to pay all of the amounts owed under this Note.

#### **15. WAIVERS**

Borrower and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of Dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

#### **16. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Lender under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Lender from possible losses which might result if Borrower does not keep the promises which Borrower makes in this Note. That Security Instrument describes how and under what conditions Borrower may be required to make immediate payment in full of all amounts Borrower owes under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

\_\_\_\_\_  
- Borrower

\_\_\_\_\_  
- Borrower

\_\_\_\_\_  
- Borrower

\_\_\_\_\_  
- Borrower

*[Sign Original Only]*

'NE VARIETUR' for identification with an Act of Mortgage passed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (Name): \_\_\_\_\_

Pay to the order of U.S. Bank National Association, as Custodian/Trustee without recourse

[Lender name]

By: \_\_\_\_\_ (Signature)  
\_\_\_\_\_, \_\_\_\_\_ (Title)