PROMISSORY NOTE

(ADJUSTABLE RATE)

$**[AMOUNT]**  **[DATE]**

**[PROPERTY ADDRESS]**

FOR VALUE RECEIVED, **[NAME OF BORROWER]** (“Borrower”) promises and agrees to pay to the order of **[NAME OF LENDER]** (“Lender”) in lawful money of the United States of America, the principal sum of **[LOAN AMOUNT IN WORDS]** and No/100 Dollars ($**[NUMERICAL AMOUNT]**) (the “Loan”), with interest on the unpaid principal balance, as hereinafter provided. Capitalized terms used in this Promissory Note (the “Note”), but not defined, shall have the meanings assigned to them in the loan agreement of even date herewith executed by Borrower and Lender (the “Loan Agreement”). The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the “Note Holder.”

### Interest Rate.

#### The principal sum outstanding from time to time hereunder shall bear interest at an annual rate of **[RATE IN WORDS]** percentage points **[(NUMERICAL RATE%)]** (the “Initial Interest Rate”).

#### The interest rate will change on the first day of **[DATE]**, and on that day every 12th month thereafter (each, an “Interest Rate Change Date”).

#### On each Interest Rate Change Date, the interest rate will be adjusted by adding **[MARGIN IN WORDS**] percentage points (**[MARGIN AS A NUMERICAL RATE%]** (the “Margin”) to the Current Index, rounded up to the nearest ⅛ of one percentage point (0.125) (each, an “Adjusted Interest Rate”, together with the Initial Interest Rate, being referred to collectively, as applicable, as the “Interest Rate”).

#### The interest rate will be based on an Index that is calculated and provided to the general public by an administrator (the “Administrator”). The “Index” is the average of interbank offered rates for one year U.S. dollar-denominated deposits in the London market, commonly known as “One Year LIBOR”, as published by *The Wall Street Journal.* The most recent Index figureavailable as of the date forty-five (45) days prior to each Interest Rate Change Date is called the “Current Index”.If the Index is no longer available, it will be replaced in accordance with Section 1(i) below.

#### The interest rate at the first Interest Rate Change Date will not be greater than **[NUMERICAL RATE]** % per annum or less than **[NUMERICAL RATE]** % per annum. Thereafter, the interest rate will never be increased or decreased on any single Interest Rate Change Date by more than **[NUMERICAL RATE]** % per annum from the rate of interest for the preceding 12 months. The interest rate will never be greater than **[NUMERICAL RATE]**% per annum or less than the Margin.

#### Interest under this Note shall be calculated on the basis of a 360-day year consisting of 12 months of 30 days each (30/360 basis). A balloon payment may be due upon full repayment of this Note if this Note is not repaid until the Maturity Date. Each monthly payment of principal and interest will first be applied to pay in full interest due, and the balance of the monthly payment paid by Borrower will be credited to principal.

#### The foregoing provisions of this Note relating to interest shall at all times be subject to the provision of Section 7 (Default Rate), below.

#### Notwithstanding anything to the contrary contained herein or in any other Loan Document,the effective rate of interest hereunder shall not exceed the maximum effective rate of interest permitted by applicable law or regulation. Note Holder hereby agrees not to collect knowingly collect any interest from Borrower in the form of fees or otherwise that would render the Loan usurious. In the event that any such interest would be usurious in Note Holder’s opinion, then Note Holder reserves the right to reduce the interest payable by Borrower. This provision shall survive repayment of this Note.

#### The Index is deemed to be no longer available and will be replaced if any of the following events (each, a “Replacement Event”) occur: (i) the Administrator has permanently or indefinitely stopped providing the Index to the general public; or (ii) the Administrator or its regulator issues an official public statement that the Index is no longer reliable or representative.

If a Replacement Event occurs, the Note Holder will select a new index (the “Replacement Index”) and may also select a new margin (the “Replacement Margin”), as follows:

1. If a replacement index has been selected or recommended for use in consumer products, including residential adjustable-rate mortgages, by the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, or a committee endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York at the time of a Replacement Event, the Note Holder will select that index as the Replacement Index.
2. If a replacement index has not been selected or recommended for use in consumer products under Section 1(i)(1) at the time of a Replacement Event, the Note Holder will make a reasonable, good faith effort to select a Replacement Index and a Replacement Margin that, when added together, the Note Holder reasonably expects will minimize any change in the cost of the loan, taking into account the historical performance of the Index and the Replacement Index.

The Replacement Index and Replacement Margin, if any, will be operative immediately upon a Replacement Event and will be used to determine the interest rate and monthly payments on Change Dates that are more than 45 days after a Replacement Event. The Index and Margin could be replaced more than once during the term of my Note, but only if another Replacement Event occurs. After a Replacement Event, all references to the “Index” and “Margin” will be deemed to be references to the “Replacement Index” and “Replacement Margin.”

The Note Holder will provide notice to the Borrower of the Replacement Index and Replacement Margin, if any, and such other information required by applicable law and regulation.

### Payments.

#### On the date hereof, Borrower shall prepay interest on the principal amount of the Loan payable through the end of the current calendar month, and, if applicable, shall escrow with Note Holder amounts, as determined by Note Holder, sufficient to pay real estate taxes assessed against the Property and insurance premiums as provided in Section 4.1(g) of the Loan Agreement.

#### Commencing on **[DATE]** and continuing on the first day of each calendar month thereafter until the payment changes under the terms of this Note, Borrower shall make installments of principal and interest of **[PAYMENT AMOUNT IN WORDS]** and No/100 Dollars ($**[NUMERICAL AMOUNT]**), which sum has been calculated based upon the principal amount of the Loan with interest at the Interest Rate and a **[NUMBER OF MONTHS]** month amortization schedule (the “Original Amortization Period”).

#### The amount of the monthly installment of principal and interest payable shall change on each Interest Rate Change Date as set forth under Section 1(b) of this Note (“Payment Change Date”). Commencing on the first Payment Change Date the monthly payment will be based on the applicable Adjusted Interest Rate, the principal amount of the Loan then outstanding, and the Remaining Amortization Period. “Remaining Amortization Period” shall mean as of the applicable Payment Change Date, the Original Amortization Period minus the number of scheduled monthly installments of principal and interest that have elapsed since the date of this Note prior to the Payment Change Date.

#### If applicable, Borrower shall make each payment of principal and/or interest hereunder together with one-twelfth (1/12) of the annual real estate taxes and insurance premiums as provided in Section 4.1(g) of the Loan Agreement.

#### The entire unpaid principal amount of the Loan then outstanding together with all accrued and unpaid interest and all other charges and fees due from Borrower to Note Holder under the Loan Documents, if any, shall be due and payable on **[DATE]** (the “Maturity Date”). All payments under this Note shall be made in immediately available U.S. funds. Any regularly scheduled monthly installment of principal (if any) and interest that is received by Note Holder before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due. Any accrued interest remaining past due for thirty (30) days or more, at Note Holder’s discretion, may be added to and become part of the unpaid principal balance of this Note and any reference to “accrued interest” shall refer to accrued interest that has not become part of the unpaid principal balance. Any amount added to principal pursuant to the Loan Documents shall bear interest at the applicable rate specified in this Note and shall be payable with such interest upon demand by Note Holder and absent such demand, as provided in this Note for the payment of principal and interest.

#### In the event any check given by Borrower to Note Holder as a payment on this Note is dishonored, or in the event there are insufficient funds in Borrower’s designated account to cover any preauthorized monthly debit from Borrower’s checking account, then, without limiting any other charges or remedies, Borrower shall pay to Note Holder a processing fee of $25.00 (but not more than the maximum amount allowed by law) for each such event.

#### Note Holder shall provide Borrower with notice of the amount of each monthly installment due under this Note. However, if Note Holder has not provided Borrower with prior notice of the monthly payment due on any payment due date, then Borrower shall pay on that payment due date an amount equal to the monthly installment payment for which Borrower last received notice. If Note Holder at any time determines that Borrower has paid one or more monthly installments in an incorrect amount because of the operation of the preceding sentence, or because Note Holder has miscalculated the amount of any monthly installment, then Note Holder shall give notice to Borrower of such determination. If such determination discloses that Borrower has paid less than the full amount due for the period for which the determination was made, Borrower, within thirty (30) calendar days after receipt of the notice from Note Holder, shall pay to Note Holder the full amount of the deficiency. If such determination discloses that Borrower has paid more than the full amount due for the period for which the determination was made, then the amount of the overpayment shall be credited to the next installment(s) of interest only or principal and interest, as applicable, due under this Note (or, if an Event of Default has occurred and is continuing, such overpayment shall be credited against any amount owing by Borrower to Note Holder).

### Application of Payments. Payments received will be applied to charges, fees and expenses (including attorneys’ fees), accrued interest and principal in any order Note Holder may choose, in its sole discretion. If at any time Note Holder receives, from Borrower or otherwise, any amount applicable to the Indebtedness that is less than all amounts due and payable at such time, Note Holder may apply the amount received to amounts then due and payable in any manner and in any order determined by Note Holder, in Note Holder’s discretion. Borrower agrees that neither Note Holder’s acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Note Holder’s application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

### Prepayments. If required by Note Holder and as permitted by state law, the Borrower shall be subject to the Prepayment terms set forth in any Prepayment Rider attached hereto and made a part hereof.

### Acceleration. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, the prepayment premium payable under Section 4 and all other amounts payable under this Note and any other Loan Document, shall at once become due and payable, at the option of Note Holder, without any prior notice to Borrower (except if notice is required by applicable law, then after such notice). Note Holder may exercise this option to accelerate regardless of any prior forbearance. For purposes of exercising such option, Note Holder shall calculate the prepayment premium as if prepayment occurred on the date of acceleration.

### Late Charge. If any installment of principal and interest or other amount payable under this Note, the Security Instrument or any other Loan Document is not received in full by Note Holder within five (5) days after the installment or other amount is due (unless applicable law requires a longer period of time before a late charge may be imposed, in which event such longer period shall be substituted), Borrower shall pay to Note Holder, immediately and without demand by Note Holder, a late charge equal to ten percent (10%) of such installment or other amount due (unless applicable law requires a lesser amount be charged, in which event such lesser amount shall be substituted).

Borrower acknowledges that its failure to make timely payments will cause Note Holder to incur additional expenses in servicing and processing the Loan and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section 6 represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Note Holder will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 7.

### Default Rate. So long as (i) any monthly installment under this Note remains past due or (ii) any other Event of Default has occurred and is continuing, whether or not Note Holder has elected to accelerate the Indebtedness, then notwithstanding anything in Section 1 to the contrary, interest under this Note shall accrue on the unpaid principal balance from the payment due date of the first such unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at the Default Rate. “Default Rate” means an annual interest rate equal to thirty five and 00/100 (35.00%), but in no event more than the highest rate permitted by the applicable usury law in respect of Borrower.

From and after the Maturity Date, the unpaid principal balance and all accrued interest shall continue to bear interest at the Default Rate until and including the date on which the entire principal balance is paid in full. Interest shall also accrue at the Default Rate on any judgment obtained by Note Holder against Borrower under this Note.

Borrower acknowledges that (i) its failure to make timely payments will cause Note Holder to incur additional expenses in servicing and processing the Loan, (ii) during the time that any monthly installment under this Note is delinquent, Note Holder will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Note Holder’s ability to meet its other obligations and to take advantage of other investment opportunities; and (iii) it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent or any other Event of Default has occurred and is continuing, Note Holder’s risk of nonpayment of this Note will be materially increased and Note Holder is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Note Holder will incur by reason of Borrower’s delinquent payment and the additional compensation Note Holder is entitled to receive for the increased risks of nonpayment associated with a delinquent loan. During any period that the Default Rate is in effect, the additional interest accruing over and above the rate provided for in Section 1 shall be immediately due and payable in addition to the regularly scheduled principal and interest payments.

### Costs and Expenses. To the fullest extent allowed by applicable law, Borrower shall pay: (a) all expenses and costs, including attorney’s fees and costs incurred by Note Holder or any Loan servicer as a result of 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 (whether or not any lawsuit or other proceeding is instituted), including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding; and (b) all expenses and costs, including attorney’s fees and costs, incurred by Note Holder or any loan servicer in connection with the servicing of the Loan, including without limitation responding to requests from Borrower, and expenses and costs incurred in connection with potential defaults or other legal questions regarding the Loan.

### Forbearance. Any forbearance by Note Holder in exercising any right or remedy under this Note, the Security Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Note Holder of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Note Holder’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. Enforcement by Note Holder of any security for Borrower’s obligations under this Note shall not constitute an election by Note Holder of remedies so as to preclude the exercise of any other right or remedy available to Note Holder.

### Purpose of Indebtedness. Borrower represents and warrants to Note Holder that the proceeds of this Note will be used solely for business, commercial investment, or similar purposes, and that no portion of it will be used for agricultural, personal, family, or household purposes.

### Security. The Indebtedness is secured by, among other things, the Security Instrument and reference is made to the Security Instrument for other rights of Note Holder as the Collateral for the Indebtedness.

### Remedies; Remedies Cumulative. Upon the occurrence of any Event of Default, then the entire unpaid principal amount of the Loan hereunder plus all interest accrued thereon plus all other sums due and payable to Note Holder under the Loan Documents shall, at the option of Note Holder, become due and payable immediately.  In addition to the foregoing, upon the occurrence of any Event of Default, Note Holder may forthwith exercise singly, concurrently, successively, or otherwise any and all rights and remedies available to Note Holder under any of the Loan Documents or with respect to any Property, or available to Note Holder by law, equity, statute or otherwise including, without limitation, the right to set off any sums deposited by Borrower with Note Holder or the loan servicer against the amounts due hereunder. Borrower, co-Borrowers, sureties, endorsers and guarantors, and each of them, expressly waive demand and presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, notice of intent to accelerate the maturity hereof, notice of the acceleration of the maturity hereof, bringing of suit and diligence in taking any action to collect amounts called for hereunder and in the handling of securities at any time existing in connection herewith, ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY BORROWER; such parties are and shall be jointly, severally, directly and primarily liable for the payment of all sums owing and to be owing hereon, regardless of and without any notice, diligence, act or omission as or with respect to the collection of any amount called for hereunder or in connection with any right, lien, interest or property at any and all times had or existing as security for any amount called for hereunder.

This Note evidences the advances made, interest due and all amounts otherwise owed to Note Holder under the Loan Agreement. This Note is executed in conjunction with the Loan Agreement and is secured by the liens and security interests created under the Loan Documents (including those arising under the Security Instrument). Reference is made to the Loan Agreement for provisions relating to repayment of the Indebtedness evidenced by this Note, including mandatory repayment and acceleration following default.

### Setoff. Borrower hereby grants to Note Holder a lien, security interest and a right of setoff as security for all liabilities and obligations to Note Holder, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Note Holder or any entity under the control of Note Holder, or in transit to any of them.  At any time, without demand or notice, Note Holder may set off the same or any part thereof and apply the same to any liability or obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Loan.  ANY AND ALL RIGHTS TO REQUIRE NOTE HOLDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS, COLLATERAL OR OTHER PROPERTY OF BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.  Note Holder shall not be required to marshal any present or future security for, or guarantees of, the obligations or to resort to any such security or guarantee in any particular order and Borrower waives, to the fullest extent that it lawfully can, (a) any right it might have to require Note Holder to pursue any particular remedy before proceeding against Borrower and (b) any right to the benefit of, or to direct the application of the proceeds of any collateral until the obligations are paid in full.

### Participations; Transfers of the Note. Note Holder shall have unrestricted right at any time and from time to time, and without the consent of or notice to Borrower, to transfer this Note and/or grant to one or more banks or other institutions or other persons (each a “Participant”) participating interest in Note Holder’s obligations to lend hereunder and/or any or all of the loans held by Note Holder hereunder. Note Holder may furnish any information concerning Borrower in its possession from time to time to any prospective assignees and Participants.

### Severability. In the event that for any reason one or more of the provisions of this Note or their application to any person or circumstance shall be held to be invalid, illegal or unenforceable in any respect or to any extent, such provisions shall nevertheless remain valid, legal and enforceable in all such other respects and to such extent as may be permissible. In addition, any such invalidity, illegality or unenforceability shall not affect any other provisions of this Note, but this Note shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

### Successors and Assigns. This Note inures to the benefit of Lender and binds Borrower, and the parties’ respective successors and assigns, and the words “Lender,” “Note Holder” and “Borrower” whenever occurring herein shall be deemed and construed to include such respective successors and assigns.

### Notices. All notices required to be given to any of the parties hereunder shall be in writing and shall be deemed to have been sufficiently given for all purposes when given in the manner specified in the Loan Agreement.

### Captions. The captions or heading of the paragraphs in this Note are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of this Note.

### Governing Law. This Note shall be governed by and construed in accordance with the laws of the **[PROPERTY STATE]** without giving effect to principles applicable to conflicts of laws.

### Forum.  Borrower irrevocably submits to the non-exclusive jurisdiction of any state or federal court sitting in **[COUNTY]**, **[STATE]** over any proceeding arising out of or relating to the loan documents.

### Replacement of Promissory Note. Upon receipt of an affidavit of an officer of Note Holder as to the loss, theft, destruction or mutilation of this Note or any other security document which is not of public record, and, in the case of any such loss, theft, destruction or mutilation, upon cancellation of this Note or other security document, Borrower will issue, in lieu thereof, a replacement note or other security document in the same principal amount thereof and otherwise of like tenor.

### Definitions; Number and Gender.  In the event Borrower consists of more than one individual or entity, the obligations and liabilities hereunder of each of them shall be joint and several and the word “Borrower” shall mean all or some or any of them.  For purposes of this Note, the singular shall be deemed to include the plural and the neuter shall be deemed to include the masculine and feminine, as the context may require.  The references herein to the Loan Documents or any one of them shall include any supplements to or any amendments of or restatements of such Loan Documents or any one of them.

### Counterparts. To facilitate execution, this Note may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signatures of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Note to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

### JURY TRIAL WAIVER. **BORROWER AND NOTE HOLDER HEREBY WAIVE ANY AND ALL RIGHTS THAT THEY MAY HAVE NOW OR HEREAFTER HAVE UNDER THE LAWS OF THE UNITED STATES OF AMERICA OR ANY STATE TO A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING EITHER DIRECTLY OR INDIRECTLY IN ANY ACTION OR PROCEEDING BETWEEN BORROWER AND NOTE HOLDER OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, OUT OF OR IN ANY WAY CONNECTED WITH THIS NOTE. IT IS INTENDED THAT THIS WAIVER OF JURY TRIAL SHALL APPLY TO ANY AND ALL CLAIMS, DEFENSES, RIGHTS, AND/OR COUNTERCLAIMS IN ANY ACTION OR PROCEEDING.**

THIS NOTE REPRESENTS THE FINAL 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.

IN WITNESS WHEREOF, Borrower, intending to be legally bound hereby, has executed this Note the day and year first above written.

BORROWER:

**[IF AN ENTITY:]**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[IF A NATURAL PERSON:]**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
[NAME]**