

**Project Supplement No. 2**  
**(Dated June 8, 2020)**  
**to the Confidential Private Placement Memorandum**  
**of TEI Diversified Income & Opportunity Fund V, LLC,**  
**dated January 1, 2020**

This Project Supplement No. 2 modifies and supplements the Confidential Private Placement Memorandum of TEI Diversified Income & Opportunity Fund V, LLC, dated January 1, 2020 (the “**Memorandum**”), as previously amended by Supplement No. 1, which should be read in conjunction with the Memorandum (including but not limited to the Special Risk Section in the Memorandum). Terms with initial capitals, not otherwise defined in Project Supplement No. 2, have the meanings set forth in the Memorandum.

## **Supplement**

This Project Supplement pertains to the loan participation as a B Piece Lender for the acquisition of an existing Mortgage Loan for the 840,000 square foot multi-building industrial facility located 65 miles south of Cleveland in Navarre, Ohio.



TIME EQUITIES SECURITIES LLC

### **Acquisition of Lender’s Interest in the Mortgage Loan and the Loan for such Acquisition**

An affiliate of Briar Meads Capital LLC (“**BMC**”), on June 4, 2020 (“the “**Closing Date**” or “**Closing**”) acquired the existing Mortgage Loan in the original amount of \$21,300,000 (the “**Mortgage Loan**”) encumbering the property located at 4540 and 4676 Erie Avenue SW, Navarre, Ohio (the “**Property**”). The purchase price for such lender’s interest in the Mortgage Loan was \$20,682,764.49. Thorofare Asset Based Lending REIT Fund V, LLC (“**Thorofare**”), on the Closing Date, provided a \$10,600,000 loan (the “**Loan**”) to BM-18-Massillon, LLC (the “**Loan Borrower**” or “**Briar Meads**”). to purchase such lender interest in the Mortgage Loan. On the Closing Date, Thorofare conveyed to TEI TF Massillon LLC (“**TEI Massillon**”) a subordinate undivided B Piece participation interest in the Loan for the purchase price of \$1,000,000. Thorofare retained the A Piece superior interest in the Loan. The respective ownership interests, as lenders, in the Loan are as follows:

Lender	Portion of the Loan	Amount	% of the Outstanding Balance
Thorofare	A Piece	\$9,600,000	90.57%
TEI Massillon	B Piece	\$1,000,000	9.43%

The interest rate on the B Piece portion of the Loan is 15.9% per annum. The monthly interest only payments under the Loan is \$78,616.67. TEI Massillon’s portion of such month payment, based on the above interest rate, would be \$13,250 or \$159,000 per annum. Thorofare, as the A Piece Lender, retains the balance of such monthly interest payments. Since the Loan’s initial term is for a year, with two six-month extension options, it is anticipated that this will be a short term investment.

One of the tenants (**GOJO Industries**), as described below, has a current option to purchase the entire Property. If this were to occur, then as part of such acquisition of the Property, the Loan and the Underlying Mortgage Loan would be paid off early. Another tenant (Americold Realty Trust) has the right to purchase their portion of the Property. In such case, net sales proceeds will be applied to paydown the Mortgage Loan and in turn applied by the Mortgage Lender to pay down the Loan.

The Loan provides for at least payment of six months’ interest so if the Loan is paid off early, TEI Massillon would receive at least interest in the amount of \$79,500.

The Loan Borrower provided the equity for the balance of the purchase price (approximately \$10,082,764.49) plus closing costs to acquire the lender’s interest in the Loan. Such portion funded by the Loan Borrower constitutes approximately 48.75% of such purchase price (not including the closing costs funded by the Loan Borrower).

TEI Massillon is a newly created Delaware limited liability company, whose general managers are Francis Greenburger and Robert Kantor (the “**General Managers**”). The total invested capital funded by TEI Massillon was \$1,037,750. Such amount includes \$1,000,000 for the purchase of the B Piece and the remainder for closing costs, consisting of an acquisition fee and legal costs.

The Fund made a \$674,537.50 capital contribution to TEI Massillon in exchange for a 65% membership interest in TEI Massillon. The other members of TEI Massillon are affiliates of the General Managers.

### **Description of the Property and the Tenants**

The Property consists of 840,000 SF multi-building industrial facility located approximately 65 miles south of Cleveland, OH. The complex consists of 596,000 SF of dry storage/distribution space, 187,000 SF cold storage facility and several smaller industrial and office buildings. The Property is located on approximately 85 acres. The cold and dry storage facilities have 35' clear ceiling heights, 8-10" thick floors, 84 total loading docks, wet sprinkler system and 90 spaces of trailer parking.

The Property is approximately 92% occupied by seven tenants. The three largest tenants accounts for 84% of these tenants and are as follows:

1. GOJO Industries Inc.

- 434,448 SF (approx.)
- Lease commencement: April 20 2020
- Lease Term: 5 Years
- Rental Rate: 3.25/SF or \$1,411,956 per annum triple net
- GOJO has the right to purchase the Property for the purchase price of \$32,000,000, subject to a 60-day due diligence period and a closing date of 45 days after the expiration of the due diligence period. A fully executed purchase and sale agreement is attached to their lease as an exhibit. Such purchase option can be exercised by GOJO at any time during the five (5) year term of their lease. To the extent that GOJO exercises its purchase option and terminates the purchase agreement during the due diligence period, it shall have the right thereafter, but not the obligation, to terminate their lease upon 180 days' prior written notice. The effective date for such termination shall not be earlier than the 12<sup>th</sup> month of the lease term in April 2021.

2. Americold Realty Trust (NYSE: COLD):

- 187,310 SF (100% of cold storage building)
- Lease commencement: 10/1/06
- Serves Heinz Frozen Food products for its facility 4 miles away
- \$8.33/Sf or \$1,560,292.30 per annum, triple net
- Lease Expiration 9/30/23

Americold, during the term of their lease, has the option to purchase their portion of the Property for \$15,400,000. If this occurs then the net sales proceeds would be applied to pay down the Mortgage Loan and in turn applied by the Mortgage Lender to pay down the Loan. The release price for the release of the mortgage, for this portion of the Property, is \$15,000,000, plus a 1% prepayment fee of \$150,000. If Americold exercises its option to purchase the Property prior to GOJO exercising its option to purchase the entire Property, then such portion of the Property will be carveout of the sale of the Property to GOJO and the purchase price to be paid

by GOJO would be reduced to \$16,100,000 (the difference between the GOJO's purchase price of \$32,000,000 minus \$15,900,000, the purchase price for such portion of the Property acquired by Americold). If GOJO acquires the Property before Americold exercises its purchase option then such purchase of the Property by GOJO is subject to the Americold's purchase option. In such case, Americold could exercise its purchase option, while GOJO is the owner of the Property. If Americold exercises its purchase option, it is very likely (but not guaranteed) that the Loan would be paid off in full from such net sales proceeds. At this time, it is uncertain as to whether or not Americold will exercise the right to purchase its portion of the Property.

### 3. Thrifty Retail Services

- 84,471 SF
- Lease commencement: 9/1/19
- Lease Expiration: 8/31/22
- \$3,00/SF or \$253,413 per annum (dry storage & distribution)

Each of the above three tenants also pay their prorata share of common area charges, real estate taxes and insurance for the Property

### **History of the Underlying Mortgage Loan and Information about Loan Borrower and Lender**

Rialto Mortgage Finance, LLC made the underlying Mortgage Loan in the amount of \$21,300,000 to Prophecy Massillon LLC (the "**Owner**") on May 8, 2014. Willington Trust National Association, as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Securities Inc., Commercial Mortgage Pass-through Certificates Series 2014-LC 16 ("**Wilmington Trust**") acquired the underlying Mortgage Loan in 2014. The underlying Mortgage Loan became a non-performing loan which eventually resulted in the Owner approving and consenting to the entry of the Consent Entry in Rem Judgement and Decree of Foreclosure, dated February 13, 2020, in the Court of Common Pleas, Stark County Ohio ("**Foreclosure Judgement**"). Wilmington Trust entered into a contact to sell the Mortgage Loan on May 14, 2020 to Briar Meads. As part of the closing for the acquisition of the Mortgage Loan by Briar Meads, the Foreclosure Judgement was discharged and the Mortgage Loan was modified to extend its term until July 1, 2021 with 2 six months extension options. The terms of such underlying Mortgage Loan, as described below, reflect the terms contained such modification agreement executed on the Closing Date.

Briar Meads Capital, LLC ("**BMC**") is a private investment management firm that specializes in the acquisition of distressed (non-performing) loan assets in the United States. BMC targets assets that tends to be overlooked by institutional investors, that purchase distressed debt, in the \$25-\$75 million dollar range. BMC has completed more than 60 transactions with an acquisition value in excess of 400 million.

Thorofare is a Los Angeles based debt fund, with over 2.2 billion of originated loans.

## **Terms of the \$10,600,000 Loan to Loan Borrower or Briar Meads**

The following are the terms of the Loan to the Loan Borrower:

- Amount: \$10,600,000
- Loan Term: 12 months until July 1, 2021. Upon satisfaction of the extension conditions set forth below, the Loan Borrower is entitled to two 6-month extensions of the term of the Loan.
- Interest Rate: 1 month Libor plus 8% per annum. The Libor rate has a floor of 0.90%, if the actual thirty-day Libor rate is less. The initial rate was 8.9% per annum. Currently the 1-month Libor rate is lower than the floor of 0.90%.
- Monthly Payment: Monthly payments consist of interest only. The initial monthly payments, based on the 8.9% interest rate, would be \$78,616.67 or \$943,400 per annum. At the closing for the Loan, Borrower paid interest for the period from June 3, 2020 to June 30, 2020 in the amount of \$73,375.56. The next monthly interest payment shall be due on August 1, 2020.
- Yield Protection Fee: The Loan is prepayable, in whole at any time, provided if the Loan Borrower prepays before December 31, 2020, the Loan Borrower shall pay interest on the Loan through December 31, 2020.
- Exit Fee: Upon the payoff of the Loan, the Loan Borrower has to pay an Exit Fee equal to 1% of the Loan amount or \$106,000. If a Significant Adverse Event (“SAE”) occurs then the Exit Fee is increased \$424,000. A Significant Adverse Effect means any of the following: (i) an event of default caused by Borrower’s failure to pay monthly payments of interest, which is not cured by the Borrower within 10 business days after receipt of written notice that such Significant Adverse Event occurred; or (ii) the failure of the Borrower to repay the Loan on the maturity date, subject to a 10 business day cure period, after receipt of a written notice of the occurrence of such Significant Adverse Effect; or (iii) the occurrence of liability under the non-recourse carveout provisions of the Loan Agreement.
- Extension Options: The Borrower has two extension options to extend the term of the Loan for 6 months, each based on the following conditions:
- (a) The Loan Borrower shall pay the Lender an extension fee of \$53,000 for each such extension based on 0.5% of the outstanding balance of the Loan;

- (b) The loan to value ratio shall not exceed 50%, subject to an appraisal update;
- (c) Minimum 20% debt yield; and
- (d) No event of default under the Loan

The first extension option extends the maturity date to January 1, 2022 and the second extension option would extend the maturity date to July 1, 2022.

- Collateral for the Loan: Collateral assignment of the underlying Mortgage Loan
- Non-Recourse Loan: The Loan is a non-recourse loan, except for the environmental indemnity and non-recourse carveouts. Principals of the Loan Borrower, which owns 20% or more interest in the Loan Borrower, executed an Environmental Indemnification and Guaranty of the Non-Recourse Carve Outs at the Closing
- Holdback of Loan Proceeds: \$500,000 of the loan proceeds were held back by the Lender at the closing and deposited into a Loan Lockbox Account controlled by the Lender. Such funds will be used to make payments of the monthly interest due and payable under the Loan.
- Cash Collateral Account for Lender: At the Closing, a Cash Collateral Account was set up so the Lender would retain the balance of the net operating income from the Property after payment of debt service under the Loan as additional collateral for the Loan. Such amount is estimated (but not guaranteed) to be approximately \$1,907,000 for the initial one-year term of the Loan. If you added the \$500,000 holdback of loan proceeds to such amount such additional collateral, held by the Lender in such lockbox account, would be increased to approximately \$2,407,000.
- Late Charges: There is a 10% late charge as to any unpaid interest payment which is overdue for 10 days.
- Payment of Servicer Fees: At the closing, the Borrower paid a set-up fee to the Servicer for the Loan (Cohen Financial) in the amount of \$3,000. The Borrower is responsible to pay on the first day of each month, during the Loan term, a monthly servicing fee of \$1,000 to the Servicer.

**Terms of the Underlying Mortgage Loan**

Mortgage Borrower or Fee  
Title Owner of the Property: Prophecy Massillon, LLC

Mortgage Lender: BM-18 Massillon, LLC, an affiliate of Briar Meads Capital. The Mortgage Lender is also the Loan Borrower for the Loan.

Outstanding Balance of The Underlying Mortgage Loan at Closing: \$20,682,764.49, which amount includes the unpaid principal balance, all accrued interest and the liquidation fee in the amount of \$194,993 due to the Wilmington Trust as the seller of the lender's interest in the Mortgage Loan.

Maturity Date: July 1, 2021

Extension Options: Mortgage Borrower has 2 extension options of 6 months each. In order to exercise such extension option, GOJO Industries Inc. ("GOJO") shall not have exercised its termination option under its Lease. The maturity date and extension option periods for the underlying Mortgage Loan are the same as the Loan.

Interest Rate: The interest rate under the Mortgage Loan is 14% per annum and monthly payments consist of interest only. In no event shall the aggregate interest due and payable to the Mortgage Lender be less than \$2,560,697 ("**Minimum Interest Payment Amount**") .

Application of Reserves and Lockbox Funds to Pay Down the Loan: Wilmington Trust, as the seller of the lender's interest in the Mortgage Loan, agreed to pay to the Mortgage Lender within 10 business days after the Closing, the reserve funds, lockbox funds, and/or escrowed funds, estimated to be approximately \$754,277.72 (collectively "**Borrower Funds**"). Upon receipt, the Mortgage Lender agreed to apply such funds to reduce the outstanding balance of the Mortgage. It is estimated the outstanding balance of the Mortgage Loan will be reduced to \$19,928,486.77 after the Borrower's Funds are applied to pay down the Mortgage Loan.

Prepayment: Upon not less than 30 days prior written notice, the Mortgage Borrower may prepay the principal balance of the Mortgage Loan provided the Mortgage Lender receives the Minimum Interest Payment Amount (the difference between the Minimum Interest Payment Amount and the interest previously paid to the Mortgage Lender).

Additional Payment due to the Mortgage Lender: Upon the earliest to occur of the Maturity Date or the sale or refinancing of the Property, the Mortgage Borrower shall make a payment to the Mortgage Lender in the amount of \$1,000,000

Collateral for the  
Mortgage Loan:

First Mortgage Loan encumbering the Property

Cash Management:

All tenants are obligated to pay their rent to a lock box controlled by the Mortgage Lender and Thorofare. Funds in the lock box will be used to pay the monthly debt service payment for the Loan and operating expenses set forth in the approved annual budget. The lock box funds can also be used to pay for the operating expenses, not included in the approved annual budget, to the extent approved by the Mortgage Lender, in its sole discretion. Any remaining balance in the lock box account will be held as additional collateral for the Loan. The Loan Borrower, as the Mortgage Lender, will not be able to withdraw from the lockbox account the amount by which the debt service payments under the Mortgage Loan exceeds the Loan.

### **Net Operating Income for the Property**

The monthly and annual debt service payments under the underlying Mortgage Loan, based on an outstanding balance of \$19,928,487, is currently estimated to be approximately \$232,499 per month and approximately \$2,789,988 annually. The monthly and annual estimated debt service coverage for the Loan, based on the loan amount of \$10,600,000, is approximately \$78,616.07 per month or approximately \$943,400 per annum. There is a positive differential amount between the debt service payments under the underlying Mortgage Loan and the Loan of approximately \$153,882.33 per month or \$1,846,588 per annum. Such monthly positive differential amount is subject to change since the interest rate for the underlying Mortgage Loan is a fixed rate, but the interest rate for the Loan is a floating rate, based on the rate equal to the 1 month Libor rate (with a floor of 0.90%) plus 8% per annum.

The current net operating income for the Property, before debt service and reserves, is estimated to be approximately \$2,850,000. The debt service coverage ratio for the underlying Mortgage Loan is estimated to be approximately 1.02x. The debt service coverage ratio for the Loan is estimated to be substantially higher at 3.02x.

The Loan Borrower is required to maintain the balance of the net operating income in a lockbox account controlled by the Lender after payment of debt service for the Loan. In such case, the Loan Borrower would not be able to pay to itself the amount by which the debt service payments under the underlying Mortgage Loan exceeds the debt service for the Loan. Such amount to be retained in such lockbox account, after payment of debt service for the Loan and operating expenses, is estimated to be approximately \$1,907,000 (the net operating income of approximately \$2,850,000 minus the debt service for the Loan in the amount of \$943,400) for the initial one year term of the Loan. When you add the additional \$500,000 retained by the Lender from loan proceeds, to be held in the lockbox account controlled by the Lender, to pay interest on the Loan, such additional collateral for the Loan in such lockbox account would be approximately \$2,407,000.

If GOJO terminates their lease early, it is estimated that the net operating income, before debt service and reserves, would be reduced to approximately \$1,150,000. Such reduced amount of net operating income would not be sufficient to pay the debt service under the underlying Mortgage Loan. It is estimated such shortfall would be approximately \$1,639,988. However, if GOJO terminates their Lease early, such estimated reduced net operating income is estimated to be sufficient to pay the debt service for the Loan. There is estimated positive net cash flow, after payment of debt service under the Loan, of approximately \$206,000, if GOJO terminates their lease early.

### **Terms of the Participation Agreement between the A Piece and B Piece Lenders**

#### Lenders and Loan

##### Participants:

Thorofare, is the holder of the A Piece portion of the Loan. Thorofare funded \$9,600,000 of the loan proceeds for a 90.57% undivided superior participation interest in the Loan. Thorofare is also referred to as the “**Lender**”. TEI Massillon is the holder of the B Piece portion of the Loan. TEI Massillon funded \$1,000,000 of Loan proceeds for a 9.43% undivided subordinate participation interest in the Loan.

##### Interest Rate for B Piece:

The interest rate for the B Piece portion of the Loan is 15.9% per annum. The interest rate for the A Piece is determined based on the remainder of the monthly interest payments being paid to the A Piece Lender.

##### Distributions:

The Participation Agreement contains two waterfall distribution formulas for the allocation of the payment received under the Loan to the Loan participants, consisting of the distribution waterfall where the Loan is not in arrears in payment of monthly interest payments for a period not to exceed one month, there is not currently pending any voluntary or involuntary bankruptcy proceedings by or against the Loan Borrower (“**Bankruptcy Event**”) and/or the Loan has not been accelerated (collectively the “**Non-Event Distribution Waterfall**”). The other distribution waterfall is based on interest payments, in excess of one month, being due and owing, the occurrence of a Bankruptcy Event and/or the Loan being accelerated. Such distribution waterfall is called the “**Event of Default Distribution Waterfall**”. Under the Non-Event Distribution Waterfall, the monthly payments of interest and the payment of the outstanding balance of the Loan, on the maturity date or upon any early prepayment, are distributed on a prorata basis to the A Piece and B Piece Lenders so that TEI Massillon, as the B Piece Lender, is paid interest based on a 15.9% per

annum interest rate and based on 9.43% of any paydown of the principal balance of the Loan.

Based on the Event of Default Distribution Waterfall the A Piece Lender is paid first their accrued interest and their portion of the principal balance of the Loan before any payments of principal and interest are paid to the B Piece Lender. Also, if the Event of Default Distribution Waterfall applies, the A Piece Lender gets paid their Yield Protection Fee, Extension Fee and Non-SAE Exit Fee before any payments and made to the B Piece Lender.

Payment of Fees to the Lenders:

Therefore, as the A Piece Lender, is entitled to receive 100% of the following fees to be paid by the Loan Borrower:

- Origination fee in the amount of \$106,000 paid on the Closing Date;
- Origination Processing Fee in the amount of \$3,500;
- Any Extension Processing Fee;
- The Non-SAE Exist Fee of \$106,000 (where there is not a Significant Adverse Effect) and the SAE Exist Fee, (if a Significant Adverse Effect occurred), of \$424,000; and
- The workout/modification fee, if any.

The Lenders shall share, on the prorata basis, the following fees:

- The extension fees if the Loan Borrower exercises the extension options to extend the term of the Loan for six months each, in the amount of \$53,000 (based on 0.5% of the loan balance) for each extension; and
- Any Yield Protection Fee to guaranty payment of at least 6 months interest, if the Loan is paid off earlier than the first 6 months.

Consent Rights:

The B Piece Lender has certain consent rights with respect to the ownership, administration, servicing and enforcement of the Loan as set forth in the more detailed summary of the Participation Agreement in the attached Exhibit.

B Piece Cure Rights:

The B Piece Lender has the right to cure a non-payment by the Loan Borrower of one or more of the regularly scheduled monthly interest payments, by paying the A Piece Lender its portion of such unpaid amount, at the non-default rate of interest, within ten (10) business days of the B Piece Lender's receipt of a written notice from the Lender or the Servicer.

The B Piece Lender also has cure rights if the Loan is not paid off on the maturity date. In that case, such cure rights consist of the monthly interest payments at the non-default rate of interest that the A Piece Lender would have received as if the Loan maturity date had not occurred. Such payments, after the maturity date, would have to be paid by the B Piece Lender, no later than the 10<sup>th</sup> day of each month. No single cure event by the B Piece Lender may exceed three consecutive months.

If the B Piece Lender fails to timely make sure cure payments it loses its consent rights and option to purchase the A Piece portion of the Loan, as described below.

Option to Purchase the  
A Piece Portion of the Loan:

If an event of Default shall occur as a result of the non-payment by Loan Borrower of one or more regularly scheduled monthly interest payments under the Loan Documents or as a result of Borrower's failure to repay the outstanding principal balance of the Loan on the maturity date of the Loan, B Piece Lender shall have the option (the "**Purchase Option**") within ninety (90) days following B Piece Lender's receipt of written notice from Servicer that such event of default has occurred ("**Purchase Notice**") to purchase the A Piece and the Loan from A Piece Lender (provided that A Piece Lender, without the consent of B Piece Lender, may accept a cure by the Loan Borrower of such Event of Default before the expiration of such ninety (90) day period, in which case the Purchase Option hereunder shall automatically terminate). In order to exercise the Purchase Option, B Piece Lender (a) must have elected to make, and have made, any and all Cure Payments, and (b) B Piece Lender shall deliver written notice of the exercise of the Purchase Option within seventy-five (75) days following receipt of Servicer's Purchase Notice that the applicable Event of Default has occurred.

To the extent that the B Piece Lender has not received the Purchase Notice from the Lender and/or the Servicer by such time as the Loan Borrower is in default in interest payments in an amount equal or greater than three (3) months, then the B Piece Lender, upon written notice to the A Piece Lender and the Servicer, shall be entitled to trigger the Purchase Option for the A Piece and/or the Loan, whereby the B Piece Lender may exercise its Purchase Option pursuant to the above provisions.

The purchase price to be paid for the A Piece shall be the amount equal to the sum of: (a) the outstanding principal balance of the A Piece (including all Protective Advances and Shortfall Contributions made by A Piece Lender), (b) accrued and unpaid non-default interest on the A Piece, (c) the amount of any non-default exit fee allocable to the A Piece and (d) A Piece Lender's pro rata share of the Yield Protection Fee that would be paid on outstanding principal balance of the A Piece if the Yield Protection Fee would otherwise be payable by Loan Borrower in connection with a repayment of the Loan at the time the A Piece Purchase Price is paid by B Piece Lender to A Piece Lender (collectively the "**A Piece Purchase Price**"). In addition to payment of the A Piece Purchase Price, as a condition to B Piece Lender's acquisition of the A Piece, B Piece Lender shall pay to Servicer all accrued and unpaid servicing fees owing to Servicer.

More Detailed Summary of  
the Participation Agreement:

See attached Exhibit for more detailed summary of the terms  
of the Participation Agreement.

#### **Acquisition Fee and Asset Management Fee to be Paid to Time Equities, Inc.**

At the closing, Time Equities, Inc. ("**TEI**"), an affiliate of the Managers, was paid an acquisition fee in the amount of \$10,000. In addition, TEI will be paid an annual asset management fee in the amount of \$2,500 and a \$5,000 fee for each such extension if the Loan Borrower exercises either of its extension options to extend the term of the Loan for six months each.

#### **Special Risks of this Offering**

This Investment as to the purchase of the B Piece involves certain risks and is suitable only for persons of substantial financial means who have no need for liquidity in such investment and who are able to afford the risk of the investment.

#### **Consent Rights of the B Piece Lender are Limited**

The Participation Agreement grants to the B Piece Lender various approval rights, including but not limited to, any modification of the Loan Documents, any release of the Loan Collateral, except as provided in the Loan Agreement, any settlement if any default occurs under the Loan Documents, the acceptance of any prepayment other than in accordance with the Loan Documents and the enforcement of remedies under the Loan Documents. Such approval rights in certain respects are limited in that Thorofare has complete discretion in many other matters pertaining to the administration of the Loan (for example, the decision as to whether or not to have a capital call for itself and the B Piece Lender to fund any Protective Advances the Lender would make to cure an event of default under the Loan). To the extent a Protective Advance is required to cure an

event of default under the Loan, the A Piece Lender has to fund 90.57% of such Protective Advance. Because of this required high funding percentage for the A Piece Lender, the A Piece Lender may not initiate a Protective Advance that the B Piece Lender, because of its low funding percentage (9.43%), would otherwise be inclined to fund.

If the B Piece Lender fails to timely fund the Cure Payments for any non-payment of the monthly interest payments and/or after the maturity date, if the Loan is not paid off on the Maturity Date, as to such continuation of such monthly payments of interest to the A Piece Lender, then the B Piece Lender loses all of its consent rights and its purchase option.

If the Lender, through the exercise of its remedies under the Loan, acquires fee title to the Property, then the A and B Piece Lenders would become the members of such limited liability company that would own the Property. The A Piece Lender would be the sole managing member with exclusive authority and control over the management and affairs of such company that would own the Property. If this occurs, then all distribution of net operating income would be funded under the Event of Default Distribution Waterfall, where the A Piece Lender gets paid back their accrued interest, principal amount and fees before any payments are made to the B Piece Lender.

### **Risk as to Distributions**

If there are non-payments of monthly interest in excess of one month, a Bankruptcy Event occurs and/or the Loan is accelerated, then distributions to the A and B Piece Lenders would be made based on the Event of Default Distribution Waterfall. In such case, the A Piece Lender would be paid all sums due and owing to the A Piece Lender (including interest, its principal balance and fees) before any further payments are made to the B Piece Lender. After such payoff of the A Piece Lender there may not be sufficient funds left over to pay the B Piece Lender.

### **Risk as to Capital Contributions for Protective Advances and the Purchase Option**

The total investment capital funded at closing was \$1,037,750. This amount does not include any working capital if Protective Advances and/or legal fees are required to be funded to cure an event of default under the Loan and/or enforce Lender's remedies under the Loan. If this occurred, TEI Massillon would have to fund 9.43% of such Protective Advances and/or enforcement costs and this would necessitate a capital call upon the members of TEI Massillon. If TEI Massillon does not fund its prorata share of any such Protective Advances, then the A Piece Lender can fund such amount the B Piece Lender failed to contribute and the A Piece Lender would be entitled to a priority payment from distribution, as to such Protective Advances funded on behalf of the B Piece Lender, with interest on such amount at 20% per annum.

TEI Massillon has the right to purchase the Loan or the A Piece portion of the Loan if there is an event of default as a result of the non-payment by the Loan Borrower of one or more regularly scheduled monthly interest payments or as a result of the Loan Borrower's failure to pay off the Loan on the maturity date. TEI Massillon would have 90 days to close on this purchase option. The purchase price for this purchase option is the A Piece Purchase Price (as defined in the summary for the Participation Agreement), which would include the accrued interest on the A Piece portion of the Loan at the non-default rate of interest, the outstanding principal balance of

the A Piece portion of the Loan and certain fees). Such amount would probably be \$9,600,000, plus accrued interest and fees. In order to close on such purchase option, TEI Massillon would have to obtain a loan for such acquisition and there is no guaranty of the ability of TEI Massillon to obtain such loan. Even if TEI Massillon obtained such loan, it would have to fund the borrower's equity portion of such A Piece Purchase Price, which amount would be substantial and would probably be between 25% to 50% of such purchase price. This would also necessitate a capital call amongst of the members of TEI Massillon.

### **Risk as to the Sale of the Loan or the A Piece Portion of the Loan to a Third Party**

The A Piece Lender has the right to sell its interest in the Loan to a Qualified Transferee (see such definition in the more detailed summary of the Participation Agreement, attached hereto as an Exhibit) without the approval of the B Piece Lender. The definition for a Qualified Transferee to which the A Piece Lender can sell its interest, without the B Piece Lender's approval, is very broad and includes any institutional accredited investor which has a net worth in excess of \$75,000,000 and liquid asset of not less than \$10,000,000.

Any sale of the Loan or the A Piece interest in the Loan to a third party, including a Qualified Transferee, shall be made subject to the Participation Agreement and such third party's assumption of the A Piece Lender's obligations under the Participation Agreement.

The Participation Agreement requires the A Piece Lender to give the B Piece Lender a right of first offer to purchase the A Piece Lender's interest before it markets it for sale to third parties. The B Piece Lender has a period of 30 days, after receipt of letter from the A Piece Lender as to its plans to sell its A Piece, to close on such right of first offer. The purchase price for any such right of first offer would be the A Piece Purchase Price as described above.

The A Piece Lender was unwilling to grant to the B Piece Lender a right of first refusal as to any purchase offer received by a third party. Under the right of first offer, the B Piece Lender would have to pay full purchase price to the A Piece Lender as to all amounts due and owed to the A Piece Lender (other than default interest and late charges). The B Piece does not have the right to match any third party offer that the A Piece Lender would accept to sell its interest at a discount. Even if the B Piece Lender does not want to pay the full purchase price and exercise its right of first offer, it still can attempt to negotiate a more favorable purchase price if the A Piece Lender decides to sell its A Piece Lender's interest at a discount.

There is the unknown factor as to who such third party purchaser would be to take over the A Piece Lender's interest, if the B Piece Lender is unable to negotiate a deal with the A Piece Lender to purchase their interest. Thorofare is an experienced lender with over 2.2 billion of originated loans. It is uncertain that any such replacement for the A Piece Lender will be as good as Thorofare in administering the Loan and undertaking its obligations as the A Piece Lender under the Participation Agreement. Although the Managers are undertaking this joint venture with Thorofare based on their perceived track record, there is no guaranty as to Thorofare's performance and that there will not be issues that create conflicts of interest between the A and B Piece Lenders. There is always the potential for conflicts where there are participation interests where one party has a superior position, like the A Piece Lender. The biggest potential for a conflict arises when

the event of default trigger occurs resulting in all distributions being made pursuant to the Event of Default Distribution Waterfall, where the A Piece Lender gets paid first all amounts owed to them before any payments are made to the B Piece Lender.

**Risks Relating to GOJO's Potential Right to Terminate their Lease Early and the Mortgage Borrower's and the Loan Borrower's Ability Prior to the Maturity Date to Refinance the Mortgage Loan.**

GOJO recently signed a five-year 434,448 sf lease, which provides for annual rent of \$1,411,956. In addition, GOJO also pays for their prorata share of common area charges, including real estate taxes and insurance.

GOJO, at any time during their lease term, can exercise an option to purchase the Property for a price of \$32,000,000. If GOJO purchases the Property, the underlying Mortgage Loan and the Loan would be paid off in full. Under the Purchase Agreement, GOJO has a 60-day due diligence period. If GOJO decides to terminate this Purchase Agreement, during this due diligence period, then GOJO has the additional option, thereafter, at its discretion, to terminate its lease early upon 180 prior written notice. It is uncertain at this time as to whether or not GOJO would exercise its purchase option during the term of the Loan.

If GOJO terminates their lease early, it is estimated there will be sufficient net operating income to pay the debt service under the Loan and that the net operating income after payment of such debt service would be approximately \$206,600. However, if GOJO terminates their lease early, it is projected there will not be sufficient net operating income to pay the debt service under the underlying Mortgage Loan. There would be an estimated shortfall of approximately \$696,588 (\$1,846,588 for the debt service under the underlying Mortgage Loan minus the estimated \$1,150,000 net operating income before debt service). This becomes somewhat less of an issue since the Lender will retain, in the lockbox account it controls, the balance of the net operating income after payment of debt service under the Loan. In such case, the Loan Borrower is not entitled to withdraw from the lockbox account controlled by the Lender the positive differential amount between the debt service under the underlying Mortgage Loan and the Loan, which is estimated to be approximately \$1,846,588.

Under the terms of the underlying Mortgage Loan, the Mortgage Borrower is not entitled to extend the term of the Mortgage Loan if GOJO exercises its termination right. Also, if GOJO exercises its termination right, then the underlying Mortgage Borrower would probably not be able to refinance the underlying Mortgage Loan on its maturity date, based on such reduced net operating income. The value of the Property would be significantly lower and the underlying Mortgage Borrower would probably have a large deficit to fund to payoff the underlying Mortgage Loan on its maturity date, beyond the amount of any new loan the Mortgage Borrower might obtain for such refinancing. As a result, the Loan Borrower might end up with the ownership of the Property either through foreclosure or deed in lieu of foreclosure. In such case the Lender would then become the new mortgage lender for the Property and Briar Meads or the Loan Borrower would become the Mortgage Borrower. A new mortgage would be recorded against the Property to secure the Loan after the existing one is discharged or released as part of any such foreclosure or deed in lieu of foreclosure.

There is less of a risk as to the Loan Borrower's ability to refinance the Loan, based on the \$9,328,487 positive difference between the underlying Mortgage Loan and the Loan. Also, if GOJO terminates their lease early, the monies retained in the lockbox, in the estimated amount of \$2,346,500 (based on the positive differential amount between the debt service under the underlying Mortgage Loan and the debt service under the Loan, and the \$500,000 of loan proceeds retained by the Lender) could be used to fund any shortfall in new loan proceeds to payoff the Loan. In any event, there is no guaranty, as to the ability of the Loan Borrower to refinance the Loan upon its maturity date.

**Risk as to the Term of the Mortgage Loan and the Loan and the Ability to Refinance the Mortgage Loan and the Loan by their Maturity Dates**

The Mortgage Loan and the Loan have an initial term of one year. Also, the Mortgage Loan and the Loan both have two extension options for six months each. It is a condition for the extension of the Mortgage Loan that GOJO has not exercised its termination option. In order to be able to extend the Loan, the loan to value ratio cannot exceed 50% and there must be a debt yield of at least 20%. There is no guaranty of the ability of Mortgage Borrower and/or the Loan Borrower to extend their respective loans.

If the Mortgage Borrower and/or the Loan Borrower are unable to extend the terms of their respective loans, there is no guaranty as to the ability of either borrower to refinance their loans on or before their respective maturity dates.

The Mortgage Borrower has to pay an additional \$1,000,000 to Mortgage Lender (“**Additional Payment**”) upon the payoff of the Loan. If there is a shortfall of loan proceeds to payoff the Mortgage Loan and pay such Additional Payment, there is no guaranty of the ability of the Mortgage Borrower to fund such deficit. There is a much greater refinancing risk, for the Mortgage Borrower, if GOJO terminates their lease early.

If the Mortgage Borrower is unable to refinance the Mortgage Loan on its maturity date, this may make it more difficult for the Loan Borrower to refinance the Loan. This risk is mitigated based on the cash reserves that are intended be funded and retained in the lockbox account prior to the maturity date of the Loan. Such amount is estimated (but not guaranteed) to be approximately \$2,346,500. Thus, if there was a shortfall in loan proceeds to payoff the Loan, the Loan Borrower could use this cash reserve to fund such shortfall.

Also, if GOJO exercises its purchase option, there would be sufficient net sales proceeds to pay off both the Mortgage Loan and the Loan. If Americold exercises their purchase option, most likely this will result in the Loan being paid off in full. It is uncertain as to whether or not these two purchase options will be exercised during the term of the Loan and the Mortgage Loan.

## EXHIBIT A

### SUMMARY OF THE TERMS OF THE \$10,600,000 LOAN MADE BY THOROFARE, AS LENDER TO BM-18-MASSILLON, LLC AS LOAN BORROWER

On June 4, 2020 **TEI TF Massillon LLC** closed on its \$1,000,000 B Piece participation interest in a \$10,600,000 Note on Note Financing ("**Loan**"). Thorofare Capital is the A Piece Lender, on the Loan to **BM 18 – Massillon, LLC** ("**BM**" or "**Loan Borrower**"), as part of BM's purchase of a mortgage loan from LNR in the amount of \$20,682,764.49, encumbering the real property located at 4540 and 4676 Erie Avenue SW, Navarre, Ohio 44662.

#### MAJOR LOAN TERMS

Loan Amount:	\$10,600,000.00
Closing Date:	June 4, 2020
Interest Rate:	The term " <b>Interest Rate</b> " shall mean, with respect to any Interest Period, an interest rate per annum equal to the sum of the one month LIBOR Rate plus the Spread. The Spread is 8% per annum. The minimum floor for one month Libor is 0.90%.
Monthly Payments:	Interest only shall be paid monthly based on the Interest Rate. The Loan requires the payment of interest for a six month period even if the Loan is paid off earlier.
Initial Maturity Date:	July 1, 2021
First Extended Maturity Date:	January 1, 2022
Second Extended Maturity Date:	July 1, 2022
Extension Fees:	The Loan Borrower shall pay an extension fee based on 0.5% of the outstanding balance of the Loan for each such extension.
Prepayment:	Subject to payment of the Exit Fee and at least 6 months interest under the Loan, the Loan can be prepaid at any time.
Exit Fee:	Upon payoff of the Loan, the Borrower shall pay an Exit Fee equal to 1% of the outstanding balance of the Loan or \$106,000. If a Significant Adverse Effect occurs, which is not timely cured, then to Exit Fee is increased to \$424,000

Default Rate/Late Charges: Upon the occurrence and during the continuance of an Event of Default, then, from and after the date of the occurrence of the Event of Default until the earlier of the date upon which the Event of Default is cured (or waived in a writing executed by Lender) or the date upon which the Indebtedness is paid in full, interest shall accrue on the entire outstanding principal balance of the Loan at a rate equal to the lesser of (a) the Interest Rate plus ten percent (10.00%) or (b) the highest rate permitted by law, computed from the date of occurrence of the Event of Default (the “**Default Rate**”).

### **DEFINITIONS**

**Guarantor:** means Sidhartha Singh, an individual.

**Guaranty:** means that certain Guaranty of Recourse Obligations, of even date herewith, by Guarantor to and for the benefit of Lender.

“**Loan Purchase Agreement**” means that certain Agreement for Sale and Purchase of Loan (Prophecy Massillon, LLC; Loan No. 300571108), entered into as of the Effective Date (as defined therein), between Borrower, as buyer, and Loan Seller, as seller.

“**Loan Seller**” means Wilmington Trust, National Association as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2014-LC16, as seller.

“**Material Action**” means any of the following actions by Borrower with respect to the Mortgage Loan:

(a) decrease or increase the interest rate on the Mortgage Loan (excluding increases of the interest rate in connection with an event of default under the Mortgage Loan) or the principal amount of the Mortgage Loan (except in the case of protective advances) or defer or forebear from collecting any principal or non-default interest (other than with respect to a protective advance);

(b) change in any other material respect any monetary obligations of any Mortgage Loan Obligor under the Mortgage Loan Documents;

(c) enter into any agreement to extend the scheduled maturity date for a period greater than sixty (60) days (except to the extent extended in accordance with the terms and provisions of the Mortgage Loan Documents as a result of extension conditions therein being satisfied) of the Mortgage Loan, so long as the same does not extend beyond the Maturity Date;

(d) convert or exchange the Mortgage Loan into or for any other indebtedness or subordinate all or any portion of the Mortgage Loan to any indebtedness of any Mortgage Loan Obligor;

(e) cross default the Mortgage Loan with any other indebtedness of any Mortgage Loan Obligor or any other Person;

(f) amend or modify any default provision, including, the definition of “**Event of Default**” in the Mortgage Loan Documents, or waive in writing any monetary default or material non-monetary default under the Mortgage Loan Documents; or

(g) forgive, release or waive any debt due and payable under the Mortgage Loan by any Mortgage Loan Obligor other than in connection with a repayment in full of the Mortgage Loan; or

(h) release or substitute any collateral except as provided in the Mortgage Loan Documents upon (1) payment in whole or in part of the Mortgage Loan and (2) in all cases, payment of the Indebtedness in full; or

(i) consent to the placement of any lien, encumbrance or easement on the Property, or any lien or encumbrance on the equity interests in Mortgage Loan Borrower or any collateral for the Mortgage Loan (in each case, to the extent not expressly permitted by the Mortgage Loan Documents); or

(j) amend, modify or waive provisions in the Mortgage Loan Documents with respect to the Mortgage Loan Borrower’s compliance with “**single purpose entity**” requirements or which restrict the Mortgage Loan Borrower from incurring additional indebtedness (to the extent not expressly permitted by the Mortgage Loan Documents); or

(k) permit any loan assumption or release or substitute any Mortgage Loan Obligor, guarantor or indemnitor of the Mortgage Loan Documents, except as provided in the Mortgage Loan Documents; or

(l) consent to or approve the entry, amendment, modification or termination of any lease, to the extent that Borrower has a right to so consent or approve the same pursuant to the Mortgage Loan Documents;

(m) consent to any transfer or encumbrance of the Property or any interests in Borrower or any Restricted Party (as defined in the Mortgage Loan Agreement) to the extent Borrower’s consent is required under the Mortgage Loan Documents to such transfer or encumbrance; or

(n) consent to or direct the disposition or disbursement of any casualty or condemnation proceeds resulting from a casualty or condemnation of the Property, other than a disposition or disbursement required to be made by Lender pursuant to the Mortgage Loan Documents; or

(o) petitioning or filing an action for, or consenting to (x) the commencement of any case, proceeding or other action under the Bankruptcy Code (or any other Federal or state bankruptcy or insolvency law) against a Mortgage Loan Obligor, seeking (A) to have an order for relief entered with respect to it, or (B) to adjudicate it as bankrupt or insolvent, or (C) reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (D) appointment of a receiver, trustee, custodian,

conservator or other similar official for it or for all or any substantial part of its assets, or (y) a general assignment of all or substantially all of the assets of Mortgage Borrower for the benefit of Mortgage Loan Borrower's creditors; or

(p) if a voluntary petition under the Bankruptcy Code (or any other Federal or state bankruptcy or insolvency law) is filed by Mortgage Loan Borrower or an involuntary proceeding is filed against Mortgage Loan Borrower, (i) the filing of a proof of claim by Borrower with respect to the Mortgage Loan that does not include all indebtedness owed by Mortgage Loan Borrower to Borrower pursuant to the Mortgage Loan Documents, (ii) the consent to or approval by Borrower of a reorganization plan filed by Borrower or any other party, (iii) the approval of a sale of the Property pursuant to the Bankruptcy Code (or any other Federal or state bankruptcy or insolvency law) and the terms thereof, (iv) the approval of any debtor-in-possession financing or similar financing structure sought by Mortgage Loan Borrower, (v) the approval of any matter or action during the pendency of a bankruptcy or insolvency proceeding with respect to any Mortgage Loan Borrower that would be reasonably be expected to reduce the amount, or timing of receipt by Borrower, of the payment or repayment of interest, principal or exit fees by Mortgage Loan Borrower (or the estate thereof) to Borrower, or (vi) the taking of any other material action in connection with any proceeding against Mortgage Loan Borrower under the Bankruptcy Code (or any other Federal or state bankruptcy or insolvency law) including any material filings in connection therewith, the result of which could reasonably be expected to reduce the amount, or timing of receipt by Borrower, of the payment or repayment of interest, principal or exit fees by Mortgage Loan Borrower (or the estate thereof) to Borrower; or

(q) make any claim or demand in writing under the Title Policy, amend or terminate the Title Policy or take any action that would in any way impair the coverages provided to Borrower (or its successors and assigns, including Lender) under the Title Policy; or

(r) disbursements or uses of reserve or escrow accounts in a manner that is inconsistent with Mortgage Loan Documents or any application of any reserve or escrow balances to the principal balance of the Mortgage Loan (other than the applications described in Section 2.4 of the Mortgage Loan Modification Agreement);

(s) the granting of any consent or approval to alterations to the Property to the extent the consent or approval of Borrower is required under the Mortgage Loan Documents; or

(t) other than upon the occurrence and during the continuance of a monetary or material non-monetary "**Event of Default**" under the Mortgage Loan Documents, the exercise of any material remedy under the Mortgage Loan Documents, including without limitation: (i) exercising any right of a secured party under the UCC, (ii) accelerating the payment of any amounts owed thereunder prior to its stated maturity, (iii) commencing a foreclosure action with respect to the lien created by any Mortgage Loan Document, or selling, reselling, assigning or otherwise disposing of any collateral securing any Mortgage Loan Documents, or (iv) demanding, suing for, collecting, compromising, or settling any rights or claims under any Mortgage Loan Document; or

(u) take any action not expressly required by the terms of the Mortgage Loan Documents that is reasonably likely to have a material adverse effect on the fair market value of

the Mortgage Loan or the Property (or the cash flow from the Property) or the rights of the lender under the Mortgage Loan Documents, or the taking of any action that would otherwise materially and adversely impair the ability of the holder of the Mortgage Loan to collect or enforce such Mortgage Loan or realize on the collateral therefor.

### **EXTENSION OPTIONS**

**Extension Options.** The Borrower shall have the option (the “**First Extension Option**”) to extend the Initial Maturity Date for a period of six (6) months to January 1, 2021 (the “**First Extended Maturity Date**”). If the Initial Maturity Date has been extended to the First Extended Maturity Date, then Borrower shall have the option (the “**Second Extension Option**”) to extend the First Extended Maturity Date for a period of six (6) months to July 1, 2022 (the “**Second Extended Maturity Date**”). Borrower’s right to so extend the Maturity Date shall be subject to the satisfaction of the following conditions precedent prior to the effectiveness of each such Extension Option:

(i) Borrower shall have delivered written notice to Lender not less than thirty (30) days prior to the then current Maturity Date (the “**Extension Request Notice**”) indicating Borrower’s exercise of the Extension Option (provided that if Borrower shall subsequently revoke such notice, Borrower shall be responsible for Lender’s reasonable out-of-pocket costs and expenses incurred in connection with same);

(ii) No Event of Default shall have occurred and be continuing under this Note or any of the other Loan Documents at the time the Extension Request Notice is delivered or as of the then current Maturity Date;

(iii) Prior to the Initial Maturity Date or First Extended Maturity Date, as applicable, Borrower shall have paid to Lender the Extension Fee and an extension processing fee equal to Two Thousand Five Hundred and 00/100 Dollars (\$3,500.00); provided that in the event the extension conditions are not satisfied and as a result, the Maturity Date is not extended pursuant to Section 2.1(c) of the Promissory Note, such amounts shall be promptly refunded to Borrower;

(iv) The loan to value ratio of the Loan to the value of the Property (based upon the then current appraised valuation of the Property on an “as is” basis as evidenced by an MAI appraisal or MAI appraisal update obtained by Lender at Borrower’s sole cost and expense) shall be equal to or less than fifty percent (50%);

(v) Lender shall have reasonably determined that the Debt Yield is equal to or greater than eleven and 00/100 percent (20.00%);

(vi) Borrower and Guarantor shall have executed and delivered to Lender such documents as are reasonably required by Lender in connection with such extension, including without limitation, a general release of known claims against Lender and its Affiliates as of the date of execution, a ratification of such party’s obligations under the Loan Documents, and a recertification of representations and warranties made by such party in the Loan Documents (as such representations and warranties may be updated to reflect then current facts and circumstances);

(viii) Borrower shall have paid to Lender all reasonable and actual out-of-pocket costs and expenses incurred by Lender in connection with the requested extension, including, without limitation, reasonable fees of counsel, such fees of counsel not to exceed One Thousand and 00/100 Dollars (\$1,000.00) (and, if reasonably requested by Lender, Borrower shall promptly deposit with Lender such amounts as reasonably required by Lender for payment of costs and expenses Lender expects to incur in connection with the requested extension [e.g., appraisal fees]); and

(ix) Borrower shall have delivered to Lender statements of income and expense for the Property and any and all other financial information with respect to the Property as Lender shall require in its reasonable discretion in order for a determination of loan-to-value ratio to be made pursuant to clause (iv) above and in order for a determination of Debt Yield to be made pursuant to clause (v) above.

Books and Records; Financial Statements. Within (30) days following the end of each calendar month, Borrower shall provide to Lender (a) copies of any financial statements for the Property or any Mortgage Loan Obligor (as defined in the Loan Agreement) to the extent received by Borrower from any source, and (b) a bank summary of deposits and disbursements into the Mortgage Loan Lockbox Account and the Loan Lockbox Account.

Within thirty (30) days following the end of the fifth full calendar month of the initial term of the Loan (i.e., November 2020) and in connection with the exercise of an Extension Option by Borrower, Borrower shall cause Guarantor to deliver to Lender a then current balance sheet for Guarantor.

In addition, Borrower will furnish or cause to be furnished to Lender, to the extent such information is reasonably available to Borrower, such additional information, reports or statements relating to the Property, the Mortgage Loan and the Mortgage Loan Obligors, as Lender reasonably may from time to time request.

REO Conversion. Borrower (and only Borrower) may acquire fee title to the Property, if and only if each of the REO Conversion Conditions have been satisfied or waived in writing by Lender. Borrower shall bear any actual, out-of-pocket expenses (including reasonable attorneys' fees) incurred by it and its Affiliates in connection with each REO Conversion (including, without limitation, payment of (i) all real property transfer taxes, mortgage recording taxes, transfer taxes assessed on equity transfers deemed to be a transfer of real property, or any similar taxes or charges applicable to such REO Conversion; and (ii) the title insurance premium for the REO Loan Policy in favor of Lender) and shall promptly (and, in any event, within ten (10) Business Days following invoice therefor accompanied by reasonable supporting documentation) reimburse Lender for any expenses reasonably incurred in connection with an REO Conversion.

Mortgage Loan Lockbox Account.

(a) Borrower shall maintain the Mortgage Loan Lockbox Account, which Mortgage Loan Lockbox Account shall be under the sole dominion and control of Lender, subject to Borrower's rights to make disbursements therefrom in strict accordance with Section 4.14(c) of the Loan Agreement. Borrower granted to Lender a first priority security interest in the

Mortgage Loan Lockbox Account and all deposits at any time contained therein and the proceeds thereof. Borrower will not in any way alter, modify or close the Mortgage Loan Lockbox Account. Upon and during the continuance of an Event of Default, Lender and Servicer shall have the sole right to make withdrawals from the Mortgage Loan Lockbox Account and all costs and expenses for establishing and maintaining the Mortgage Loan Lockbox Account shall be paid by Borrower.

(b) Borrower shall cause Mortgage Borrower to deliver written instructions to all tenants under leases at the Property to deliver all rents and other amounts payable thereunder directly to the Mortgage Loan Lockbox Account and shall direct Mortgage Borrower to deposit any funds received by Mortgage Borrower into the Lockbox Account.

(c) Borrower shall make disbursements to Mortgage Borrower for Permitted Operating Expenses from the Mortgage Loan Lockbox Account. In addition, on a monthly basis, Borrower shall cause disbursements from the Mortgage Loan Lockbox Account to be made to the Loan Lockbox Account in such amounts as are necessary to cause the monthly interest payments to be made under the Note to be paid in full. Except for the foregoing disbursements from the Mortgage Loan Lockbox Account, Borrower shall not make, or cause to be made, any disbursements or withdrawals from the Mortgage Loan Lockbox Account. In addition, so long as any portion of the Indebtedness remains outstanding, Borrower shall have no right to disburse or apply sums in the Mortgage Loan Lockbox Account to the outstanding principal balance of the Mortgage Loan or any other indebtedness owing under the Mortgage Loan Documents.

(d) Borrower shall provide notice to Lender (which may be by e-mail transmission) of any disbursement from the Mortgage Loan simultaneously with Borrower's processing thereof.

(e) Upon the occurrence and during the continuance of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, direct First National Bank to immediately pay over all funds on deposit in the Mortgage Loan Lockbox Account to Lender and to apply any such funds to the payment of the Indebtedness in any order in its sole discretion, subject, however, to the obligations of Borrower under the Mortgage Loan Documents if no "**Event of Default**" has occurred and is continuing under the Mortgage Loan Documents.

(f) Funds deposited into the Mortgage Loan Lockbox Account shall not be commingled with other monies held by Borrower or First National Bank.

(g) Borrower shall not further pledge, assign or grant any security interest in the Mortgage Loan Lockbox Account or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 financing statements, except those naming Lender as the secured party, to be filed with respect thereto.

(h) Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys' fees and expenses) arising from or in any way connected with the Mortgage Loan Lockbox Account, the Mortgage Loan

Deposit Account Control Agreement or the performance of the obligations for which the Mortgage Loan Lockbox Account was established (unless arising from the gross negligence, illegal acts, willful misconduct of Lender or a breach of the provisions of Section 4.14 of the Loan Agreement by Lender).

Loan Lockbox Account funded at Closing in the Amount of \$500,000.

(a) Borrower shall maintain the Loan Lockbox Account, which Loan Lockbox Account shall be under the sole dominion and control of Lender, subject to Borrower's rights to make disbursements therefrom in accordance with Section 4.14(b) of the Loan Agreement. At Closing, Borrower deposited into the Loan Lockbox Account an amount equal to Five Hundred Thousand and 00/100 Dollars (\$500,000.00). Borrower (i) hereby granted to Lender a first priority security interest in the Loan Lockbox Account and all deposits at any time contained therein and the proceeds thereof, Borrower will not in any way alter, modify or close the Loan Lockbox Account. Upon and during the continuance of an Event of Default, Lender and Servicer shall have the sole right to make withdrawals from the Loan Lockbox Account and all costs and expenses for establishing and maintaining the Loan Lockbox Account shall be paid by Borrower. All monies now or hereafter deposited into the Loan Lockbox Account shall be deemed additional security for the Loan.

(b) Borrower shall make disbursements from the Loan Lockbox Account to make payments of all interest due and payable under the Note from the Loan Lockbox Account. Except for such disbursements, Borrower shall not make, or cause to be made, any disbursements or withdrawals from the Loan Lockbox Account.

(c) Upon the occurrence and during the continuance of an Event of Default, Lender may, in addition to any and all other rights and remedies available to Lender, direct First National Bank to immediately pay over all funds on deposit in the Loan Lockbox Account to Lender and to apply any such funds to the payment of the Loan in any order in its sole discretion.

(d) Funds deposited into the Loan Lockbox Account shall not be commingled with other monies held by Borrower or First National Bank.

(e) Borrower shall not further pledge, assign or grant any security interest in the Loan Lockbox Account or the monies deposited therein or permit any lien or encumbrance to attach thereto, or any levy to be made thereon, or any UCC-1 financing statements, except those naming Lender as the secured party, to be filed with respect thereto.

(f) Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys' fees and expenses) arising from or in any way connected with the Loan Deposit Account Control Account, the Loan Deposit Account Control Agreement or the performance of the obligations for which the Loan Lockbox Account was established (unless arising from the gross negligence, illegal acts or willful misconduct of Lender or a breach of the terms of Section 4.15 of the Loan Agreement by Lender).

## TRANSFERS

(a) Restrictions on Transfers. Borrower shall not, without the prior written consent of Lender, directly or indirectly, sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer in trust or otherwise the Mortgage Loan, the Collateral, the Property or any part thereof or any direct or indirect interest therein or in Borrower, or permit the Mortgage Loan (and if an REO Conversion has occurred, the Property), the Collateral or any part thereof or any direct or indirect interest in Borrower to be sold, conveyed, alienated, deeded, encumbered, pledged or otherwise transferred in whole or in part (each a “**Transfer**”).

(b) Permitted Transfers. Notwithstanding the above, the following Transfers (a “**Permitted Transfer**”) shall be deemed to be permitted hereunder and shall not require the consent of Lender:

(i) any Transfer as a result of the death of a natural person, of stock, membership interests, partnership interests or other ownership interests previously held by the decedent in question to the person or persons lawfully entitled thereto;

(ii) any Transfer as a result of the legal incapacity of a natural person, of stock, membership interests, partnership interests or other ownership interests previously held by such natural person to the person or persons lawfully entitled thereto;

(iii) any Transfer for estate planning purposes by a natural person (or a disregarded entity of which a natural person is the sole member) of the stock, partnership interests, limited liability company interests, membership interests or other direct or indirect ownership interests in Borrower to any one or more immediate family members of such natural person or to one or more trusts (or other entities) for the benefit of any one or more immediate family members of such natural person;

(iv) any Transfer of the Mortgage Loan or the Property by Borrower that results in the repayment in full by Borrower;

(v) any Transfer resulting from the exercise of Lender’s rights under the Loan Documents or the consummation of any remedial or enforcement action by Lender of the collateral for the Loan, including, without limitation, any foreclosure, deed-in-lieu, or assignment in lieu of foreclosure and the exercise of any rights of Lender under the Loan Documents; and

(vi) one or more Transfers of direct and/or indirect interests in Borrower to any Person so long as (A) after giving effect to such Transfer, (i) Borrower shall remain Controlled by Guarantor, and (ii) Guarantor shall continue to have a personal, unreturned investment of capital in Borrower of at least Five Hundred Thousand and 00/100 Dollars (\$500,000.00), (B) after giving effect to such Transfer(s), Borrower shall remain a Single Purpose Entity, and (C) if any such Transfer(s) would result in an individual (i.e., a human being) acquiring twenty percent (20%) or more of the aggregate beneficial interests in Borrower (provided such individual owned less than twenty percent (20%) of the aggregate beneficial interests in Borrower prior to such Transfer), then Borrower shall deliver, as a condition to such Transfer, customary OFAC/KYC searches reasonably requested by Lender with respect to such transferee. Upon

Lender's written request, from time to time, Borrower shall, within five (5) Business Days following receipt of such request, provide to Lender an updated organizational chart of Borrower reflecting any Transfer of equity interests consummated pursuant to Section 5.1(b) of the Loan Agreement.

Material Action. Notwithstanding anything to the contrary in this Agreement or the other Loan Documents, Borrower shall not take any Material Action without the prior written consent of Lender, which consent may be withheld in Lender's sole but good faith discretion (provided, however, that (i) Lender's consent to a Material Action identified in clause (s) shall not be unreasonably withheld, conditioned or delayed if Borrower's consent to such action is required not to be unreasonably withheld, conditioned or delayed pursuant to the terms of the Mortgage Loan Documents, and (ii) Lender's consent to the making of any claim or demand in writing under the Title Policy shall not be unreasonably withheld, conditioned or delayed so long as any proceeds paid by the Title Company shall be applied to outstanding principal balance of the Loan) Borrower shall promptly notify Lender in writing of any Material Action.

### **CONDITIONS PRECEDENT TO REO CONVERSION FROM THE LOAN AGREEMENT**

Each of the following conditions precedent must be satisfied (or waived, in Lender's sole and absolute discretion) in connection with an REO Conversion (collectively, the "**REO Conversion Conditions**"):

1.1.1 No Event of Default. No Event of Default under this Agreement or any of the other Loan Documents then exists at the time the REO Conversion Notice is delivered or on the REO Conversion Date.

1.1.2 Deliveries and General Conditions. Borrower shall have delivered to Lender, and Lender shall have approved (where applicable), each of the following items with respect to the Property:

(a) Notice. The Borrower shall give the Lender at least twenty-one (21) calendar days prior written notice of the Borrower's intent to undertake an REO Conversion, which notice shall specify the anticipated REO Conversion Date ("**REO Conversion Notice**"). Concurrently with the delivery of the REO Conversion Notice Borrower shall deliver to Lender with respect to the Property, a current title report for the Property (together with all exception documents referenced therein);

(b) Title / Title Insurance Policy. Each of the following, acceptable to Lender in its reasonable discretion:

(i) The proposed foreclosure deed, trustee's sale deed, or deed-in-lieu of foreclosure; and

(ii) a binding commitment of First American Title Insurance Company ("**Title Company**") to issue an extended coverage lender's policy of title insurance in favor of Lender concurrently with the REO Conversion, (A) showing that Borrower is the fee simple owner of the Property and (B) insuring the first priority lien of the REO Mortgage on the Property (subject

to such exceptions to coverage as are reasonably satisfactory to Lender), in the amount no less than the outstanding principal balance of the Loan; provided, that to the extent that any previously prepared survey is inadequate for the Title Company to issue an extended coverage endorsement on the REO Conversion Date, Lender shall waive such requirement provided Borrower promptly, and in no event later than 60 days after relevant REO Conversion, obtains an updated Survey of the Property acceptable to Lender and Title Company and Borrower promptly thereafter causes the Title Company to deliver any additional extended coverage endorsements reasonably required by Lender; and

(c) Such other items or documents as Lender may reasonably require in connection with the subject REO Conversion.

1.1.3 REO Loan Documents. Borrower shall deliver each of the following documents (collectively, the “**REO Loan Documents**”):

(d) A mortgage, assignment of leases and rents, security agreement and fixture filing (the “**REO Mortgage**”) substantially in the form of the mortgage attached to this Agreement as **Exhibit C** to the Loan Agreement;

(e) An environmental indemnity executed by Guarantor and Borrower substantially the form attached hereto as **Exhibit D** to the Loan Agreement (the “**REO Environmental Indemnity**”);

(f) A deposit account control agreement executed by Borrower substantially in the form attached hereto as **Exhibit E** to the Loan Agreement (the “**REO Deposit Agreement**”);

(g) A cash management agreement executed by Borrower substantially in the form attached hereto as **Exhibit F** to the Loan Agreement (the “**Cash Management Agreement**”);

(h) If Borrower takes title to the Property pursuant to a deed in lieu of foreclosure (or similar instrument or arrangement) where the Mortgage remains outstanding, (a) Borrower, as holder of the Mortgage, shall execute and deliver to Lender a lien subordination agreement in form required by Lender; and (b) Borrower shall cause the lender’s title insurance policy or updated title report, as applicable, to insure or show the lien of the Mortgage as subordinate to the lien of the deed of trust given by Borrower to Lender;

(i) a UCC-1 financing statement sufficient to perfect a first priority security interest in favor of Lender in any fixtures described in the REO Mortgage;

(j) a UCC-1 financing statement sufficient to perfect a first priority security interest in favor of Lender in any personal property collateral described in the REO Mortgage; and

(k) Such other documents or amendments to the Loan Documents in connection with such REO Conversion reasonably required by Lender consistent with market practice for similarly situated commercial loans made by institutional lenders, and otherwise in

form and content reasonably satisfactory to Lender, but without change or addition to any economic terms of the Loan or any material changes to non-economic terms to the terms of this Agreement.

Fees, Costs and Expenses. Borrower shall have paid to Lender an REO Conversion Fee equal to \$25,000.00 and all of Lender's out-of-pocket costs and expenses in connection the REO Conversion, including, without limitation, reasonable costs of counsel, third party vendors and/or advisors with respect to the Loan, the Loan Documents and the transactions contemplated therein.

\*

## **EXIHBIT B**

### **TERMS OF LOAN PARTICIPATION AGREEMENT BETWEEN THOROFARE ASSET BASED LENDING REIT FUND V, LLC ("THOROFARE"), AS THE HOLDER OF THE A PIECE PORTION OF THE LOAN AND TEI TF MASSILLON LLC ("TEI" OR "TIME EQUITIES") AS THE HOLDER OF THE B PIECE PORTION OF THE LOAN**

#### **DEFINITIONS**

**"A Piece"** means the A Piece portion of the Loan in the amount of \$9,600,000 consisting of 90.57% participation interest in the Loan.

**"A Piece Rate"** means a per annum interest rate on the A Piece achieved by dividing (a) the amount by which (i) each non-default interest payment payable under the Note exceeds (ii) the product of (i) the B Piece Rate and (ii) the principal balance of the B Piece by (b) the principal balance of the A Piece (it being the intention of the foregoing that A Piece Lender shall be entitled to all non-default interest on the Loan not payable to B Piece Lender at the B Piece Rate).

**"A Piece Default Rate"** means, if interest under the Loan Documents shall be assessed at the Default Rate, a per annum interest rate on the A Piece achieved by dividing (a) the amount by which (i) each default interest payment (i.e., interest that accrues at the Default Rate in excess of that which accrues at the non-default interest rate) payable under the Note exceeds (ii) the product of (i) the B Piece Default Rate and (ii) the principal balance of the B Piece by (b) the principal balance of the A Piece (it being the intention of the foregoing that A Piece Lender shall be entitled to all default interest on the Mortgage Loan not payable to B Piece Lender at the B Piece Default Rate).

**"A Piece Lender"** means Thorofare or any successor owner of the A Piece.

**"B Piece"** means the B Piece portion of the Loan held by TEI in the amount of \$1,000,000, consisting of 9.43% participation interest in the Loan.

**"B Piece Default Rate"** means, if interest under the Loan Documents shall be assessed at the Default Rate, a per annum interest rate equal to 22.90% during the period of assessment of the Default Rate.

**“B Piece Lender”** means TEI or Time Equities or any successor owner of the B Piece.

**“B Piece Rate”** means the per annum rate equal to 15.90%.

**“Exit Fee”** means the Exit Fee, in the amount of 1% of the outstanding loan balance or \$106,000 to be paid by the Borrower upon payoff of the Loan.

**“Extension Fee(s)”** shall mean the extension fee in the amount of 0.5% of the outstanding balance of the Loan or \$53,000 to be paid to the Lender as to each such extension of the Loan.

**“Lender Consent”** means the prior written consent of each of the Lenders, including the B Piece Lender, as provided below.

**“Loan”** means that certain loan in the principal amount of Ten Million Six Hundred Thousand and 00/100 Dollars (\$10,600,000.00) made by Thorofare, as lender, to Loan Borrower, as borrower, pursuant to the terms of the Loan Agreement.

**“Loan Agreement”** means that certain Loan Agreement, dated June 4, 2020, between Thorofare, as lender, and Loan Borrower, as borrower, with respect to the Loan.

**“Loan Borrower”** means BM 18 – Massillon, LLC, or Briar Meads.

**“Loan Debtor”** and **“Loan Debtors”** mean the Loan Borrower, any guarantors of the Loan and any other person obligated on the Loan.

**“Loan Documents”** means the Loan Agreement and all documents, agreements and instruments governing, securing or evidencing the Loan, including the REO Loan Documents, as the foregoing may hereafter be modified, amended, renewed or supplemented after the date hereof, subject to the terms of this Agreement.

**“Loan Collateral”** means Loan Borrower’s right, title and interest in, to and under the Mortgage Loan, the Mortgage Loan Documents, and all real and personal property pledged, conveyed, granted or encumbered as security for the Loan, including the Mortgage Property in the event of an REO Conversion.

**“Material Action”** has the meaning given to such term in the Loan Agreement. See summary of the Loan for what constitutes a Material Action.

**“Mortgage Loan”** means the mortgage loan in the original amount of \$21,300,000 encumbering the Mortgaged Property.

**“Mortgage Loan Borrower”** means Prophecy Massillon LLC, a Delaware limited liability company. The Mortgage Loan Borrower is the fee title owner of the Property and the borrower under the underlying Mortgage Loan.

“**Mortgage Loan Debtor**” and “**Mortgage Loan Debtors**” mean the Mortgage Loan Borrower, any guarantors of the Mortgage Loan and any other person obligated on the Mortgage Loan.

“**Mortgage Property**” means the property located at 4540 and 4676 Erie Avenue SW, Navarre, Ohio, which is encumbered as security for the Mortgage Loan.

“**SAE Exit Fee**” shall mean the amount by which (a) the Exit Fee payable by Borrower if a Significant Adverse Event has occurred and has not been cured exceeds (b) the Non-SAE Exit Fee.

“**Origination Fee**” means the fee of \$106,000 paid by the Loan Borrower to the Lender upon the closing of the Loan.

“**Qualified Transferee**” means (i) A Piece Lender, B Piece Lender, and any Affiliate of A Piece Lender or B Piece Lender, or (ii) a real estate investment trust, bank, saving and loan association, investment bank, insurance company, trust company, commercial credit corporation, pension plan, pension fund or pension advisory firm, mutual fund, government entity or plan, investment company, money management firm or “**qualified institutional buyer**” within the meaning of Rule 144A under the Securities Act of 1933, as amended, or an institutional “**accredited investor**” within the meaning of Regulation D under the Securities Act of 1933, as amended, or an institution substantially similar to any of the foregoing entities or any entity controlled by any of the foregoing entities which (i) has a net worth in excess of \$75,000,000, (ii) has liquid assets of not less than \$10,000,000 and (iii) is regularly engaged in the business of making or owning commercial real estate loans or operating commercial mortgage properties. The above net worth and liquidity requirements shall not apply to B Piece Lender’s exercise of the Purchase Option.

“**REO Conversion**” means when the Borrower as the Mortgage Lender becomes the owner of the Mortgaged Property through foreclosure or deed in lieu of foreclosure.

“**Thorofare**” means Thorofare Asset Based Lending REIT Fund V, LLC, a Delaware limited liability company. Thorofare is also referred to as the Lender and the holder of the A Piece portion of the Loan.

“**Time Equities**” or “**TEI**” means TEI TF Massillon LLC, a Delaware limited liability company. TEI is also referred to as the holder of the B Piece portion of the Loan.

“**Workout/Modification Fees**” means the Workout/Modification Fees to be paid under the Loan, if applicable.

“**Yield Protection Fee**” means the Yield Protection Fee to be paid under the Loan to pay at least 6 months interest under the Loan.

Thorofare conveyed to Time Equities and Time Equities acquired from Thorofare, subject to the terms and conditions of the Participation Agreement, a participation interest compromised of an undivided interest in the Loan and all of the Loan Documents together with all rights,

benefits, obligations, payments, fees, proceeds and awards arising from and out of the Loan Documents to the extent expressly designated as applicable to the “**B Piece**” or “**B Piece Lender**” under the Participation Agreement (the “**B Piece**”). The Loan is a single loan notwithstanding the participation interests created herein, and as a result Thorofare holds legal title to the Loan solely in its name. The Loan constitutes a single claim against Borrower within the meaning of the Federal Bankruptcy Code and that the B Piece Lender is not a separate creditor of Loan Borrower or any other Loan Debtor.

### **Lender Consent Required by each Lender**

Any and all actions and decisions with respect to the ownership, administration, servicing and enforcement of the Loan, the Loan Documents and the Loan Collateral shall require Lender Consent and shall be jointly determined by both the A and P Piece Lenders. Each of the following actions and matters with respect to the Loan shall require Lender Consent (including the consent of the B Piece Lender):

- (a) any modification of the Loan or Loan Documents, including, without limitation, any modification of (i) the maturity of the Loan, (ii) the interest rate on the Loan, (iii) the time or amount of any payment of interest, principal or any prepayment premium with respect to the Loan, or (iv) the principal amount of the Loan (other than increases by reason of Protective Advances [as defined below]);
- (b) any release, substitution or exchange of all or any portion of the Loan Collateral, except in connection with an REO Conversion completed in accordance with the Loan Agreement;
- (c) any waiver, release, compromise or settlement of any default under the Loan Documents, any claim against any Loan Debtor or any release of any obligations or liabilities of any Loan Debtor, including, without limitation, late charges, exit fees or default interest;
- (d) the acceptance of any prepayment of all or any portion of the principal of the Loan other than as is expressly permitted under the terms of the Loan Documents;
- (e) the disbursement of insurance proceeds or condemnation awards received by Lender;
- (f) any cancellation or termination of the Loan Documents, other than in the case of the repayment of the Loan in full;
- (g) the approval of any transfer, pledge or encumbrance of the Loan Collateral (or any portion thereof) or any direct or indirect interests in any Loan Debtor, unless such transfer, pledge or encumbrance is expressly permitted by the Loan Documents;
- (h) the grant of any extension of any time period for performance of any Loan Debtor’s obligations under the Loan Documents, including the grant of any forbearance or similar indulgence, except for extensions of the maturity date in accordance with the terms of the Loan Documents;
- (i) the approval of, or consent to, any action which constitutes a “**Material Action**” under the Loan Agreement or the approval of, or consent to, any action requiring consent or approval of the lender under the REO Loan Documents; and
- (j) the enforcement of remedies under the Loan Documents.

### **Protective Advances**

If an Event of Default under the Loan Documents shall occur and be continuing, each Lender shall make its pro rata share of such advances (as determined in accordance with the following percentages: Thorofare 90.57% and TEI 9.43%) as are necessary and prudent to protect Lenders' interest in the Loan and/or the Loan Collateral as determined by A Piece Lender (as so determined by A Piece Lender, such advances being herein referred to as "**Protective Advances**"). Such Protective Advances shall be funded by the A Piece and B Piece Lenders within thirty (30) days after receipt of a written notice requiring the funding of such Protective Advance. Such time period for funding may be shortened to the extent funds are needed sooner than prior to the expiration date of such thirty (30) day period. To the extent this occurs, the A Piece Lender shall provide written notice to the B Piece Lender as to the reasons for such shorter required funding period. Any such request for Protective Advances shall include the reason for any such Protective Advances and copies any applicable bills relating to any such Protective Advances. All Protective Advances made by a Lender shall accrue interest at a rate equal to the applicable rate of interest on such Lender's investment in the Loan (i.e., the A Piece Rate in the case of the A Piece Lender and the B Piece Rate in the case of the B Piece Lender) (the "**Protective Advance Rate**"). If any Lender fails to make its pro rata share of a Protective Advance ("**Non-Contributing Lender**") within thirty (30) days of receipt of written notice thereof, the other Lender (the "**Contributing Lender**") is authorized to advance the amount the Non-Contributing Lender failed to advance (the "**Shortfall Contribution**"), and will receive repayment in full of such Shortfall Contribution, with interest at twenty percent (20%) per annum (the "**Shortfall Interest Rate**"), before any further payments to Lenders.

#### **PAYMENTS TO LENDERS (THE DISTRIBUTION WATERFALLS)**

(a) **No Event of Default (The Non-Event of Default Distribution Waterfall).** *If no Event of Default as to monthly interest payments shall have occurred and be continuing for an amount not to exceed one month's interest, there is not currently pending any voluntary or involuntary bankruptcy proceedings by or against the Loan Borrower and/or the Loan has not been accelerated*, all payments and proceeds received with respect to the Loan (including, all payments under the Loan, all insurance proceeds payable to A Piece Lender and all title insurance proceeds payable to A Piece Lender under any title policy(collectively the "**Shared Payments**"), but excluding (i) the Origination Fee, the Origination Processing Fee, any Extension Processing Fee and any Workout/Modification Fees, which shall be paid and allocated to A Piece Lender upon receipt thereof, (ii) any amounts for reserves or escrows required by the Loan Documents (if any), unless otherwise applied to pay down all or a part of the Loan, and (iii) proceeds, awards or settlements to be applied to the restoration or repair of the Mortgage Property or released to Borrower in accordance with the terms of the REO Loan Documents) (collectively the "**Excluded Payments**") will be applied in the following order of priority:

(i) first, to each of the Lenders in the amount of any Shortfall Contributions made by the Lenders and together with interest accruing thereon at the Shortfall Interest Rate with respect to such Shortfall Contributions, which shall be paid to such Lenders with a priority in accordance to the date such Shortfall Contributions were made, with the first Shortfall Contribution being reimbursed first and, to the extent Shortfall Contributions are made by more than one Lender on the same date, on a pro rata

and pari passu basis in accordance with the amount of the Shortfall Contributions made by each Lender;

(ii) second, to each of the Lenders in the amount of any Protective Advances (excluding Shortfall Contributions reimbursed pursuant to clause (i) above) made by the Lenders and together with interest accruing thereon at the Protective Advance Rate with respect to such Protective Advances, which shall be paid to the Lenders with a priority in accordance to the date such Protective Advances were made, with the first Advances being reimbursed first and, to the extent Protective Advances are made by more than one Lender on the same date, on a pro rata and pari passu basis in accordance with the amount of Protective Advances made by each Lender;

(iii) third, to A Piece Lender and B Piece Lender, in an amount equal to accrued and unpaid non-default interest on the principal balances of the A Piece and B Piece, respectively, at the A Piece Rate and the B Piece Rate, respectively;

(iv) fourth, to A Piece Lender and B Piece Lender, *pro rata* (based upon the principal balance of the A Piece and the principal balance of the B Piece, respectively), in an amount equal to any payments of principal received with respect to the Mortgage Loan, to be applied in reduction of the principal balance of the A Piece and principal balance of the B Piece, respectively;

(v) fifth, to B Piece Lender in an amount equal to any unreimbursed “**Cure Payments**” (defined below);

(vi) sixth, to A Piece Lender and B Piece Lender in an amount equal to the Yield Protection Fee as determined based on the A Piece Rate and the B Piece Rate, respectively;

(vii) seventh, to A Piece Lender in an amount equal to the Non-SAE Exit Fee;

(viii) eighth, to A Piece Lender and B Piece Lender, *pro rata* (based upon the principal balance of the A Piece and the principal balance of the B Piece, respectively), in an amount equal to any Extension Fees;

(ix) ninth, to A Piece Lender and B Piece Lender in an amount equal to accrued and unpaid interest at the Default Rate on the A Piece and B Piece, respectively, at the A Piece Default Rate and the B Piece Default Rate, respectively;

(x) tenth, to A Piece Lender in an amount equal to the SAE Exit Fee;  
and

(xi) eleventh, any excess (*i.e.*, any amounts not otherwise paid to A Piece Lender and/or B Piece Lender, to A Piece Lender.

To the extent the Loan Borrower is in arrears in the monthly interest payments prior to the maturity date for an amount in excess of one (1) month, there is not any voluntary and/or involuntary bankruptcy proceedings pending as to the Loan Borrower and/or the Loan has not been accelerated and the B Piece Lender has made Cure Payments so the A Piece Lender has received all monthly interest only payments due under the Loan, based on the non-default rate of interest, then notwithstanding the above provisions, distributions shall be made under the Non-Event of Default distribution waterfall . The default by the Loan Borrower in the payment of reserves (including real estate taxes, insurance and cap ex) shall not cause distributions to be made under the Event of Default distribution waterfall. To the extent the B Piece Lender provides a Cure Payment which is subsequently repaid by the Loan Borrower, then notwithstanding the location in the distribution waterfall the B Piece Lender shall be reimbursed for its Unreimbursed Cure Payments from any such subsequent payments by the Loan Borrower that corresponds with the applicable Cure Payment.

If the Loan is modified and/or a Settlement Agreement is entered into with the Loan Borrower as to any past due and owing payments under the Loan (“**Settlement Agreement**”) and the Loan Borrower subsequently timely makes such payments under such Settlement Agreement, then distributions shall be made under the Non-Event of Default Distribution Waterfall even if the Event of Default is not waived by the Lender in connection with any forbearance by the A Piece Lender of its enforcement of the Loan, while the Loan Borrower continues to timely make the payments under such Settlement Agreement.

(b) **Event of Default (the Event of Default Distribution Waterfall).** *If an Event of Default as to the monthly interest payments for an amount in excess of one month shall have occurred and be continuing, or there is currently a voluntary or involuntary bankruptcy proceeding pending by and/or against the Loan Borrower or if the Loan has been accelerated, all Shared Payments and the Excluded Payments to the A Piece Lender will be applied in the following order of priority:*

(i) first, to each of the Lenders in the amount of any Shortfall Contributions made by the Lenders and together with interest accruing thereon at the Shortfall Interest Rate with respect to such Shortfall Contributions, which shall be paid to such Lenders with a priority in accordance to the date such Shortfall Contributions were made, with the first Shortfall Contribution being reimbursed first and, to the extent Shortfall Contributions are made by more than one Lender on the same date, on a pro rata and pari passu basis in accordance with the amount of the Shortfall Contributions made by each Lender;

(ii) second, to each of the Lenders in the amount of any Protective Advances (excluding Shortfall Contributions reimbursed pursuant to clause (i) above) made by the Lenders and together with interest accruing thereon at the Protective Advance Rate with respect to such Protective Advances, which shall be paid to the Lenders with a priority in accordance to the date such Protective Advances were made, with the first Advances being reimbursed first and, to the extent Protective Advances are made by more than one Lender on the same date, on a pro rata and pari passu basis in accordance with the amount of Protective Advances made by each Lender;

(iii) third, to A Piece Lender in an amount equal to accrued and unpaid non-default interest on the principal balance of the A Piece at the A Piece Rate;

(iv) fourth, to A Piece Lender in an amount equal to the Yield Protection Fee allocable to the principal balance of the A Piece, calculated based on the A-Piece Rate;

(v) fifth, to A Piece Lender in an amount equal to any Extension Fees calculated on the principal balance of the A Piece, to the extent actually paid;

(vi) sixth, to A Piece Lender in an amount equal to the Non-SAE Exit Fee;

(vii) seventh, to A Piece Lender until the principal balance of the A Piece is reduced to zero;

(viii) eighth, to the B Piece Lender in an amount equal to any unreimbursed "**Cure Payments**" (defined below);

(ix) ninth, to B Piece Lender in amounts equal to accrued and unpaid non-default interest on the principal balance of the B Piece at the B Piece Rate;

(x) tenth, to B Piece Lender in an amount equal to the Yield Protection Fee allocable to the principal balance of the B Piece (calculated based on the B-Piece Rate);

(xi) eleventh, to B Piece Lender in an amount equal to any extension fees allocable to the B Piece, to the extent actually paid;

(xii) twelfth, to B Piece Lender until the principal balance of the B Piece is reduced to zero;

(xiii) thirteenth, to A Piece Lender, in an amount equal to the accrued and unpaid default interest on the principal balance of the A Piece, calculated at the A Piece Default Rate;

(xiv) fourteenth, to B Piece Lender, in an amount equal to the accrued and unpaid default interest on the principal balance of the B Piece, calculated at the B Piece Default Rate;

(xv) fifteenth, to A Piece Lender in an amount equal to the SAE Exit Fee;  
and

(xvi) sixteenth, any excess (i.e., any amounts not otherwise paid to A Piece Lender and/or B Piece Lender pursuant to any other clause of this Section 5.01(b)), to A Piece Lender.

## **B Piece Lender Cure Rights as to Monetary Events of Default**

(a) If an Event of Default under the Loan Documents shall occur as a result of the non-payment by Borrower of one or more regularly scheduled monthly interest payments under the Loan Documents or as a result of Borrower's failure to repay all sums due under the Loan Documents at maturity of the Loan, then B Piece Lender shall have the right to cure such Event of Default; provided, however, that, (i) in the case of an Event of Default under the Loan Documents that has occurred by reason of non-payment of a regularly scheduled interest payment, B Piece Lender must cure such Event of Default within ten (10) business days of B Piece Lender's receipt of written notice from Lender or Servicer that such Event of Default has occurred. In the case of an Event of Default under the Loan Documents that has occurred due to Borrower's failure to repay all sums due under the Loan Documents at maturity of the Loan, B Piece Lender shall not be required to repay all such sums but rather shall be required to pay to A Piece Lender the monthly installment of interest that accrues with respect to the A Piece not later than the tenth (10<sup>th</sup>) calendar day of each month following the maturity date of the Loan. B Piece Lender shall not be required, in order to effect a cure hereunder, to pay any interest calculated at the default rate under the Loan Documents. The B Piece Lender shall only be required to cure such Event of Default to the extent necessary to cause payment to A Piece Lender of regularly scheduled (or after maturity, monthly) interest payments owing with respect to the A Piece. No single Cure Event may exceed three (3) consecutive months. As used herein, "**Cure Event**" means B Piece Lender's exercise of cure rights, whether for one (1) month or for consecutive months in the aggregate. Each Cure Payment shall include any unpaid servicing fees and expenses payable to Servicer.

In the event B Piece Lender shall elect not to make a Cure Payment or shall fail to make a Cure Payment, B Piece Lender (i) shall not have any future right to make a Cure Payment, (ii) shall not have any approval rights or consent rights and (iii) the B Piece Lender shall no longer have any purchase option as defined below.

(b) So long as a monetary Event of Default exists under the Loan Documents that is being cured by B Piece Lender, A Piece Lender (or Servicer) shall not treat such Event of Default as an Event of Default for purposes of accelerating the Loan or commencing proceedings for foreclosure or the taking of title by deed-in-lieu of foreclosure or similar legal proceedings with respect to any Loan Collateral without the prior written consent of B Piece Lender; provided that such limitations shall not prevent A Piece Lender (or Servicer) from sending notices of default to the Loan Borrower or otherwise preparing for an acceleration of the Loan or the commencement of foreclosure or sale of the Loan Collateral or the taking of title by, assignment in lieu of foreclosure, deed-in lieu of foreclosure or similar proceedings.

## **B Piece Lender's Purchase Option**

If an Event of Default shall occur as a result of the non-payment by Loan Borrower of one or more regularly scheduled monthly interest payments under the Loan Documents or as a result of Borrower's failure to repay the outstanding principal balance of the Loan on the maturity date of the Loan, B Piece Lender shall have the option (the "**Purchase Option**") within ninety (90) days following B Piece Lender's receipt of written notice from Servicer that such Event of Default has occurred ("**Purchase Notice**") to purchase the A Piece and the Loan from A Piece Lender (provided that A Piece Lender, without the consent of B Piece Lender, may accept cure by the Loan Borrower of such Event of Default before the expiration of such ninety (90) day period, in which case the Purchase Option hereunder shall automatically terminate). If such Purchase Option is terminated based on a cure by the Loan Borrower, then such Purchase Option shall be reinstated as to any subsequent non-payment by the Loan Borrower, either before or after the maturity date. The Purchase Notice received by the B Piece Lender, in order for the ninety (90) day option period to commence, must clearly state that the B Piece Lender's receipt of the Purchase Notice or the notice that such Event of Default has occurred triggers the Purchase Option and the commencement of the ninety (90) day option period. In order to exercise the Purchase Option, B Piece Lender (a) must have elected to make, and have made, any and all Cure Payments, and (b) B Piece Lender shall deliver written notice of the exercise of the Purchase Option within seventy-five (75) days following receipt of Servicer's Purchase Notice that the applicable Event of Default has occurred.

To the extent that the B Piece Lender has not received the Purchase Notice from the Lender and/or the Servicer by such time as the Loan Borrower is in default in interest payments in an amount equal or greater than three (3) months, then the B Piece Lender, upon written notice to the A Piece Lender and the Servicer ("**B Piece Initiated Purchase Option Election**"), shall be entitled to trigger the Purchase Option for the A Piece and/or the Loan, whereby the B Piece Lender may exercise its Purchase Option pursuant to the above provisions. In such case, the Purchase Option Period shall run for a period of ninety (90) days from the date of such B Piece Initiated Purchase Option Election (the date same is submitted to the A Piece Lender and the Servicer). If B Piece Lender fails to close the acquisition of the A Piece within the ninety (90) day period specified above (other than by reason of A Piece Lender's default), B Piece Lender shall not have any right in the future to exercise the Purchase Option.

The purchase price to be paid for the A Piece shall be the amount equal to the sum of (a) the outstanding principal balance of the A Piece (including all Protective Advances and Shortfall Contributions made by A Piece Lender), (b) accrued and unpaid non-default interest on the A Piece, (c) the amount of any non-default exit fee allocable to the A Piece and (d) A Piece Lender's pro rata share of the Yield Protection Fee that would be paid on outstanding principal balance of the A Piece if the Yield Protection Fee would otherwise be payable by Loan Borrower in connection with a repayment of the Loan at the time the A Piece Purchase Price is paid by B Piece Lender to A Piece Lender (collectively the "**A Piece Purchase Price**"). In addition to payment of the A Piece Purchase Price, as a condition to B Piece Lender's acquisition of the A Piece portion of the Loan, the B Piece Lender shall pay to Servicer all accrued and unpaid servicing fees owing to Servicer.

As part of the purchase price for the Purchase Option, the B Piece Lender shall only be obligated to pay the accrued and unpaid interest on the A Piece through the closing date. The B Piece Lender shall be entitled to assign such Purchase Option to an Affiliate of the B Piece Lender. To the extent the B Piece Lender purchases the A Piece pursuant to the Purchase Option, then in connection with the closing for such Purchase Option, the B Piece Lender, as the owner of the A Piece, shall be entitled to terminate, as of such closing date, the Servicing Agreement with the Servicer as to the Loan, without payment of any penalty or termination fee. On the closing date the A Piece Lender and/or the Servicer shall transfer any reserves and escrows held by the A Piece Lender and/or the Servicer and/or the funds in the cash management account for the Property and/or the Loan.

### **Servicing of the Loan**

The Loan shall be serviced by Cohen Financial, a Division of SunTrust Bank corporation (“**Servicer**”) pursuant to the terms of that certain Servicing Agreement, dated as of November, 2017, between Thorofare and Cohen Financial.

### **Workout/Modification Fees to be Paid to A Piece Lender**

One hundred percent (100%) of all loan modification fees, loan modification processing fees and forbearance fees paid by Loan Borrower or any other Loan Debtor in connection with one or more modifications, defaults and/or work-outs of the Loan (“**Workout/Modification Fees**”) (excluding, default interest, extension fees shall be paid to A Piece Lender.

### **SALE OF THE LOAN OR A PARTICIPATION INTEREST TO THIRD PARTIES**

In the event any Lender sells or assigns all or part of its interest in the Loan to a third party, including the sale of a participation ownership interest therein, such third parties shall succeed to all of the rights and obligations of such Lender hereunder for the portion of the ownership interest so purchased and the Participation Agreement shall remain in full force and effect. In no event shall any Lender sell or assign its interest in the Loan without approval of the other Lender unless such transfer is to a Qualified Transferee. A Lender shall provide at least ten (10) business days’ prior written notice of a contemplated transfer to a Qualified Transferee. Any sale of the Loan or participation interest in the Loan to third parties including, but not limited to a Qualified Transferee, shall be made subject to the Participation Agreement and any such third party purchaser’s assumption of its obligations under the Participation Agreement as such may apply to any such third party purchaser.

A Piece Lender shall not enter into any agreement with any third party Qualified Transferee for the sale or assignment of A Piece Lender’s interests in the Loan without first offering B Piece Lender the right to purchase such interests at the A Piece Purchase Price. If A Piece Lender so intends to sell or assign such interests to any third party, A Piece Lender shall provide written notice to B Piece of such intention (the “**ROFO Notice**”). B Piece Lender shall have the option (the “**ROFO Option**”) to purchase such interests at a purchase price equal to the A Piece Purchase Price, which ROFO Option shall exercise by the B Piece Lender delivering irrevocable written notice to A Piece Lender (an “**Acceptance Notice**”), within fifteen (15) days of B Piece Lender’s receipt of the ROFO Notice from A Piece Lender (the “**ROFO Acceptance Period**”). If B Piece

Lender shall deliver the Acceptance Notice within the ROFO Acceptance Period, then B Piece Lender shall be obligated to acquire the interests of A Piece Lender in the Loan at the A Piece Purchase Price on or prior to the date that is fifteen (15) days following the expiration of the ROFO Acceptance Period, and if B Piece Lender fails to close such acquisition within such fifteen (15) day period (other than by reason of A Piece Lender's default), B Piece Lender shall not have any right in the future to exercise the ROFO Option as to any future sale or assignment of A Piece Lender's interests in the Loan to a third party Qualified Transferee pursuant to, an in accordance with, this Agreement.

#### **ACQUISITION OF TITLE BY THE LENDER OF THE LOAN COLLATERAL**

In the event that, pursuant to the exercise of remedies under the Loan Documents or otherwise, the A Piece Lender acquires title to or ownership of the Loan Collateral (whether to the Mortgage Loan, or following an REO Conversion, the Property), then A Piece Lender shall cause the formation of a limited liability company to acquire title to the Loan Collateral. The operating agreement for such company shall (a) reflect as capital interests the proportionate ownership interests of A Piece Lender and B Piece Lender in the Loan, as may be adjusted by amounts contributed by such parties prior to the date of acquisition of title to the Loan Collateral (including, without limitation, Protective Advances made by the parties), (b) identify the A Piece Lender as the sole managing member with exclusive authority and control over the management and affairs of such company, and (c) provide for a distribution waterfall that is consistent in all respects with the allocation of payments set forth in the Event of Default Distribution Waterfall.