UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2022

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from_____ to

Commission File Number 001-12002

ACADIA REALTY TRUST

(Exact name of registrant in its charter)

Maryland	**23-2715194**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

411 Theodore Fremd Avenue, Suite 300 Rye, NY 10580
(Address of principal executive offices)
(914) 288-8100
(Registrant's telephone number, including area code)

Title of class of registered securities	**Trading symbol**	**Name of exchange on which registered**
Common shares of beneficial interest, par value $0.001 per share	AKR	The New York Stock Exchange

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

YES ☒ **NO** ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

YES ☐ **NO** ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

YES ☒ **NO** ☐

Indicate by check mark whether the registrant has submitted electronically, every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

YES ☒ **NO** ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	☒	Accelerated Filer	☐	Emerging Growth Company	☐
Non-accelerated Filer	☐	Smaller Reporting Company	☐		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13 (a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by checkmark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act) YES ☐ NO ☒

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2022, the last business day of the registrant's most recently completed second fiscal quarter was approximately $1,482.8 million, based on a price of $15.62 per share, the average sales price for the registrant's common shares of beneficial interest on the New York Stock Exchange on that date.

The number of shares of the registrant's common shares of beneficial interest outstanding on February 15, 2023 was 96,265,126.

DOCUMENTS INCORPORATED BY REFERENCE

Part III – Portions of the registrant's definitive proxy statement relating to its 2023 Annual Meeting of Shareholders presently scheduled to be held May 4, 2023 to be filed pursuant to Regulation 14A.

ACADIA REALTY TRUST AND SUBSIDIARIES
FORM 10-K
INDEX

Item No.	Description	Page
	PART I	
1.	Business	4
1A.	Risk Factors	12
1B.	Unresolved Staff Comments	29
2.	Properties	30
3.	Legal Proceedings	40
4.	Mine Safety Disclosures	40
	PART II	
5.	Market for Registrant's Common Equity, Related Stockholder Matters, Issuer Purchases of Equity Securities	40
6.	[Reserved]	42
7.	Management's Discussion and Analysis of Financial Condition and Results of Operations	43
7A.	Quantitative and Qualitative Disclosures about Market Risk	60
8.	Financial Statements and Supplementary Data	62
9.	Changes in and Disagreements with Accountants on Accounting and Financial Disclosure	125
9A.	Controls and Procedures	125
9B.	Other Information	127
9C.	Disclosure Regarding Foreign Jurisdictions that Prevent Inspections	127
	PART III	
10.	Directors, Executive Officers and Corporate Governance	127
11.	Executive Compensation	127
12.	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	127
13.	Certain Relationships and Related Transactions and Director Independence	127
14.	Principal Accounting Fees and Services	127
	PART IV	
15.	Exhibits and Financial Statement Schedules	128
16.	Form 10-K Summary	132
	SIGNATURES	133

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements contained in this Annual Report on Form 10-K (this "Report") of Acadia Realty Trust, a Maryland real estate investment trust, (the "Company") may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations are generally identifiable by the use of the words such as "may," "will," "should," "expect," "anticipate," "estimate," "believe," "intend" or "project," or the negative thereof, or other variations thereon or comparable terminology. Forward-looking statements involve known and unknown risks, uncertainties and other factors that could cause our actual results and financial performance to be materially different from future results and financial performance expressed or implied by such forward-looking statements, including, but not limited to: (i) the economic, political and social impact of, and uncertainty surrounding the COVID-19 pandemic (the "COVID-19 Pandemic") or future pandemics, including its impact on our tenants and their ability to make rent and other payments or honor their commitments under existing leases; (ii) macroeconomic conditions, such as a disruption of or lack of access to the capital markets and rising inflation; (iii) our success in implementing our business strategy and our ability to identify, underwrite, finance, consummate and integrate diversifying acquisitions and investments; (iv) changes in general economic conditions or economic conditions in the markets in which we may, from time to time, compete, and their effect on our revenues, earnings and funding sources; (v) increases in our borrowing costs as a result of rising inflation, changes in interest rates and other factors, including the discontinuation of USD LIBOR, which is currently anticipated to occur in 2023; (vi) our ability to pay down, refinance, restructure or extend our indebtedness as it becomes due; (vii) our investments in joint ventures and unconsolidated entities, including our lack of sole decision-making authority and our reliance on our joint venture partners' financial condition; (viii) our ability to obtain the financial results expected from our development and redevelopment projects; (ix) our tenants' ability and willingness to renew their leases with us upon expiration, our ability to re-lease our properties on the same or better terms in the event of nonrenewal or in the event we exercise our right to replace an existing tenant, and obligations we may incur in connection with the replacement of an existing tenant; (x) our potential liability for environmental matters; (xi) damage to our properties from catastrophic weather and other natural events, and the physical effects of climate change; (xii) uninsured losses; (xiii) our ability and willingness to maintain our qualification as a real estate investment trust (REIT) in light of economic, market, legal, tax and other considerations; (xiv) information technology security breaches, including increased cybersecurity risks relating to the use of remote technology; (xv) the loss of key executives; (xvi) the accuracy of our methodologies and estimates regarding environmental, social and governance ("ESG") metrics, goals and targets, tenant willingness and ability to collaborate towards reporting ESG metrics and meeting ESG goals and targets, and the impact of governmental regulation on our ESG efforts; and (xvii) the risk that the Restatement (as defined herein) or material weaknesses in internal controls could negatively affect investor confidence and raise reputational issues.

The factors described above are not exhaustive and additional factors could adversely affect the Company's future results and financial performance, including the risk factors discussed under the section captioned "Risk Factors" set forth under the headings "Item 1A. Risk Factors" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in this Report. These risks and uncertainties should be considered in evaluating any forward-looking statements contained or incorporated by reference herein. Any forward-looking statements speak only as of the date hereof. The Company expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements to reflect any changes in the Company's expectations with regard thereto or changes in the events, conditions, or circumstances on which such forward-looking statements are based.

SPECIAL NOTE REGARDING CERTAIN REFERENCES

All references to "Notes" throughout the document refer to the footnotes to the consolidated financial statements of the registrant referenced in Part II, Item 8. Financial Statements.

PART I

ITEM 1. BUSINESS.

GENERAL

Acadia Realty Trust (the "Company") was formed on March 4, 1993 as a Maryland real estate investment trust ("REIT"). All references to "Acadia," "we," "us," "our" and "Company" refer to the Company and its consolidated subsidiaries. We are a fully integrated REIT focused on the ownership, acquisition, development, and management of high-quality retail properties located primarily in high-barrier-to-entry, supply-constrained, densely populated metropolitan areas in the United States. We currently own or have an ownership interest in these properties through our Core Portfolio (as defined below). We generate additional growth through our Funds (as defined below) in which we co-invest with high-quality institutional investors.

All of our assets are held by, and all of our operations are conducted through, Acadia Realty Limited Partnership (the "Operating Partnership") and entities in which the Operating Partnership owns an interest. As of December 31, 2022, the Company controlled approximately 95% of the Operating Partnership as the sole general partner. As the general partner, the Company is entitled to share, in proportion to its percentage interest,

in the cash distributions and profits and losses of the Operating Partnership. The limited partners primarily represent entities or individuals that contributed their interests in certain properties or entities to the Operating Partnership in exchange for common or preferred units of limited partnership interest ("Common OP Units" or "Preferred OP Units," respectively, and collectively, "OP Units") and employees who have been awarded restricted Common OP Units as long-term incentive compensation ("LTIP Units"). Limited partners holding Common OP and LTIP Units are generally entitled to exchange their units on a one-for-one basis for our common shares of beneficial interest, par value $0.001 per share, of the Company ("Common Shares"). This structure is referred to as an umbrella partnership REIT, or "UPREIT."

BUSINESS OBJECTIVES AND STRATEGIES

Our primary business objective is to acquire and manage commercial retail properties that will provide cash for distributions to shareholders while also creating the potential for capital appreciation to enhance investor returns. We focus on the following fundamentals to achieve this objective:

- Own and operate a portfolio of high-quality retail properties located primarily in high-barrier-to-entry, densely populated metropolitan areas ("Core Portfolio"). Our goal is to create value through accretive development and re-tenanting activities within our existing portfolio and grow this platform through the acquisition of high-quality assets that have the long-term potential to outperform the asset class.
- Generate additional growth through our Funds (as defined below) in which we co-invest with high-quality institutional investors. Our Fund strategy focuses on opportunistic yet disciplined acquisitions with high inherent opportunity for the creation of additional value. We execute on this opportunity and realize value through the sale of these assets. In connection with this strategy, we focus on:
    - value-add investments in street retail properties, located in established and "next-generation" submarkets, with re-tenanting or repositioning opportunities,
    - opportunistic acquisitions of well-located real estate anchored by distressed retailers, and
    - other opportunistic acquisitions, which vary based on market conditions and may include high-yield acquisitions and purchases of distressed debt.

  Some of these investments historically have also included, and may in the future include joint ventures with private equity investors for the purpose of making investments in operating retailers with significant embedded value in their real estate assets.
- Maintain a strong and flexible balance sheet through conservative financial practices while ensuring access to sufficient capital to fund future growth.

Investment Strategy — Generate External Growth through our Dual Platforms: Core Portfolio and Funds

The objective that acquisitions be accretive on a long-term basis based on our cost of capital, as well as increase the overall Core Portfolio quality and value, is a key strategic consideration to the growth of our Core Portfolio. As such, we constantly evaluate the blended cost of equity and debt and adjust the amount of acquisition activity to align the level of investment activity with capital flows.

Given the growing importance of technology and e-commerce, many of our retail tenants are appropriately focused on omni-channel sales and how to best utilize e-commerce initiatives to drive sales at their stores. Considering these initiatives, we have found retailers are becoming more selective as to the location, size and format of their next-generation stores and are focused on dense, high-traffic retail corridors, where they can utilize smaller and more productive formats closer to their shopping population. Accordingly, our focus for Core Portfolio and Fund acquisitions is on those properties which we believe will not only remain relevant to our tenants but become even more so in the future.

In addition to our Core Portfolio investments in real estate assets, we have also capitalized on our expertise in the acquisition, development, leasing, and management of retail real estate by establishing discretionary opportunity funds. Our Fund platform is an investment vehicle where the Operating Partnership invests, along with outside institutional investors, including, but not limited to, endowments, foundations, pension funds and investment management companies, in primarily opportunistic and value-add retail real estate. To date, we have launched five funds ("Funds"); Acadia Strategic Opportunity Fund, LP ("Fund I," which was liquidated in 2015), Acadia Strategic Opportunity Fund II, LLC ("Fund II"), Acadia Strategic Opportunity Fund III LLC ("Fund III"), Acadia Strategic Opportunity Fund IV LLC ("Fund IV") and Acadia Strategic Opportunity Fund V LLC ("Fund V," and our "current fund"). Due to our level of control, we consolidate these Funds for financial reporting purposes. Fund I and Fund II have also included investments in operating companies through Acadia Mervyn Investors I, LLC ("Mervyns I," which was liquidated in 2018), Acadia Mervyn Investors II, LLC ("Mervyns II") and, in certain instances, directly through Fund II, all on a non-recourse basis. These investments comprise, and are referred to as, the Company's Retailer Controlled Property Venture ("RCP Venture").

The Operating Partnership is the sole general partner or managing member of the Funds and Mervyns II and earns priority distributions or fees for asset management, property management, construction, development, leasing, and legal services. Cash flows from the Funds and the RCP Venture are distributed pro-rata to their respective partners and members (including the Operating Partnership) until each receives a certain cumulative return ("Preferred Return"), and the return of all capital contributions. Thereafter, remaining cash flows are distributed 20% to the Operating Partnership ("Promote") and 80% to the partners or members (including the Operating Partnership).

See Note 1 to Consolidated Financial Statements for a detailed discussion of the Funds.

Capital Strategy — Balance Sheet Focus and Access to Capital

Our primary capital objective is to maintain a strong and flexible balance sheet through conservative financial practices, including moderate use of leverage within our Core Portfolio, while ensuring access to sufficient capital to fund future growth. We intend to continue financing acquisitions and property development and redevelopment with sources of capital determined by management to be the most appropriate based on, among other factors, availability in current capital markets, pricing, and other commercial and financial terms. Such sources of capital may include the issuance of public equity, unsecured debt, mortgage and construction loans, and other capital alternatives including the issuance of OP Units. We manage our interest rate risk through the use of fixed-rate debt and, where we use variable-rate debt, through the use of certain derivative instruments, including Secured Overnight Financing Rate ("SOFR") and London Interbank Offered Rate ("LIBOR") swap agreements and interest rate caps as discussed further in Item 7A of this Report.

We maintain a share repurchase program that authorizes management, at its discretion, to repurchase up to $200.0 million of outstanding Common Shares. The program may be discontinued or extended at any time. We repurchased 1,219,065 shares for $22.4 million, inclusive of fees, during the year ended December 31, 2020. We did not repurchase any shares during the years ended December 31, 2022 or 2021. As of December 31, 2022, management may repurchase up to approximately $122.5 million of Common Shares under the program. See Note 10.

We also maintain an at-the-market equity issuance program (the "ATM Program") that provides us with an efficient and low-cost vehicle for raising capital through public equity issuances on an as-we-go basis to fund our capital needs. Through the ATM Program, we have been able to effectively "match-fund" a portion of the required capital for our Core Portfolio and Fund acquisitions through the issuance of Common Shares over extended periods employing a price averaging strategy. In addition, from time to time, we have issued and intend to continue to issue equity in follow-on offerings separate from our ATM Program. Net proceeds raised through our ATM Program and follow-on offerings are primarily used for acquisitions, both for our Core Portfolio and our pro-rata share of Fund acquisitions and for other general corporate purposes. During the year ended December 31, 2022, we issued 5,525,419 Common Shares under our ATM Program for gross proceeds of $123.9 million. During the year ended December 31, 2021, we issued 2,889,371 Common Shares under our ATM Program for gross proceeds of $64.9 million. No such issuances were made during 2020. See Note 10.

Operating Strategy — Experienced Management Team with Proven Track Record

Our senior management team has decades of experience in the real estate industry. We have capitalized on our expertise in the acquisition, development/redevelopment, leasing, and management of retail real estate by creating value through property development/redevelopment, re-tenanting and establishing joint ventures, such as the Funds, in which we earn, in addition to a return on our equity interest, promotes, priority distributions and fees.

Operating functions such as leasing, property management, construction, finance and legal are generally provided by our personnel, providing for a vertically integrated operating platform.

INVESTING ACTIVITIES

See Item 2. Properties for a description of the properties in our Core and Fund portfolios. See Significant Developments under Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations for a detailed discussion of our consolidated and unconsolidated acquisitions, dispositions and financing activity for the year ended December 31, 2022.

Core Portfolio

Our Core Portfolio consists primarily of high-quality street retail and urban assets, as well as suburban properties located in high-barrier-to-entry, trade areas.

As we typically hold our Core Portfolio properties for long-term investment, we review our portfolio and implement programs to renovate and re-tenant targeted properties to enhance their market position. This in turn is expected to strengthen the competitive position of our leasing department to attract and retain quality tenants, increasing cash flow, and consequently, property values. From time to time, we also identify certain properties for disposition and redeploy the capital for acquisitions and for the repositioning of existing properties with greater potential for capital appreciation.

Funds

Our Fund investments consist of suburban shopping centers and urban retail assets structured as wholly-owned or jointly-owned investments.

Structured Finance Program

We also make investments in first mortgages and other notes receivable collateralized by real estate, (which we refer to as our Structured Finance Program) either directly or through entities having an ownership interest therein.

Development and Redevelopment Activities

As part of our investing strategy, we invest in real estate assets that may require significant development. In addition, certain assets may require redevelopment to meet the demand of changing markets. As of December 31, 2022, there were two Fund and two Core Portfolio development projects and five Core Portfolio redevelopment projects. During the year ended December 31, 2022, we placed a portion of two Fund development properties into service and placed two Core properties into development. See Item 2. Properties—Development Activities and Note 2.

GOVERNMENT REGULATIONS AND ENVIRONMENTAL LAWS

We are subject to federal, state and local laws and regulations, including environmental laws and regulations. As of the date of this Report, we do not expect the cost of compliance with such laws and regulations to have a material impact on our capital expenditures, earnings, or competitive position. See Item 1A. Risk Factors — Risks Related to Litigation, Environmental Matters and Governmental Regulation.

We may be liable for the costs of removal or remediation of certain hazardous or toxic substances at our property sites, as well as certain other potential costs relating to hazardous or toxic substances (including government fines and penalties and damages for injuries to persons and adjacent property). These laws may impose liability without regard to whether we knew of, or were responsible for, the presence or disposal of those substances. This liability may be imposed on us in connection with the activities of an operator of, or tenant at our properties. The cost of any required remediation, removal, fines or personal or property damages and our liability therefore could exceed the value of the property and/or our aggregate assets. In addition, the presence of such substances, or the failure to properly dispose of or remove such substances, may adversely impact our ability to sell or rent an affected property or to borrow using that property as collateral, which, in turn, would reduce our revenues and ability to make distributions.

Our existing properties, as well as properties we may acquire, as commercial facilities, are required to comply with the Americans with Disabilities Act of 1990, as amended (the "ADA"). See Item 1A. Risk Factors — Compliance with the Americans with Disabilities Act and fire, safety and other regulations may require us to make unplanned expenditures that could adversely affect our financial condition, cash flows and results of operations.

In addition, we may become subject to new compliance requirements and/or new costs or taxes associated with natural resource or energy usage and related emissions (such as a carbon tax), which could increase our operating costs. Compliance with new laws or regulations related to climate change may require us to make improvements to our existing properties or pay additional taxes and fees assessed on us or our properties. See Item 1A. Risk Factors — Climate change, natural disasters or health crises could adversely affect our properties and business.

CORPORATE HEADQUARTERS

Our executive office is located at 411 Theodore Fremd Avenue, Suite 300, Rye, New York 10580, and our telephone number is (914) 288-8100.

HUMAN CAPITAL

We recognize that our ability to achieve the high standards we set for our company can best be accomplished by curating a diverse team of top talent. We are committed to fostering an energized and motivated workforce through programs and benefits that promote employee satisfaction, advancement, equity, and inclusion.

As of December 31, 2022, we had 115 employees, of whom 94 were located at our executive office and 21 were located at regional property management offices. During 2022, our total turnover rate was approximately 23%. None of our employees are covered by collective bargaining agreements and management believes that its relationship with employees is good.

Diversity, Equity, and Inclusion

Diversity, equity, and inclusion (“DEI”) are fundamental values of our business. We believe that our potential for success is maximized by having a diverse workforce that is reflective of our society and the communities we serve.

As of December 31, 2022, women represent 50% of our employees, 32% of our management-level positions and 22% of the independent trustees on our board of trustees (the "Board"), and racially and ethnically diverse individuals represent 25% of our employees, 24% of our management-level positions, and 11% of the independent trustees on our Board.

Our DEI Program is focused on fostering a professional environment that fully embraces individuals with varied backgrounds, cultures, races, identities, ages, perspectives, beliefs, and values. The four pillars of our DEI Program are awareness, acknowledgment, acceptance and advancement, and our mission is to raise awareness of systemic inequities and promote initiatives to dismantle any such inequities. Through education and awareness – including compulsory unconscious bias training and training dedicated to allyship in 2022 – we are working to establish a corporate culture that is characterized by respect, acceptance, and inclusivity. We believe that we have an individual and institutional responsibility to observe, promote and protect DEI principles. As part of our commitment to promoting DEI principles, we signed the CEO Action for Diversity & Inclusion pledge in 2020, which brings together more than 2,400 CEOs who have pledged to, among other initiatives: (i) cultivate environments that support open dialogue on DEI; (ii) implement unconscious bias education and training; (iii) share DEI programs and initiatives; and (iv) engage boards when developing and evaluating DEI strategies.

We are committed to providing equal employment opportunities without regard to any actual or perceived characteristic protected by applicable local, state or federal laws, rules, or regulations.

Employee Engagement

We have been recognized as a Great Place to Work® based on employee satisfaction surveys for three consecutive years. We analyze the survey results to identify opportunity areas for enhancing employee satisfaction and engagement.

Training and Development

We believe in investing in talent at all levels within our organization. Whether through property tours that allow employees to learn about the projects they work on, or through access to online learning tutorials, employees are encouraged to take full advantage of professional development opportunities.

Our senior management team focuses on succession planning for senior leadership and business unit lead roles and presents a succession plan to our Board annually.

We are committed to building our own talent pipeline. Through our summer internship program, we hope to plant the seeds for future growth and innovation. This program offers hands-on experience to students looking to specialize in the retail real estate industry and offers our company a fresh perspective. We attempt to recruit diverse candidates for our internship program through partnerships with external organizations.

Health and Wellness

All employees are eligible to participate in our Wellness Program which advocates for and provides resources regarding nutrition, exercise, mental health, and workplace ergonomics. We value the importance of personal growth and encourage employees to participate in company events, health initiatives and training courses.

We offer a comprehensive benefits package to all employees.

ENVIRONMENTAL, SOCIAL AND GOVERNANCE (“ESG”)

Achievements and Initiatives

We seek to drive financial performance while engaging in environmentally and socially responsible business practices grounded in sound corporate governance. Our ESG program is overseen by the Board’s Nominating and Corporate Governance Committee (“NCG Committee”). The NCG Committee periodically reviews our ESG strategy, practices and policies, receives regular updates from management regarding our ESG activities and reports to the full Board for further discussion and evaluation as needed and appropriate. Day-to-day management of our ESG program, including developing and guiding the implementation of our ESG initiatives, is performed by our full-time dedicated Director of ESG and our internal ESG Committee, comprised of senior leaders and representatives from various departments. The ESG Committee meets regularly, at least quarterly, and provides periodic updates on our ESG program to our Chief Executive Officer and the Board.

We maintain a robust Enterprise Risk Management (“ERM”) plan to identify and formulate responses to the most critical risks to operations, including those related to climate change and environmental impact. ERM planning serves as an additional forum for the integration of ESG considerations into our business operations.

In addition to a dedicated team of professionals, we have established ESG policies and procedures that inform and guide our ESG approach and drive our ESG goals forward, including a firm-wide ESG Policy and a Tenant Sustainability Guide. We have aligned our sustainability practices to the Global Reporting Initiative (“GRI”) standards and to the Sustainability Accounting Standards Board (“SASB”) and the Task Force on Climate-Related Financial Disclosures (“TCFD”) frameworks. We seek to align our ESG strategy and goals with certain United Nations Sustainable Development Goals ("UN SDGs"), such as goals to combat climate change and to promote the sustainability of our communities.

Below are some highlights of our ESG program. Additional information is available in our Proxy and Corporate Responsibility Report. Such information is not incorporated by reference into, and is not part of this Report.

Environmental

We are committed to understanding the environmental impact of our operations and promoting environmental sustainability while maintaining high standards for our company and our stakeholders.

We are building the resiliency of our portfolio to the physical and transition risks of climate change. For standing investments, we analyze climate-related physical and transition risks and we consider any identified risks as part of our enterprise risk management and budgeting, and capital improvements processes. Climate-related physical and transition risks are also assessed as part of the due diligence process for acquisitions. Understanding climate-related risks in our portfolio enables us to implement mitigation measures, including increased insurance coverage and physical enhancements, such as waterproofing systems, as necessary. In addition, we established a GHG emissions reduction goal for scope 1 and 2 emissions in our portfolio in an effort to reduce our exposure to, and our contribution to, the negative impacts of climate change.

We prioritize energy efficiency to try to reduce the amount of GHG emissions generated by our properties. Our energy reduction strategy seeks to reduce energy consumption through a variety of measures, including through LED lighting, smart lighting controls upgrades in our parking areas, and smart thermostat installations in our vacant tenant spaces. For substantially all of our properties with landlord-controlled parking areas, we have installed LED parking lot lighting and smart lighting controls .

Our energy reduction strategy is complemented by our renewable energy strategy which seeks to incorporate the use of electricity sourced from on-site and off-site renewable energy projects, such as solar and wind, for the landlord-controlled common areas of our properties. We engage in renewable energy projects through leasing roof and parking lot space at our properties for solar panel arrays and electric vehicle charging stations. This contributes to the production of renewable energy for off-site consumption. Lastly, we are evaluating onsite offtake and using renewable energy credits (RECs).

Our water management program focuses on monitoring and reducing common area water consumption, while encouraging best water management practices by our tenants. We leverage technology to track and analyze our water consumption to identify and decrease excessive use. A majority of our properties benefit from the use of a landscape design focused on drought-resistant, native, pollinator-friendly plantings that save water. For substantially all of our properties with landlord-controlled irrigation, we have installed smart irrigation systems with features like rain sensors, to ensure the irrigation is turned on only when necessary. In addition, we use submeters at certain of our properties to give our retail tenants visibility into their water consumption and a financial incentive to decrease their consumption.

We include a “green” clause into our standard form of retail leases to align tenant and landlord interests in promoting the sustainability of our properties, which provides for, among other requirements, cooperation on environmental and social initiatives, and upgrades. We are proud to be named a 2022 Green Lease Leader by the Institute for Market Transformation/the U.S. Department of Energy’s Better Buildings Alliance and achieved gold status for using “green” leases to engage our tenants in making our properties more sustainable.

Our sustainable practices extend to our corporate offices where we have adopted energy reduction, waste management and water conservation initiatives. These initiatives include, for example, installing LED lighting and automatic occupancy sensors for lighting and equipment, recycling programs, implementing electronic communication systems for tenant billing, and using low-flow faucets. Our corporate headquarters is easily accessible by public transit due to the close proximity to two train stations, helping to reduce air pollution and greenhouse gas emissions from employee travel. As a result of sustainability efforts made at our corporate headquarters, we were awarded the Outstanding Achievement in Land Use Award by the Green Business Partnership in 2019.

Social

DEI are fundamental values of our business. For additional details regarding our DEI Program, as well as employee engagement, employee training and development, and employee health and wellness initiatives, see Item 1. Human Capital.

Employee volunteerism and philanthropy program are key areas of focus for our company. We engage with local charitable and volunteer organizations to connect with those in need and provide support. We also encourage our employees to participate in company-sponsored events and to give back through time, effort, or monetary donations.

We value the importance of community engagement through the facilitation of events at our properties. We engage in partnerships with local communities and non-profit organizations to host community events and fundraisers throughout our portfolio.

The health and well-being of our tenants and their employees and customers are important to us. Our property operations professionals conduct regular inspections, repairs and improvements to maintain safe and secure shopping centers and enhance the retail experience.

We strive to respect and promote human rights in accordance with the UN Guiding Principles on Business and Human Rights. We support freedom of association as proclaimed in the Universal Declaration of Human Rights.

Governance

We are dedicated to maintaining a high standard for corporate governance predicated on integrity, ethics, diversity, and transparency. All of our Board members stand for re-election every year. We seek to maintain a diverse Board primarily comprised of independent trustees who represent a mix of varied experience, backgrounds, tenure, and skills to ensure a broad range of perspectives is represented. In 2021, our NCG Committee formally committed in its charter to seek to include candidates with a diversity of race, ethnicity, and gender in the pool from which it selects trustee candidates. The Committee annually reviews the composition of the Board and recommends measures to ensure the Board reflects the appropriate balance of knowledge, experience, skills, expertise, and diversity of backgrounds to enable the Company to execute its strategic plan and achieve its objectives. As of December 31, 2022, two of our nine independent trustees are female and one independent trustee represents racial and ethnic diversity.

Additionally, we regularly monitor developments in the area of corporate governance and seek to enhance our corporate governance structure based upon a review of new developments and recommended best practices, considering investor feedback. We believe that sound corporate governance strengthens the accountability of our Board and management and promotes the long-term interests of our shareholders. Governance highlights include: opt-out of the Board self-classification provisions of Subtitle 8; no shareholder rights plan; annual election of trustees; majority voting standard for trustees in uncontested elections with a resignation policy if an incumbent trustee fails to receive the required vote for re-election; independent and diverse Board with a lead independent trustee; regular succession planning; risk oversight by the full Board and committees; claw-back, anti-hedging and anti-pledging policies; annual Say-on-Pay vote; and shareholders' ability to call a special meeting.

Our Corporate Governance Guidelines and associated policies mandate an elevated level of excellence from our company, the Board and management. Through transparency, alignment of interests, and removal of potential conflicts of interests, we ensure that our decisions and actions advance the interests of our shareholders, employees, and other stakeholders.

We are diligent about cybersecurity risk management, strategy, and governance. Our Board is regularly briefed by management on cybersecurity risks and initiatives, and our employees are trained to help safeguard our systems from unauthorized access, including phishing and hacking. We conduct comprehensive monitoring of our computer networks and we maintain appropriate insurance coverage.

COMPANY WEBSITE

All of our filings with the Securities and Exchange Commission (the "SEC"), including our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and any amendments to such reports, are available at no cost on the Investors page of our website at www.acadiarealty.com, as soon as reasonably practicable after we electronically file such materials with, or furnish them to, the SEC. These filings can also be accessed through the SEC's website at www.sec.gov. Alternatively, we will provide paper copies of our filings, including this Report, at no cost upon request addressed to Investor Relations at Acadia Realty Trust, 411 Theodore Fremd Avenue, Suite 300, Rye, NY 10580, phone number (914) 288-8100 or email investorrelations@acadiarealty.com.

We use, and intend to use, the Investors page of our website as a means of disclosing material nonpublic information and of complying with our disclosure obligations under Regulation FD, including, without limitation, through the posting of investor presentations that may include material nonpublic information. Accordingly, investors should monitor the Investors page, in addition to following our press releases, SEC filings, public conference calls, presentations and webcasts.

The information contained on, or that may be accessed through, our website is not incorporated by reference into, and is not a part of, this Report.

CODE OF ETHICS AND WHISTLEBLOWER POLICIES

Our Board adopted a Code of Business Conduct and Ethics applicable to all employees, as well as a "Whistleblower Policy." Copies of these documents are available in the Investors – Corporate Governance page of our website at www.acadiarealty.com. We will disclose future amendments to, or waivers from (with respect to our executive officers and trustees), our Code of Business Conduct and Ethics on our website within four business days following the date of such amendment or waiver. The information contained on, or that may be accessed through, our website is not incorporated by reference into, and is not a part of, this Report.

ITEM 1A. RISK FACTORS.

Set forth below are the risk factors that we believe are material to our investors. You should carefully consider these risk factors, together with all of the other information included in this Report, including our consolidated financial statements and related notes thereto, before you decide whether to make an investment in our securities. The occurrence of any of the following risks could adversely affect our financial condition, cash flows, results of operations, and ability to satisfy our debt service obligations and to make distributions to our shareholders. In such case, the trading price of our Common Shares could decline, and you may lose all or a significant part of your investment. This section includes or refers to certain forward-looking statements. See "Special Note Regarding Forward-Looking Statements".

The following risk factors are not exhaustive. Other sections of this Report may include additional factors that could adversely affect our financial condition, cash flows, results of operations, and ability to satisfy our debt service obligations and to make distributions to our shareholders. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time, and it is not possible for us to predict all such risk factors, nor can we assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may affect our business. Investors should also refer to our quarterly reports on Form 10-Q and current reports on Form 8-K for future periods for material updates to these risk factors.

Risk factors pertaining to our Company generally fall within the following broad areas:

- risks related to our business, properties and tenants;
- risks related to litigation, environmental matters and government regulation;
- risks related to our management and structure;
- risks related to our REIT status; and
- general risk factors.

RISKS RELATED TO OUR BUSINESS, OUR PROPERTIES AND OUR TENANTS

There are risks relating to investments in real estate that could adversely affect our financial condition, cash flows, results of operations, and ability to satisfy our debt service obligations and make distributions to our shareholders.

Real property investments are subject to multiple risks. Real estate values are affected by several factors, including changes in the general economic climate, local conditions (such as an oversupply of space or a reduction in demand), the quality and philosophy of management, competition from other available space, and the ability to provide adequate maintenance and insurance and to control variable operating costs. Retail properties, in particular, may be affected by changing perceptions of retailers or shoppers regarding the convenience and attractiveness of the property and by the overall climate for the retail industry. Real estate values are also affected by such factors as government regulations, interest rate levels, the availability of financing and potential liability under, and changes in, environmental, zoning, tax, and other laws. A significant portion of our income is derived from rental income from real property. Our income and cash flow would be adversely affected if we were unable to rent our vacant space to viable tenants on economically favorable terms or at all. In the event of default by a tenant, we may experience delays in enforcing, as well as incur substantial costs to enforce, our rights as a landlord. In addition, certain significant expenditures associated with each equity investment (such as mortgage payments, real estate taxes and maintenance costs) are generally not reduced even though there may be a reduction in income from the investment.

We rely on revenues derived from tenants, in particular our key tenants, and a decrease in those revenues could adversely affect our ability to make distributions to our shareholders.

Revenue from our properties depends primarily on the ability of our tenants to pay the full amount of rent and other charges due under their leases on a timely basis. We derive significant revenues from a concentration of 20 key tenants which occupy space at more than one property and collectively account for approximately 19.3% of our consolidated revenue. We could be adversely affected in the event of the bankruptcy or insolvency of, or a downturn in the business of, any of our key tenants, or in the event that any such tenant does not renew its leases as they expire or renews such leases at lower rental rates. See "Item 2. Properties—Major Tenants" for quantified information with respect to the percentage of our minimum rents received from major tenants.

Anchor tenants and co-tenancy are crucial to the success of retail properties and vacated anchor space directly and indirectly affects our rental revenues.

Certain of our properties are supported by "anchor" tenants. Anchor tenants pay a significant portion of the total rents at a property and contribute to the success of other tenants by drawing large numbers of customers to a property. Vacated anchor space not only directly reduces rental revenues, but, if not re-tenanted with a tenant with comparable consumer attraction, could adversely affect the rest of the property primarily through the loss of customer drawing power. This can also occur through the exercise of the right that most anchors have, to vacate and prevent re-tenanting by paying rent for the balance of the lease term, also known as "going dark", such as the case of the departure of a "shadow" anchor tenant that is owned by another landlord. In addition, in the event that certain anchor tenants cease to occupy a property, such an action results in a significant number of other tenants having the contractual right to terminate their leases, or pay a reduced rent based on a percentage of the tenant's sales, at the affected property, which could adversely affect the future income from such property, also known as "co-tenancy." Although it may not directly reduce our rental revenues, and there are no contractual co-tenancy conditions, vacant retail space adjacent to, or even on the same block as our street and urban properties may similarly affect shopper traffic and re-tenanting activities at our properties. See "Item 2. Properties—Major Tenants".

The bankruptcy of, or a downturn in the business of, any of our major tenants or a significant number of our smaller tenants may adversely affect our financial condition, cash flows, results of operations and property values.

The bankruptcy of, or a downturn in the business of, any of our major tenants causing them to reject their leases, or to not renew their leases as they expire, or renew at lower rental rates, may adversely affect our cash flows and property values. Furthermore, the impact of vacated anchor space and the potential reduction in customer traffic may adversely impact the balance of tenants at a shopping center.

Historically and from time to time, certain of our tenants experienced financial difficulties and filed for bankruptcy protection, typically under Chapter 11 of the United States Bankruptcy Code. Pursuant to bankruptcy law, tenants have the right to reject some or all of their leases. In the event a tenant exercises this right, the landlord generally has the right to file a claim for lost rent equal to the greater of either one year's rent (including tenant expense reimbursements) for remaining terms greater than one year, or 15% of the rent remaining under the balance of the lease term, but not to exceed three years rent. Actual amounts to be received in satisfaction of those claims will be subject to the tenant's final bankruptcy plan and the availability of funds to pay its creditors. There can be no assurance that our major tenants will not declare bankruptcy, in which case we may be unable to recoup past and future rent in full, and to re-lease a terminated or rejected space on comparable terms or at all.

We may not be able to renew current leases or the terms of re-letting (including the cost of concessions to tenants) may be less favorable to us than current lease terms.

Upon the expiration of current leases for space located in our properties, we may not be able to re-let all or a portion of that space, or the terms of re-letting (including the cost of concessions to tenants) may be less favorable to us than current lease terms. If we are unable to re-let promptly all or a substantial portion of the space located in our properties or if the rental rates we receive upon re-letting are significantly lower than current rates, our net income and ability to make expected distributions to our shareholders will be adversely affected due to the resulting reduction in revenues. There can be no assurance that we will be able to retain tenants in any of our properties upon the expiration of their leases. See "Item 2. Properties—Lease Expirations" for additional information regarding the scheduled lease expirations in our portfolio.

Our business is significantly influenced by demand for retail space generally, and a decrease in such demand may have a greater adverse effect on our business than if we owned a more diversified real estate portfolio.

A decrease in the demand for retail space may have a greater adverse effect on our business and financial condition than if we owned a more diversified real estate portfolio. The market for retail space has been, and could continue to be, adversely affected by weakness in the national, regional, and local economies, the adverse financial condition of some large retailing companies and bankruptcy incidence, the ongoing consolidation in the retail sector, the excess amount of retail space in a number of markets and increasing consumer purchases through the Internet. To the extent that any of these conditions occur, they are likely to negatively affect market rents for retail space and could adversely affect our financial condition, cash flows, results of operations, the trading price of our Common Shares and our ability to satisfy our debt service obligations and to pay distributions to our shareholders.

E-commerce can have an impact on our business because it may cause a downturn in the business of our current tenants and affect future leases.

The use of the Internet by retail consumers continues to gain in popularity and the migration toward e-commerce is expected to continue. The increase in Internet sales could result in a downturn in the business of our current tenants in their "brick and mortar" locations, adversely impacting their ability to satisfy their rent obligations, and could affect the way future tenants lease space.

While we devote considerable effort and resources to analyze and respond to tenant trends, preferences, and consumer spending patterns, we cannot predict with certainty what future tenants will want, what future retail spaces will look like and how much revenue will be generated at traditional "bricks and mortar" locations. If we are unable to anticipate and respond promptly to trends in the market because of the illiquid nature of real estate our occupancy levels and financial results could suffer. See the Risk Factor entitled, "Our ability to change our portfolio is limited because real estate investments are illiquid" below.

Many of our real estate costs are fixed, even if income from our properties decreases, which would cause a decrease in net income.

Our financial results depend primarily on leasing space at our properties to tenants on terms favorable to us. Costs associated with real estate investment, such as real estate taxes, insurance, and maintenance costs, generally are not reduced even when a property is not fully occupied, rental rates decrease, or other circumstances cause a reduction in income from the property. As a result, cash flow from the operations of our properties may be reduced if a tenant does not pay its rent or we are unable to fully lease our properties on favorable terms. Additionally, properties that we develop or redevelop may not produce any significant revenue immediately, and the cash flow from existing operations may be insufficient to pay the operating expenses and debt service associated with such projects until they are fully occupied.

Our ability to change our portfolio is limited because real estate investments are illiquid.

Equity investments in real estate are relatively illiquid and, therefore, our ability to change our portfolio promptly in response to changed conditions is limited, which could adversely affect our financial condition, cash flows, and ability to satisfy our debt service obligations and to make distributions to our shareholders. In addition, the Internal Revenue Code of 1986, as amended (the "Code"), contains restrictions on a REIT's ability to dispose of properties that are not applicable to other types of real estate companies. Our Board may establish investment criteria or limitations as it deems appropriate, but it currently does not limit the number of properties in which we may seek to invest or on the concentration of investments in any one geographic region. As discussed under the heading "Our Board may change our investment policy or objectives without shareholder approval" below, we could change our investment, disposition and financing policies and objectives without a vote of our shareholders, but such change may be delayed or more difficult to implement due to the illiquidity of real estate.

We could be adversely affected by conditions in the markets where our properties are geographically concentrated.

Our performance depends on the economic conditions in markets where our properties are geographically concentrated. We have significant exposure to the greater New York and Chicago metropolitan regions, from which we derive 38.2% and 24.6% of the annual base rents within our Core Portfolio, respectively. In addition, our Funds derive 32.8%, 22.6% and 22.2% of their annual base rents in the New York metropolitan, Southeast, and Northeast regions of the United States, respectively. Our operating results could be adversely affected if market conditions, such as an oversupply of space or a reduction in demand for real estate, occur in these areas.

Our development and construction activities could affect our operating results.

We intend to continue the selective development and construction of retail properties. See "Item 1. Business —Investing Activities–Funds–Development Activities".

As opportunities arise, we may delay construction until sufficient pre-leasing is reached, and financing is in place. Our development and construction activities include the risk that:

- we may abandon development opportunities after expending resources to determine feasibility;
- construction costs of a project may exceed our original estimates;
- occupancy rates and rents at a newly completed property may not be sufficient to make the property profitable;
- financing for development of a property may not be available to us on favorable terms;
- we may not complete construction and lease-up on schedule, resulting in increased debt service expense and construction costs, including labor and material costs; and
- we may not be able to obtain or may experience delays in obtaining necessary zoning and land use approvals as well as building, occupancy and other required governmental permits and authorizations.

In addition, the entitlement and development of real estate entails extensive approval processes, sometimes involving multiple regulatory jurisdictions. It is common for a project to require multiple approvals, permits and consents from U.S. federal, state and local governing and regulatory bodies. Compliance with these and other regulations and standards is time intensive and costly and may require additional long range infrastructure review and approvals which can add to project cost. In addition, development of properties containing delineated wetlands may require one or more permits from the U.S. federal government and/or state and local governmental agencies. Any of these issues can materially affect the cost, timing and economic viability of our development and redevelopment projects.

At times, we may also be required to use unionized construction workers or to pay the prevailing wage in a jurisdiction to unionized workers, which could increase a project's costs and the risk of a strike, thereby affecting construction timelines.

Additionally, the time frame required for development, construction and lease-up of these properties means that we may not realize a significant cash return for several years. If any of the above events occur, the development of properties may hinder our growth and could have an adverse effect on our financial condition, cash flows and results of operations. In addition, new development activities, regardless of whether or not they are ultimately successful, typically require substantial time and attention from management.

Developments and acquisitions may fail to perform as expected, which could adversely affect our results of operations.

Our investment strategy includes the development and acquisition of retail properties in supply constrained markets in densely populated areas with high average household incomes and significant barriers to entry. The acquisition of such properties is highly competitive. Additionally, the development and acquisition of such properties entails risks that include the following, any of which could adversely affect our financial condition, cash flows, results of operations, and our ability to meet our debt obligations and make distributions to shareholders:

- The property may fail to achieve the returns we have projected, either temporarily or for extended periods;
- We may not be able to identify suitable properties to acquire or may be unable to complete the acquisition of the properties we identify;
- We may not be able to integrate an acquisition into our existing operations successfully;
- Properties we redevelop or acquire may fail to achieve the occupancy or rental rates we project or within the time frames we project which may result in the properties' failure to achieve the returns we projected;
- Our pre-acquisition evaluation of the physical condition of each new investment may not detect certain defects or identify necessary repairs until after the property is acquired, which could significantly increase our total acquisition costs or decrease cash flow from the property; and
- Our investigation of a property or building prior to our acquisition, and any representations we may receive from the seller of such building or property, may fail to reveal various liabilities, which could reduce the cash flow from the property or increase our acquisition cost.

Historically, Fund I, Mervyns I and Fund III have provided Promote income. There can be no assurance that our joint ventures will continue to operate profitably and thus provide additional Promote income in the future. These factors could limit the return that we receive from such investments or cause our cash flows to be lower than our estimates. In addition, a partner or co-venturer may not have access to sufficient capital to satisfy its funding obligations to the joint venture.

We may not be able to recover our investments in marketable securities or other investments, which may result in significant losses to us.

Our investments in marketable securities are subject to specific risks relating to the particular issuer of the securities, including the financial condition and business outlook of the issuer, which may result in significant losses to us. Marketable securities are generally unsecured and may also be subordinated to other obligations of the issuer. As a result, investments in marketable securities are subject to risks of substantial market price volatility, resulting from changes in prevailing interest rates and the possibility that earnings of the issuer may be insufficient to meet its debt service and distribution obligations. These risks may adversely affect the value of outstanding marketable securities and the ability of the issuers to make distribution payments.

See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 17 for additional discussion regarding the shares held by the Company of Albertsons Companies, Inc. ("Albertsons").

The economic performance and value of our other investments, which we do not control and are in retail operations, are subject to risks associated with owning and operating retail businesses, as outlined in our other risk factors provided herein. A decline in the value of our other investments may require us to recognize an other-than-temporary impairment ("OTTI") against such assets. When the fair value of an investment is determined to be less than its amortized cost at the balance sheet date, we assess whether the decline is temporary or other-than-temporary. If we intend to sell an impaired asset, or it is more likely than not that we will be required to sell the impaired asset before any anticipated recovery, then we must recognize an OTTI through charges to earnings equal to the entire difference between the asset's amortized cost and its fair value at the balance sheet date. When an OTTI is recognized through earnings, a new cost basis is established for the asset, and the new cost basis may not be adjusted through earnings for subsequent recoveries in fair value.

Our real estate assets may be subject to impairment charges.

We periodically assess whether there are any indicators that the value of our real estate assets and other investments may be impaired. A property's value is considered to be impaired only if the estimated aggregate future undiscounted property cash flows are less than the carrying value of the property. In our estimate of cash flows, we consider factors such as trends and prospects and the effects of demand and competition on expected future operating income. If we are evaluating the potential sale of an asset or redevelopment alternatives, the undiscounted future cash flows consider the most likely course of action as of the balance sheet date based on current plans, intended holding periods and available market information. We are required to make subjective assessments as to whether there are impairments in the value of our real estate assets and other investments. Impairment charges have an immediate direct impact on our earnings. There can be no assurance that we will not take additional charges in the future related to the impairment of our assets. Any future impairment could have a material adverse effect on our operating results in the period in which the charge is taken.

If a third-party vendor fails to provide agreed upon services, we may suffer losses.

We are dependent and rely on third party vendors, including Cloud providers, for redundancy of our network, system data, security, and data integrity. If a vendor fails to provide services as agreed, suffers outages, business interruptions, financial difficulties, or bankruptcy, we may experience service interruption, delays, or loss of information. Cloud computing is dependent upon having access to an Internet connection in order to retrieve data. If a natural disaster, blackout, or other unforeseen event were to occur that disrupted the ability to obtain an Internet connection, we may experience a slowdown or delay in our operations. We conduct appropriate due diligence on all services providers and restrict access, use and disclosure of personal information. We engage vendors with formal written agreements clearly defining the roles of the parties and specifying privacy and data security responsibilities.

Actual or perceived threats associated with epidemics, pandemics or other public health crises, including the COVID-19 Pandemic, have had and could continue to have a material adverse effect on our and our tenants' businesses, financial condition, results of operations, cash flow, liquidity, and ability to access the capital markets and satisfy debt service obligations.

Epidemics, pandemics, or other public health crises, including the COVID-19 Pandemic, that impact economic and market conditions, particularly in the markets where our properties are located, and preventative measures taken to alleviate their impact may have a material adverse effect on our and our tenants' businesses, financial condition, results of operations, liquidity, and ability to access capital markets and satisfy debt service obligations.

Our retail tenants depend on in-person interactions with their customers to generate unit-level profitability, and an epidemic, pandemic or other public health crisis may decrease customer willingness to frequent, and "shelter-in-place" or "stay-at-home" orders or recommendations may prevent customers from frequenting our tenants' businesses, which may result in their inability to maintain profitability and make timely rental payments to us under their leases. Such restrictions may also affect customer behavior longer term by, among other things, creating a preference for e-commerce, discussed further in our risk factors above.

RISKS RELATED TO OUR LIQUIDITY AND INDEBTEDNESS

If we decided to employ higher leverage levels, we would be subject to increased debt service requirements and a higher risk of default on our debt obligations, which could adversely affect our financial conditions, cash flows and ability to make distributions to our shareholders. In addition, increases or changes in interest rates could cause our borrowing costs to rise and may limit our ability to refinance debt.

Although we have historically used moderate levels of leverage, we have incurred, and expect to continue to incur, indebtedness to support our activities. As of December 31, 2022, our outstanding indebtedness was $1,805.4 million, of which $364.6 million was variable-rate indebtedness.

None of our Declaration of Trust, our Bylaws or any policy statement formally adopted by our Board limits either the total amount of indebtedness or the specified percentage of indebtedness that we may incur. Accordingly, we could become more highly leveraged, resulting in increased debt service requirements and a higher risk of default on our debt obligations. This in turn could adversely affect our financial condition, cash flows and ability to make distributions to our shareholders.

Although approximately 79.8% of our outstanding debt has fixed or effectively fixed interest rates, we also borrow funds at variable interest rates. We are exposed to risks related to a potential rising interest rate environment for our current or any future variable interest rate debt, which could cause our borrowing costs to rise and may limit our ability to refinance debt. Interest expense on our variable-rate debt as of December 31, 2022 would increase by approximately $3.6 million annually for a 100-basis-point increase in interest rates. This exposure would increase if we sought additional variable-rate financing based on pricing and other commercial and financial terms. We enter into interest rate hedging transactions, including interest rate swap and cap agreements, with counterparties, generally, the same lenders who made the loan in question. There can be no guarantee that the future financial condition of these counterparties will enable them to fulfill their obligations under these agreements.

We expect that all LIBOR settings relevant to us will cease to be published or will no longer be representative after June 30, 2023. As a result, any of our LIBOR-based borrowings and hedges that extend beyond such date will need to be converted to a replacement rate. U.S. regulators identified the Secured Overnight Financing Rate ("SOFR") as their preferred alternative to USD LIBOR in derivatives and other financial contracts. We have contracts indexed to LIBOR and are monitoring and evaluating the risks related to potential discontinuation of LIBOR, including transitioning contracts to a new alternative rate and any resulting value transfer that may occur. When USD LIBOR is discontinued, the interest rates of our LIBOR-indexed debt following such event will be based on either alternate base rates, such as SOFR, or agreed upon replacement rates. While the discontinuation of USD LIBOR would not affect our ability to borrow or maintain already outstanding borrowings, it could result in higher interest rates and/or payments under our debt agreements. Additionally, adjustments to systems and mathematical models to properly process and account for alternative rates will be required, which may strain the model risk management and information technology functions and result in substantial incremental costs to the Company.

Our inability to raise capital for new Funds or to carry out our growth strategy could adversely affect our financial condition, cash flows and results of operations.

Our earnings growth strategy is based on the acquisition and development of additional properties, including acquisitions of core properties through our Operating Partnership and our high return investment programs through our Fund platform. The consummation of any future acquisitions will be subject to satisfactory completion of our extensive valuation analysis and due diligence review and to the negotiation of definitive documentation. We cannot be sure that we will be able to implement our strategy because we may have difficulty finding new properties, obtaining necessary entitlements, negotiating with new or existing tenants or securing acceptable financing.

Acquisitions of additional properties entail the risk that investments will fail to perform in accordance with expectations, including operating and leasing expectations. In the context of our business plan, "development" generally means an expansion or renovation of an existing property. Development is subject to numerous risks, including risks of construction delays, cost overruns or uncontrollable events that may increase project costs, new project commencement risks such as the receipt of zoning, occupancy and other required governmental approvals and permits, and incurring development costs in connection with projects that are not pursued to completion.

Historically, a component of our growth strategy has been through private-equity type investments made through our RCP Venture, which have included investments in operating retailers. The inability of such retailers to operate profitably would have an adverse impact on income realized from these investments. Through our investments in joint ventures, we have also invested in operating businesses that have operational risk in addition to the risks associated with real estate investments, including human capital issues, adequate supply of product and material, and merchandising issues.

Furthermore, if we were unable to obtain sufficient investor capital commitments in order to initiate future Funds, our current growth strategy would be adversely impacted. Because the Operating Partnership is the sole general partner or managing member of our Funds and earns promote distributions or fees for asset management, property management, construction, development, leasing, and legal services, such a situation would also adversely impact the amount of or ability to earn such promotes or fees.

Our structured financing portfolio is subject to specific risks relating to the structure and terms of the instruments and the underlying collateral.

We invest in notes receivables and preferred equity investments that are collateralized by the underlying real estate, a direct interest or the borrower's ownership interest in the entities that own the properties and/or by the borrower's personal guarantee. The underlying assets are sometimes subordinate in payment and collateral to more senior loans. The ability of a borrower or entity to make payments on these investments may be subject to the senior lender and/or the performance of the underlying real estate. In the event of a default by the borrower or entity on its senior loan, our investment will only be satisfied after the senior loan and we may not be able to recover the full value of the investment. In the event of a bankruptcy of an entity in which we have a preferred equity interest, or in which the borrower has pledged its interest, the assets of the entity may not be sufficient to satisfy our investment.

RISKS RELATED TO LITIGATION, ENVIRONMENTAL MATTERS AND GOVERNMENTAL REGULATION

We are exposed to possible liability relating to environmental matters.

Under various Federal, state and local environmental laws, statutes, ordinances, rules, and regulations, as an owner of real property, we may be liable for the costs of removal or remediation of certain hazardous or toxic substances at, on, in or under our property, as well as certain other potential costs relating to hazardous or toxic substances (including government fines and penalties and damages for injuries to persons and adjacent property). These laws may impose liability without regard to whether we knew of, or were responsible for, the presence or disposal of those substances. This liability may be imposed on us in connection with the activities of an operator of, or tenant at, the property. The cost of any required remediation, removal, fines or personal or property damages and our liability therefore could exceed the value of the property and/or our aggregate assets. In addition, the presence of those substances, or the failure to properly dispose of or remove those substances, may adversely affect our ability to sell or rent that property or to borrow using that property as collateral, which, in turn, could reduce our revenues and affect our ability to make distributions.

A property can also be adversely affected either through physical contamination or by virtue of an adverse effect upon value attributable to the migration of hazardous or toxic substances, or other contaminants that have or may have emanated from other properties. Although our tenants are primarily responsible for any environmental damages and claims related to the leased premises, in the event of the bankruptcy or inability of any of our tenants to satisfy any obligations with respect to the property leased to that tenant, we may be required to satisfy such obligations. In addition, we may be held directly liable for any such damages or claims irrespective of the provisions of any lease.

From time to time, in connection with the conduct of our business, and prior to the acquisition of any property from a third party or as required by our financing sources, we authorize the preparation of Phase I environmental reports and, when necessary, Phase II environmental reports, with respect to our properties. Based upon these environmental reports and our ongoing review of our properties, we are currently not aware of any environmental condition with respect to any of our properties that we believe would be reasonably likely to have a material adverse effect on us. There can be no assurance, however, that the environmental reports will reveal all environmental conditions at our properties or that the following will not expose us to material liability in the future:

- The discovery of previously unknown environmental conditions;
- Changes in law;
- Activities of tenants; and
- Activities relating to properties in the vicinity of our properties.

Changes in laws increasing the potential liability for environmental conditions existing on properties or increasing the restrictions on discharges or other conditions may result in significant unanticipated expenditures or may otherwise adversely affect the operations of our tenants, which could adversely affect our financial condition, cash flows and results of operations.

Uninsured losses or a loss in excess of insured limits could adversely affect our financial condition, cash flows and results of operations.

We carry comprehensive general liability, all-risk property, extended coverage, loss of rent insurance, and environmental liability on our properties, with policy specifications and insured limits customarily carried for similar properties. However, with respect to those properties where the leases do not provide for abatement of rent under any circumstances, we maintain a minimum of twelve months loss of rent insurance. In addition, there are certain types of losses, such as losses resulting from wars, terrorism or acts of God that generally are not insured because they are either uninsurable or not economically insurable. Should an uninsured loss or a loss in excess of insured limits occur, we could lose capital invested in a property, as well as the anticipated future revenues from a property, while remaining obligated for any mortgage indebtedness or other financial obligations related to the property. Any loss of these types could adversely affect our financial condition, cash flows and results of operations.

We may from time to time be subject to litigation that could negatively impact our financial condition, cash flows, results of operations and the trading price of our Common Shares.

We may from time to time be a defendant in lawsuits and regulatory proceedings relating to our business. Such litigation and proceedings may result in defense costs, settlements, fines, or judgments against us, some of which may not be covered by insurance. Due to the inherent uncertainties of litigation and regulatory proceedings, we cannot accurately predict the ultimate outcome of any such litigation or proceedings. An unfavorable outcome may result in our having to pay significant fines, judgments, or settlements, which, if uninsured, or if exceeding insurance coverage, could adversely impact our financial condition, cash flows, results of operations and the trading price of our Common Shares. Additionally, certain proceedings or the resolution of certain proceedings may affect the availability or cost of some of our insurance coverage and expose us to increased risks that would be uninsured. See "Item 3. — Legal Proceedings" and the Notes to Consolidated Financial Statements as updated by our subsequent filings with the SEC, for pending litigation, if any.

Compliance with the Americans with Disabilities Act and fire, safety and other regulations may require us to make unplanned expenditures that could adversely affect our financial condition, cash flows and results of operations.

All of our properties are required to comply with the Americans with Disabilities Act, as amended (the "ADA"). The ADA has separate compliance requirements for "public accommodations" and "commercial facilities," but generally requires that buildings be made accessible to people with disabilities. Compliance with the ADA requirements could require removal of access barriers, and non-compliance could result in imposition of fines by the U.S. government or an award of damages to private litigants, or both. While the tenants to whom we lease properties are obligated by law to comply with applicable ADA provisions, and are typically obligated to cover costs of compliance, if required changes involve greater expenditures than anticipated, or if the changes must be made on a more accelerated basis than anticipated, the ability of these tenants to cover costs could be adversely affected. As a result of the foregoing or if a tenant is not obligated to cover the cost of compliance, we could be required to expend funds to comply with the provisions of the ADA, which could adversely affect our financial condition, cash flows and results of operations. In addition, we are required to operate our properties in compliance with fire and safety regulations, building codes and other land use regulations, as they may be adopted by governmental agencies and bodies and become applicable to the properties. We may be required to make substantial capital expenditures to comply with those requirements, and these expenditures could also adversely affect our financial condition, cash flows and results of operations.

RISKS RELATED TO OUR MANAGEMENT AND STRUCTURE

The loss of key management members could have an adverse effect on our business, financial condition, and results of operations.

Our success depends on the contribution of key management members. The loss of the services of Kenneth F. Bernstein, President and Chief Executive Officer, or other key executive-level employees could have a material adverse effect on our business, financial condition, and results of operations. Management continues to strengthen our team and we have CEO succession planning in place, but there can be no assurance that such planning will be capable of implementation or that our efforts will be successful. We have obtained key-man life insurance for Mr. Bernstein. In addition, we have entered into an employment agreement with Mr. Bernstein and into severance agreements with other senior executives; however, Mr. Bernstein and such executives may terminate their employment with us at will.

We have pursued and may in the future continue to pursue extensive growth opportunities, including investing in new markets, which may result in significant demands on our operational, administrative, and financial resources.

We have pursued and may pursue growth opportunities, some of which have been, and in the future may be, in locations in which we have not historically invested. This expansion places significant demands on our operational, administrative, and financial resources. The continued growth of our real estate portfolio can be expected to continue to place a significant strain on our resources. Our future performance will depend in part on our ability to successfully attract and retain qualified management personnel to manage the growth and operations of our business. In addition,

the acquired properties may fail to operate at expected levels due to the numerous factors that may affect the value of real estate. There can be no assurance that we will have sufficient resources to identify and manage the newly acquired properties.

Our Board may change our investment policy or objectives without shareholder approval.

Our Board may determine to change our investment and financing policies or objectives, our growth strategy and our debt, capitalization, distribution, acquisition, disposition, and operating policies. Our Board may establish investment criteria or limitations as it deems appropriate, but currently does not limit the number of properties in which we may seek to invest or the concentration of investments in any one geographic region. Although our Board has no present intention to revise or amend our strategies and policies, it may do so at any time without a vote by our shareholders. Accordingly, the results of decisions made by our Board as implemented by management may or may not serve the interests of all of our shareholders and could adversely affect our financial condition, cash flows, results of operations, and ability to satisfy our debt service obligations and to make distributions to our shareholders.

Concentration of ownership by certain investors may allow these investors to exert influence over the business and affairs of our Company.

As of December 31, 2022, four institutional shareholders own 5% or more individually, and 54.4% in the aggregate, of our Common Shares. While this ownership concentration does not jeopardize our qualification as a REIT for U.S. federal income tax purposes (due to certain "look-through provisions" of the Code), a significant concentration of ownership may allow an investor or a group of investors to exert a greater influence over our management and affairs and may have the effect of delaying, deferring, or preventing a change in control of us. Additionally, our Board may, in its sole discretion, waive or modify the 9.8% Common Shares ownership limit in our Declaration of Trust with respect to one or more persons if it is satisfied that ownership in excess of the limit will not jeopardize our qualification as a REIT for U.S. federal income tax purposes. From time to time, we have entered into waivers with certain institutional investors, subject to certain representations from such investors, including that the Common Shares held by the investors will be held in the ordinary course of business and not with the purpose or effect of changing or influencing control of us.

Restrictions on a potential change of control could prevent changes that would be beneficial to our shareholders.

Our Board is authorized by our Declaration of Trust to establish and issue one or more series of preferred shares of beneficial interest without shareholder approval. We have not established any series of preferred shares other than the Series A and Series C Preferred OP Units in the Operating Partnership. However, the establishment and issuance of a class or series of preferred shares could make a change of control of us that could be in the best interests of the shareholders more difficult. In addition, we have entered into an employment agreement with our Chief Executive Officer and severance agreements with certain of our executives, which provide that, upon the occurrence of a change in control of us and either the termination of their employment without cause (as defined) or their resignation for good reason (as defined), such executive officers would be entitled to certain termination or severance payments made by us (which may include a lump sum payment equal to defined percentages of annual salary and prior years' average bonuses, paid in accordance with the terms and conditions of the respective agreement), which could deter a change of control of us that could be in the best interests of our shareholders generally.

Certain provisions of Maryland law may limit the ability of a third party to acquire control of our Company.

Under the provisions of the Maryland General Corporation Law (the "MGCL") applicable to REITs, certain business combinations, including certain mergers, consolidations, share exchanges and asset transfers and certain issuances and reclassifications of equity securities, between a Maryland REIT and any person who beneficially owns 10% or more of the voting power of the REIT's outstanding voting shares or an affiliate or an associate, as defined in the MGCL, of the REIT who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then-outstanding shares of beneficial interest of the REIT (an "interested shareholder") or an affiliate of the interested shareholder, are prohibited for five years after the most recent date on which the interested shareholder becomes an interested shareholder. After that five-year period, any such business combination must be recommended by the board of trustees of the REIT and approved by the affirmative vote of at least (i) 80% of the votes entitled to be cast by holders of outstanding voting shares of beneficial interest of the REIT and (ii) two-thirds of the votes entitled to be cast by holders of voting shares of beneficial interest of the REIT other than shares held by the interested shareholder with whom, or with whose affiliate, the business combination is to be effected or held by an affiliate or associate of the interested shareholder, unless, among other conditions, the REIT's common shareholders receive a minimum price, as defined in the MGCL, for their shares and the consideration is received in cash or in the same form as previously paid by the interested shareholder for its common shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by the board of trustees of the REIT before the interested shareholder becomes an interested shareholder, and a person is not an interested shareholder if the board of trustees approved in advance the transaction by which the person otherwise would have become an interested shareholder. In approving a transaction, our Board may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the Board. We have not elected to opt out of the business combination statute.

The MGCL also provides that holders of "control shares" of a Maryland REIT (defined as voting shares that, when aggregated with all other shares owned by the acquirer or in respect of which the acquirer is entitled to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise one of three increasing ranges of voting power in electing trustees) acquired in a "control share acquisition" (defined as the direct or indirect acquisition of ownership or control of "control shares") have no voting rights except to the extent approved by the affirmative vote of holders of at least two-thirds of all the votes entitled to be cast on the matter, excluding shares owned by the acquirer, by officers or by employees who are also trustees of the REIT. Our Bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of our shares of beneficial interest. Our Bylaws can be amended by our Board by majority vote or by our shareholders, pursuant to a binding proposal properly submitted for consideration at a meeting of shareholders, by the affirmative vote of a majority of all votes entitled to be cast on the matter, and there can be no assurance that this provision will not be amended or eliminated at any time in the future.

Additionally, Title 3, Subtitle 8 of the MGCL permits our Board, without shareholder approval and regardless of what is currently provided in our Declaration of Trust or Bylaws, to elect to be subject to certain provisions relating to corporate governance that may have the effect of delaying, deferring or preventing a transaction or a change of control of our Company that might involve a premium to the market price of our Common Shares or otherwise be in the best interests of our shareholders. We are subject to some of these provisions (for example, a two-thirds vote requirement for removing a trustee) by provisions of our Declaration of Trust and Bylaws unrelated to Subtitle 8. However, pursuant to the Articles Supplementary filed with the State Department of Assessments and Taxation of Maryland on November 9, 2017, which are referenced in Part IV Item 15 hereto, the Board approved a resolution to opt out of Section 3-803 of Subtitle 8 of Title 3 of the MGCL that allows the Board, without shareholder approval, to elect to classify into three classes with staggered three-year terms. The Articles Supplementary prohibit the Company, without the affirmative vote of a majority of the votes cast on the matter by shareholders entitled to vote generally in the election of trustees, from classifying the Board under Subtitle 8.

Becoming subject to, or the potential to become subject to, these provisions of the MGCL could inhibit, delay, or prevent a transaction or a change of control of our Company that might involve a premium price for our shareholders or otherwise be in our or their best interests. In addition, the provisions of our Declaration of Trust on removal of trustees and the provisions of our Bylaws regarding advance notice of shareholder nominations of trustees and other business proposals and restricting shareholder action outside of a shareholders meeting unless such action is taken by unanimous written consent could have a similar effect.

Our rights and shareholders' rights to take action against trustees and officers are limited, which could limit recourse in the event of actions not in the best interests of shareholders.

As permitted by Maryland law, our Declaration of Trust eliminates the liability of our trustees and officers to the Company and its shareholders for money damages, except for liability resulting from:

- actual receipt of an improper benefit or profit in money, property, or services; or
- a final judgment based upon a finding of active and deliberate dishonesty by the trustee or officer that was material to the cause of action adjudicated.

In addition, our Declaration of Trust authorizes, and our Bylaws obligate, us to indemnify each present or former trustee or officer, to the maximum extent permitted by Maryland law, who is made a party to any proceeding because of his or her service to our Company in those or certain other capacities. As part of these indemnification obligations, we may be obligated to fund the defense costs incurred by our trustees and officers.

We operate through a partnership structure, which could have an adverse effect on our ability to manage our assets.

Our primary property-owning vehicle is the Operating Partnership, of which we are the general partner. Our acquisition of properties through the Operating Partnership in exchange for interests in the Operating Partnership may permit certain tax deferral advantages to limited partners who contribute properties to the Operating Partnership. Since properties contributed to the Operating Partnership may have unrealized gains attributable to the differences between the fair market value and adjusted tax basis in such properties prior to contribution, the sale of such properties could cause adverse tax consequences to the limited partners who contributed such properties. Although we, as the general partner of the Operating Partnership, generally have no obligation to consider the tax consequences of our actions to any limited partner, we own several properties subject to material contractual restrictions for varying periods of time designed to minimize the adverse tax consequences to the limited partners who contributed such properties. Such restrictions may result in significantly reduced flexibility to manage some of our assets.

We currently have an exclusive obligation to seek investments for our Funds, which may prevent us from making acquisitions directly.

Under the terms of the organizational documents of our Funds, our primary goal is to seek investments for the Funds, subject to certain exceptions. We may only pursue opportunities to acquire retail properties directly through the Operating Partnership if (i) the ownership of the acquisition opportunity by the Funds would create a material conflict of interest for us; (ii) we require the acquisition opportunity for a "like-kind" exchange; (iii) the consideration payable for the acquisition opportunity is our Common Shares, OP Units or other securities or (iv) the investment is outside the parameters of our investment goals for the Funds (which, in general, seek more opportunistic level returns). As a result, we may not be able to make attractive acquisitions directly and instead may only receive a minority interest in such acquisitions through the Funds.

Our joint venture investments carry additional risks not present in our direct investments.

Partnership or joint venture investments (that may include, among others, tenancy-in common and other similar investments) may involve risks not otherwise present for investments made solely by us, including the possibility that our partner or co-venturer might become bankrupt, and that our partner or co-venturer may take action contrary to our instructions, requests, policies, or objectives, including with respect to maintaining our qualification as a REIT. Actions by, or disputes with, joint venture partners might result in subjecting properties owned by the joint venture to additional risks. Other risks of joint venture investments include impasses on decisions, such as a sale, because neither we nor a joint venture partner may have full control over the joint venture. Also, there is no limitation under our organizational documents as to the amount of our funds that may be invested in joint ventures.

Additionally, our partners or co-venturers may engage in malfeasance in spite of our efforts to perform a high level of due diligence on them, which may jeopardize an investment and/or subject us to reputational risk. Such acts may or may not be covered by insurance.

Any disputes that may arise between joint venture partners and us may result in potentially costly litigation or arbitration that would prevent our officers and/or trustees from focusing their time and effort on our business. In addition, we may in certain circumstances be liable for the actions of our third-party joint venture partners.

RISKS RELATED TO OUR REIT STATUS

There can be no assurance we have qualified or will remain qualified as a REIT for Federal income tax purposes.

We believe that we have consistently met the requirements for qualification as a REIT for Federal income tax purposes beginning with our taxable year ended December 31, 1993, and we intend to continue to meet these requirements in the future. However, qualification as a REIT involves the application of highly technical and complex provisions of the Code, for which there may be only limited judicial or administrative interpretations. No assurance can be given that we have qualified or will remain qualified as a REIT. The Code provisions and income tax regulations applicable to REITs differ significantly from those applicable to other entities. The determination of various factual matters and circumstances not entirely within our control can potentially affect our ability to continue to qualify as a REIT. In addition, no assurance can be given that future legislation, regulations, administrative interpretations, or court decisions will not significantly change the requirements for qualification as a REIT or adversely affect the Federal income tax consequences of such qualification. Under current law, if we fail to qualify as a REIT, we would not be allowed a deduction for dividends paid to shareholders in computing our net taxable income. In addition, our income would be subject to tax at the regular corporate rates. Also, we could be disqualified from treatment as a REIT for the four taxable years following the year during which qualification was lost. Cash available for distribution to our shareholders would be significantly reduced for each year in which we do not qualify as a REIT. In that event, we would not be required to continue to make distributions. Although we currently intend to continue to qualify as a REIT, it is possible that future economic, market, legal, tax or other considerations may cause us, without the consent of our shareholders, to revoke the REIT election or to otherwise take action that would result in disqualification.

Legislative or regulatory tax changes could have an adverse effect on us.

There are a number of issues associated with an investment in a REIT that are related to the Federal income tax laws, including, but not limited to, the consequences of our failing to continue to qualify as a REIT. At any time, the Federal income tax laws governing REITs, or the administrative interpretations of those laws may be amended or modified. Any new laws or interpretations may take effect retroactively and could adversely affect us or our shareholders.

We may be required to borrow funds or sell assets to satisfy our REIT distribution requirements.

Our cash flows may be insufficient to fund distributions required to maintain our qualification as a REIT as a result of differences in timing between the actual receipt of income and the recognition of income for U.S. Federal income tax purposes, or as a result of our inability to currently deduct certain expenditures that we must currently pay, such as capital expenditures, payments of compensation for which Section 162(m) of the Code denies a deduction, any business interest expense that is disallowed under Section 163 (j) of the Code (unless we elect to be an "electing

real property trade or business"), and the creation of reserves or required amortization payments. While we have historically satisfied these distribution requirements by making cash distributions to our stockholders, a REIT is permitted to satisfy these requirements by making distributions of cash or other property, including, in limited circumstances, its own stock. Assuming we continue to satisfy these distribution requirements with cash, we may need to borrow funds on a short term basis or sell assets, to meet the REIT distribution requirements and avoid the payment of income and excise taxes even if the then prevailing market conditions are not favorable for these borrowings or sales. These cash needs could result from differences in timing between the actual receipt of cash and inclusion of income for U.S. federal income tax purposes, or the effect of non-deductible capital expenditures, the creation of cash reserves or required debt or amortization payments. These sources, however, may not be available on favorable terms or at all. Our access to third-party sources of capital depends on a number of factors, including the market's perception of our growth potential, our current debt levels, the market price of our common stock, and our current and potential future earnings. Such actions could adversely affect our cash flow and results of operations.

Dividends payable by REITs generally do not qualify for reduced tax rates.

Certain qualified dividends paid by corporations to individuals, trusts and estates that are U.S. shareholders are taxed at capital gain rates, which are lower than ordinary income rates. Dividends of current and accumulated earnings and profits payable by REITs, however, are taxed at ordinary income rates as opposed to the capital gain rates. Pursuant to section 199A of the Code, from 2018 through 2025, certain REIT shareholders will be permitted to deduct 20% of ordinary REIT dividends received. Dividends payable by REITs in excess of these earnings and profits generally are treated as a non-taxable reduction of the shareholders' basis in the shares to the extent thereof and thereafter as taxable gain. The more favorable rates applicable to regular corporate dividends could cause investors who are individuals, trusts, and estates to perceive investments in REITs, including us, to be relatively less attractive than investments in the stock of non-REIT corporations that pay dividends, which may negatively impact the trading prices of our securities.

Complying with REIT requirements may cause us to forego otherwise attractive opportunities or liquidate otherwise attractive investments.

To qualify as a REIT, we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts we distribute to our shareholders and the ownership of our Common Shares. In order to meet these tests, we may be required to forego investments we might otherwise make and refrain from engaging in certain activities. Thus, compliance with the REIT requirements may hinder our performance.

In addition, if we fail to comply with certain asset ownership tests at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification. As a result, we may be required to liquidate otherwise attractive investments.

We have limits on ownership of our shares of beneficial interest.

For us to qualify as a REIT for Federal income tax purposes, among other requirements, not more than 50% of the value of our shares of beneficial interest may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) at any time during the last half of each taxable year, and such shares of beneficial interest must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year (in each case, other than the first such year). Our Declaration of Trust includes certain restrictions regarding transfers of our shares of beneficial interest and ownership limits that are intended to assist us in satisfying these limitations, among other purposes. These restrictions and limits may not be adequate in all cases, however, to prevent the transfer of our shares of beneficial interest in violation of the ownership limitations. The ownership limits contained in our Declaration of Trust may have the effect of delaying, deferring, or preventing a change of control of us.

Actual or constructive ownership of our shares of beneficial interest in excess of the share ownership limits contained in our Declaration of Trust would cause the violative transfer or ownership to be null and void from the beginning and subject to purchase by us at a price equal to the fair market value of such shares (determined in accordance with the rules set forth in our Declaration of Trust). As a result, if a violative transfer were made, the recipient of the shares would not acquire any economic or voting rights attributable to the transferred shares. Additionally, the constructive ownership rules for these limits are complex and groups of related individuals or entities may be deemed a single owner and consequently in violation of the share ownership limits.

Distribution requirements imposed by law limit our operating flexibility.

To maintain our status as a REIT for Federal income tax purposes, we are generally required to distribute to our shareholders at least 90% of our taxable income for each calendar year. Our taxable income is determined without regard to any deduction for dividends paid and by excluding net capital gains. To the extent that we satisfy the distribution requirement, but distribute less than 100% of our taxable income, we will be subject to Federal corporate income tax on our undistributed income. In addition, we will incur a 4% nondeductible excise tax on the amount, if any, by

which our distributions in any year are less than the sum of (i) 85% of our ordinary income for that year; (ii) 95% of our capital gain net income for that year; and (iii) 100% of our undistributed taxable income from prior years. We intend to continue to make distributions to our shareholders to comply with the distribution requirements of the Code and to minimize exposure to Federal income and excise taxes. Differences in timing between the receipt of income and the payment of expenses in determining our income as well as required debt amortization payments and the capitalization of certain expenses could require us to borrow funds on a short-term basis to meet the distribution requirements that are necessary to achieve the tax benefits associated with qualifying as a REIT. The distribution requirements also severely limit our ability to retain earnings to acquire and improve properties or retire outstanding debt.

GENERAL RISK FACTORS

The economic environment may cause us to lose tenants and may impair our ability to borrow money to purchase properties, refinance existing debt or finance our current development projects.

Our operations and performance depend on general economic conditions, including consumer health. The U.S. economy has historically experienced financial downturns from time to time, including a decline in consumer spending, credit tightening and high unemployment.

While we currently believe we have adequate sources of liquidity, there can be no assurance that, in the event of a financial downturn, we will be able to obtain secured or unsecured loan facilities to meet our needs, including to purchase additional properties, to complete current development projects, or to successfully refinance our properties as loans become due. To the extent that the availability of credit is limited, it would also adversely impact our notes receivable, as counterparties may not be able to obtain the financing required to repay the loans upon maturity.

Certain sectors of the U. S. economy are still experiencing weakness. Over the past several years, this structural weakness has resulted in periods of high unemployment, rising inflation, the bankruptcy or weakened financial condition of a number of retailers, decreased consumer spending, increased home foreclosures, low consumer confidence, and reduced demand and rental rates for certain retail space. There can be no assurance that an economic recovery will occur or continue. General economic factors that are beyond our control, including, but not limited to, economic recessions, decreases in consumer confidence, reductions in consumer credit availability, increasing consumer debt levels, rising energy costs, higher tax rates, continued business layoffs, downsizing and industry slowdowns, and/or rising inflation, could have a negative impact on the business of our retail tenants. In turn, this could have a material adverse effect on our business because current or prospective tenants may, among other things, (i) have difficulty paying their rent obligations as they struggle to sell goods and services to consumers, (ii) be unwilling to enter into or renew leases with us on favorable terms or at all, (iii) seek to terminate their existing leases with us or request rental concessions on such leases, or (iv) be forced to curtail operations or declare bankruptcy.

Political and economic uncertainty could have an adverse effect on our business.

In the past year, microeconomic and macroeconomic conditions, including the fallout from the COVID-19 Pandemic, the war in Ukraine, supply-chain disruptions, and the recessionary outlook of the current financial markets, has increased volatility in the market and has caused a surge in already increasing inflation and interest rates. We cannot predict how current political and economic uncertainty will affect our critical tenants, joint venture partners, lenders, financial institutions, and general economic conditions, including the health and confidence of the consumer and the volatility of the stock market.

Political and economic uncertainty poses a risk to us in that it may cause consumers to postpone discretionary spending in response to tighter credit, reduced consumer confidence and other macroeconomic factors affecting consumer spending behavior, resulting in a downturn in the business of our tenants. In the event current political and economic uncertainty results in financial turmoil affecting the banking system and financial markets generally or significant financial service institution failures, there could be a new or incremental tightening in the credit markets, low liquidity, and extreme volatility in fixed income, credit, currency, and equity markets. Each of these factors could adversely affect our financial condition, cash flows and results of operations.

Inflation may adversely affect our financial condition, cash flows and results of operations.

Increased inflation could have a more pronounced negative impact on our mortgage and debt interest, any of our remaining development and redevelopment costs, and general and administrative expenses, as these costs could increase at a rate higher than our rents. Also, inflation may adversely affect tenant leases with stated rent increases or limits on such tenant’s obligation to pay its share of operating expenses, which could be lower than the increase in inflation at any given time. It may also limit our ability to recover all of our operating expenses. Inflation could also have an adverse effect on consumer spending, which could impact our tenants’ sales and, in turn, our average rents, and in some cases, our percentage rents, where applicable. In addition, renewals of leases or future leases may not be negotiated on current terms, in which event we may recover a smaller percentage of our operating expenses.

Competition may adversely affect our ability to purchase properties and to attract and retain tenants.

There are numerous commercial developers, real estate companies, financial institutions, and other investors with greater financial resources than we have that compete with us in seeking properties for acquisition and tenants who will lease space in our properties. Our competitors include other REITs, financial institutions, private funds, insurance companies, pension funds, private companies, family offices, sovereign wealth funds and individuals. This competition may result in a higher cost for properties than we wish to pay. In addition, retailers at our properties (both in our Core Portfolio and in the portfolios of the Funds) face increasing competition from outlet malls, discount shopping clubs, e-commerce, direct mail, and telemarketing, which could (i) reduce rents payable to us and (ii) reduce our ability to attract and retain tenants at our properties leading to increased vacancy rates at our properties.

Changes in market conditions could have an adverse effect on our share price and our ability to access the public equity markets.

The market price of our Common Shares may fluctuate significantly in response to many factors, including:

- actual or anticipated variations in our operating results, funds from operations, cash flows or liquidity;
- changes in our earnings estimates or those of analysts;
- changes in our dividend policy;
- impairment charges affecting the carrying value of one or more of our properties or other assets;
- publication of research reports about us, the retail industry, or the real estate industry generally;
- increases in market interest rates that lead purchasers of our securities to seek higher dividend or interest rate yields;
- changes in market valuations of similar companies;
- adverse market reaction to the amount of our outstanding debt at any time, the amount of our maturing debt in the near and medium term and our ability to refinance such debt and the terms thereof or our plans to incur additional debt in the future;
- additions or departures of key management personnel;
- actions by institutional security holders;
- proposed or adopted regulatory or legislative changes or developments;
- speculation in the press or investment community;
- the occurrence of any of the other risk factors included in, or incorporated by reference in, this Report; and
- general market and economic conditions.

Many of the factors listed above are beyond our control. Those factors may cause the market price of our Common Shares to decline significantly, regardless of our financial performance, condition, and prospects. We cannot provide any assurance that the market price of our Common Shares will not fall in the future, and it may be difficult for holders to sell such securities at prices they find attractive, or at all. A decline in our share price, as a result of this or other market factors, could unfavorably impact our ability to raise additional equity in the public markets.

Outages, computer viruses and similar events could disrupt our operations.

We rely on information technology networks and systems, some of which are owned and operated by third parties, to process, transmit and store electronic information. Any of these systems may be susceptible to outages due to fire, floods, power loss, telecommunications failures, terrorist or cyber-attacks and similar events. Despite the implementation of network security measures, our systems and those of third parties on which we rely may also be vulnerable to computer viruses and similar disruptions. If we or the third parties on whom we rely are unable to prevent such outages and breaches, our operations could be disrupted.

Increased Information Technology ("IT") security threats and more sophisticated computer crime could pose a risk to our systems, networks, and services.

Cyber incidents can result from deliberate attacks or unintentional events. There have been an increased number of significant cyber-attacks targeted at the retail, insurance, financial and banking industries that include, but are not limited to, gaining unauthorized access to digital systems for purposes of misappropriating assets or sensitive information, corrupting data or causing operational disruption. Cyber-attacks may also be carried out in a manner that does not require gaining unauthorized access, such as by causing denial-of-service attacks on websites. Cyber-attacks by third parties or insiders utilize techniques that range from highly sophisticated efforts to electronically circumvent network security or overwhelm a website to more traditional intelligence gathering, and social engineering aimed at obtaining information necessary to gain access.

Increased global IT security threats are more sophisticated and targeted computer crimes pose a risk to the security of our systems and networks and the confidentiality, availability and integrity of our data. The open nature of interconnected technologies may allow for a network or Web outage or a privacy breach that reveals sensitive data or transmission of harmful/malicious code to business partners and clients. Because the techniques used to obtain unauthorized access, disable, or degrade service, or sabotage systems change frequently and may be difficult to detect for long periods of time, we may be unable to anticipate these techniques or implement adequate preventive measures.

Cyber-attacks may result in substantial financial and reputational cost, including but are not limited to:

- Compromising of confidential information;
- Manipulation and destruction of data;
- Loss of trade secrets;
- System downtimes and operational disruptions;
- Remediation costs that may include liability for stolen assets or information and repairing system damage, as well as incentives offered to customers, tenants, or other business partners in an effort to maintain business relationships;
- Loss of revenues resulting from unauthorized use of proprietary information;
- Cost to deploy additional protection strategies, training employees and engaging third party experts and consultants;
- Reputational damage adversely affecting investor and tenant confidence; and
- Costly litigation.

The control environment for cyber security is an ever-changing risk landscape across the entire attack surface which includes risks from on-premises, cloud infrastructure, software as a service and mobile applications. While we attempt to mitigate these risks by employing a number of measures, including a dedicated IT team, employee training and background checks, maintenance of backup systems, utilization of third-party service providers to provide redundancy over multiple locations, and comprehensive monitoring of our networks and systems along with purchasing cyber security insurance coverage, our systems, networks, and services remain potentially vulnerable to advanced threats.

Use of social media may adversely impact our reputation and business.

There has been a significant increase in the use of social media platforms, including weblogs, social media websites and other forms of Internet-based communications, which allow individuals access to a broad audience, including our significant business constituents. The availability of information through these platforms is virtually immediate as is its impact and may be posted at any time without affording us an opportunity to redress or correct it timely. This information may be adverse to our interests, may be inaccurate and may harm our reputation, brand image,

goodwill, performance, prospects, or business. Furthermore, these platforms increase the risk of unauthorized disclosure of material non-public Company information.

Climate change, natural disasters or health crises could adversely affect our properties and business.

Some of our current or future properties could be subject to natural disasters and may be impacted by climate change. To the extent climate change causes adverse changes in weather patterns, rising sea levels or extreme temperatures, our properties in certain markets may be adversely affected. Specifically, properties located in coastal regions, including Florida, Virginia, Georgia, New York, and Massachusetts could be affected by any future increases in sea levels or in the frequency or severity of hurricanes and storms, whether caused by climate change or other factors. Additionally, we own properties in California, which in recent years has experienced intense drought and wildfires and has had earthquake activity.

Climate change could have a variety of direct or indirect adverse effects on our properties and business, including:

- Property damage to our retail properties;
- Indirect financial and operational impacts from disruptions to the operations of major tenants located in our retail properties from severe weather, such as hurricanes, floods, wildfires or other natural disasters;
- Increased insurance premiums and deductibles, or a decrease in or unavailability of coverage, for properties in areas subject to severe weather, such as hurricanes, floods, wildfires or other natural disasters;
- Increased insurance claims and liabilities;
- Increases in energy costs impacting operational returns;
- Changes in the availability or quality of water or other natural resources on which the tenant's business depends;
- Decreased consumer demand for products or services resulting from physical changes associated with climate change (e.g., warmer temperatures or decreasing shoreline could reduce demand for residential and commercial properties previously viewed as desirable);
- Incorrect long-term valuation of an equity investment due to changing conditions not previously anticipated at the time of the investment; and
- Economic disruptions arising from the above.

Moreover, compliance with new laws or regulations related to climate change, including compliance with "green" building codes, may require us to make improvements to our existing properties or pay additional taxes and fees assessed on us or our properties. Although we strive to identify, analyze, and respond to the risk and opportunities that climate change presents, at this time there can be no assurance that climate change will not have an adverse effect on us.

Public health crises, pandemics, and epidemics, such as those caused by new strains of viruses such as H5N1 (avian flu), severe acute respiratory syndrome (SARS) and, most recently, the COVID-19 Pandemic, may increase as international travel continues to rise and could adversely impact our business by interrupting our tenants' business, supply chains and transactional activities, disrupting travel, and negatively impacting local, national, or global economies.

Future terrorist attacks or civil unrest could harm the demand for, and the value of, our properties.

Over the past several years, a number of highly publicized terrorist acts and shootings have occurred at domestic and international retail properties. Future terrorist attacks, civil unrest and other acts of terrorism or war could harm the demand for, and the value of, our properties. Terrorist attacks could directly impact the value of our properties through damage, destruction, loss or increased security costs, and the availability of insurance for such acts may be limited or may be subject to substantial cost increases. To the extent that our tenants are impacted by future attacks, their ability to continue to honor obligations under their existing leases could be adversely affected. A decrease in retail demand could make it difficult for us to renew or re-lease our properties at lease rates equal to or above historical rates. These acts might erode business and consumer confidence and spending and might result in increased volatility in national and international financial markets and economies. Any

one of these events might decrease demand for real estate, decrease or delay the occupancy of our properties, and limit our access to capital or increase our cost of raising capital.

Increased scrutiny by and changing expectations from investors, tenants, employees, and other stakeholders regarding our ESG practices and reporting could cause us to incur additional costs and adversely impact our reputation, tenant and employee acquisition and retention, and access to capital.

Companies across all industries are facing increasing scrutiny related to their ESG practices and disclosure. Investors, tenants, employees, and other stakeholders have begun to focus increasingly on ESG practices and to place heightened importance on the environmental and social cost of their investments, business decisions and consumer choices. For example, an increasing number of investment funds focus on positive ESG practices and sustainability scores when making an investment decision. Additionally, certain institutional investors have demonstrated increased activism with respect to their existing investments, including by urging companies to take certain actions in areas of perceived ESG significance.

Investors, particularly institutional investors, use or may use third-party benchmarks and scores to assess our ESG practices against our peers and if we are perceived as lagging, such investors may decide to not invest in our Common Shares or to divest from their current investment, and we may face reputational challenges. Alternatively, such investors may decide to actively engage with us to improve ESG disclosure or performance, and may also make voting decisions on this basis. Given increased investor focus and demand, public disclosure regarding ESG practices is becoming more broadly expected. Any disclosure we make may include our policies and practices on a variety of ESG matters, including corporate governance, environmental compliance, human capital management, and workforce inclusion and diversity. It is possible that stakeholders may not be satisfied with our ESG practices, reporting and goals, or with our speed of adoption. If our ESG practices and disclosures do not meet investor, tenant, employee or other stakeholder expectations, which continue to evolve, our reputation and tenant and employee retention, and access to capital may be negatively impacted.

In 2022, the SEC proposed extensive rules aimed at enhancing and standardizing climate-related disclosures in an effort to foster greater consistency, comparability and reliability of climate-related information among public issuers. The proposal, if adopted, would require public issuers to include prescribed climate-related information in their registration statements and annual reports, including information regarding greenhouse gas emissions and climate-related risks and opportunities and related financial impacts, governance and strategy. Additionally, we may become subject to new compliance requirements and/or new costs or taxes associated with natural resource or energy usage and related emissions (such as a “carbon tax”), which could increase our operating costs.

We could incur additional costs relating to implementing, monitoring and reporting various ESG practices and initiatives, as well as complying with applicable law, which could place a strain on our personnel, systems and resources. Our failure, or perceived failure, to meet the goals and objectives we set in any ESG disclosure within the timelines announced or at all, or the expectations of our various stakeholders could negatively impact our reputation, tenant and employee retention, and access to capital.

We previously identified a material weakness in our internal control over financial reporting which resulted in the restatement of certain of our previously issued consolidated financial statements, which resulted in unanticipated costs and may affect investors' confidence and raise reputational issues. If we fail to maintain effective internal control over financial reporting, we may not be able to accurately report our financial results.

Effective internal controls over financial reporting are necessary for us to provide reliable and accurate financial reports. We previously identified and reported a deficiency in internal control over financial reporting as of December 31, 2021 and determined that the Company did not maintain effective internal control over financial reporting because of an error in accounting treatment at the time of formation related to the improper consolidation of two investments that are less-than-wholly-owned through the Company’s opportunity funds. As a consequence, these two Fund Investments, which were formed in 2012 and 2013, were adjusted from consolidated investments to investments in unconsolidated affiliates within the restated financial statements, as of and for the years ended December 31, 2020 and 2019, and as of and for each of the quarterly periods ended March 31, 2021 and 2020, June 30, 2021 and 2020, September 30, 2021 and 2020, and December 31, 2020 (collectively, the "Restatement"). The Restatement also included corrections for certain immaterial unrecorded adjustments in the Company's previously issued financial statements. See Item 9A, “Controls and Procedures”, in this Annual Report on Form 10-K for additional information regarding the previously identified material weakness and our actions to date to remediate the material weakness.

The Restatement may affect investor confidence in the accuracy of our financial disclosure and may raise reputational risks for our business, both of which could harm our business and financial results. Additionally, if material weaknesses in our internal control over financial reporting are discovered or occur in the future, our financial statements may contain material misstatements, and we could be required to restate such financial results, which could materially and adversely affect our business and financial results, restrict our ability to access the capital markets, require us to expend significant resources to correct the material weaknesses, subject us to fines, penalties or judgements, harm our reputation or otherwise cause a decline in investor confidence.

ITEM 1B. UNRESOLVED STAFF COMMENTS.

None.

ITEM 2. PROPERTIES.

Retail Properties

The discussion and tables in this Item 2. include wholly-owned and partially-owned properties held through our Core Portfolio and our Funds. We define our Core Portfolio as those properties either 100% owned by, or partially owned through joint venture interests by the Operating Partnership or subsidiaries thereof, not including those properties owned through our Funds.

As of December 31, 2022, our Core Portfolio consisted of 143 operating properties totaling approximately 5.6 million square feet (or 5.2 million at our pro rata share) of gross leasable area ("GLA") excluding five properties under redevelopment and three properties in development. The Core Portfolio properties are located in 13 states and the District of Columbia and primarily consist of street retail and dense suburban shopping centers. These properties are diverse in size, ranging from approximately 1,000 to 800,000 square feet and as of December 31, 2022, were 92.1% occupied and 94.4% leased (or 92.7% occupied and 94.9% leased at our pro rata share), excluding properties under development or redevelopment.

As of December 31, 2022, we owned and operated 49 properties totaling approximately 8.0 million square feet in total (or 1.7 million square feet at our pro rata share) of GLA in our Funds, excluding two properties under development. In addition to shopping centers, the Funds have invested in mixed-use properties, which generally include retail activities. The Fund properties are located in 19 states and the District of Columbia and, as of December 31, 2022, were 88.9% occupied and 92.5% leased (or 86.1% occupied and 91.4% leased at our pro rata share), excluding the properties under development.

Within our Core Portfolio and Funds, we had more than 1,100 retail leases as of December 31, 2022. A significant portion of our rental revenues are from national retailers and consist of rents received under long-term leases. These leases generally provide for the monthly payment of fixed minimum rent and the tenants' pro-rata share of the real estate taxes, insurance, utilities, and common area maintenance of the shopping centers. An insignificant portion of our leases also provide for the payment of rent based on a percentage of a tenant's gross sales in excess of a stipulated annual amount, either in addition to, or in place of, minimum rents, which we refer to as percentage rents. Minimum rents and expense reimbursements accounted for substantially all of our total revenues for the year ended December 31, 2022.

Six of our Core Portfolio properties and two of our Fund properties are subject to long-term ground leases in which a third party owns and has leased the underlying land to us. We pay rent for the use of the land and are responsible for all costs and expenses associated with the building and improvements at all of these locations.

No individual property or tenant contributed in excess of 10% of our total revenues for the years ended December 31, 2022, 2021 or 2020. See Note 7 for information on the mortgage debt pertaining to our properties.

The following table sets forth more specific information with respect to each of our Core properties at December 31, 2022:

Property [a]	Key Tenants	Year Acquired	Acadia's Interest	Gross Leasable Area (GLA)	In Place Occupancy	Leased Occupancy	Annualized Base Rent (ABR)	ABR/ Per Square Foot
STREET AND URBAN RETAIL								
Chicago Metro								
664 N. Michigan Avenue	Tommy Bahama, Ann Taylor Loft	2013	100.0%	18,141	100.0%	100.0%	$ 3,350,038	$ 184.67
840 N. Michigan Avenue	H & M, Verizon Wireless	2014	88.4%	87,135	100.0%	100.0%	8,521,951	97.80
Rush and Walton Streets Collection (6 properties)	Lululemon, BHLDN, Reformation, Sprinkles	2011 2012	100.0%	40,384	88.2%	88.2%	6,996,440	196.50
Clark Street and W. Diversey Collection (4 properties)	Starbucks;TJ Maxx; J Crew Factory	2011 2012	100.0%	53,277	68.3%	78.0%	1,452,248	39.93
Halsted and Armitage Collection (13 properties)	Serena and Lily, Bonobos, Allbirds Warby Parker, Marine Layer, Kiehl's	2011 2012 2019 2020	100.0%	51,596	97.6%	100.0%	2,493,561	49.52
North Lincoln Park Chicago Collection (6 properties)	Champion, Carhartt	2011 2014	100.0%	49,921	67.9%	67.9%	1,065,847	31.42
State and Washington	Nordstrom Rack, Uniqlo	2016	100.0%	78,771	100.0%	100.0%	3,364,962	42.72
151 N. State Street	Walgreens	2016	100.0%	27,385	100.0%	100.0%	1,573,000	57.44
North and Kingsbury	Old Navy, Backcountry	2016	100.0%	41,791	100.0%	100.0%	1,845,756	44.17
Concord and Milwaukee	—	2016	100.0%	13,147	80.8%	100.0%	359,012	33.79
California and Armitage	—	2016	100.0%	18,275	78.8%	78.8%	725,404	50.40
Roosevelt Galleria	Petco, Vitamin Shoppe	2015	100.0%	37,995	63.4%	89.7%	698,674	29.02
Sullivan Center	Target	2016	100.0%	176,181	78.9%	78.9%	5,023,101	36.14
				693,999	86.1%	88.8%	37,469,994	$ 62.71
New York Metro								
Soho Collection (12 properties)	Faherty, Outerknown, ALC, Stone Island, Taft, Frame, Theory, Bang & Olufsen	2011 2014 2019 2020 2022	100.0%	36,389	73.8%	90.7%	9,137,418	340.36
5-7 East 17th Street	—	2008	100.0%	8,593	0.0%	47.5%	-	—
200 West 54th Street	—	2007	100.0%	5,862	100.0%	100.0%	1,569,139	267.68
61 Main Street	—	2014	100.0%	3,470	100.0%	100.0%	312,925	90.18
181 Main Street	TD Bank	2012	100.0%	11,514	100.0%	100.0%	980,044	85.12
4401 White Plains Road	Walgreens	2011	100.0%	12,964	100.0%	100.0%	625,000	48.21
Bartow Avenue	—	2005	100.0%	14,590	80.0%	80.0%	396,697	33.97
239 Greenwich Avenue	Watches of Switzerland	1998	75.0%	16,621	100.0%	100.0%	1,793,298	107.89
252-256 Greenwich Avenue	Veronica Beard, The RealReal, Blue Mercury	2014	100.0%	7,986	100.0%	100.0%	910,725	114.04
2914 Third Avenue	Planet Fitness	2006	100.0%	40,603	100.0%	100.0%	1,099,431	27.08
868 Broadway	Dr. Martens	2013	100.0%	2,031	100.0%	100.0%	838,855	413.03
313-315 Bowery [b]	John Varvatos	2013	100.0%	6,600	100.0%	100.0%	527,076	79.86
120 West Broadway	Citizens Bank	2013	100.0%	13,838	79.8%	100.0%	2,089,073	189.25
2520 Flatbush Avenue	Bob's Disc. Furniture, Capital One	2014	100.0%	29,114	100.0%	100.0%	1,181,175	40.57
Williamsburg Collection [c]	Sephora, SweetGreen, Levain Bakery	2022	100.0%	50,842	100.0%	100.0%	5,027,426	98.88
991 Madison Avenue	Vera Wang, Gabriella Hearst	2016	100.0%	7,513	91.1%	91.1%	3,007,496	439.24
Shops at Grand	Stop & Shop (Ahold)	2014	100.0%	99,685	100.0%	100.0%	3,335,287	33.46
Gotham Plaza	Bank of America, Footlocker, Taco Bell	2016	49.0%	25,922	73.9%	91.6%	1,588,117	82.91
				394,137	92.1%	96.5%	34,419,182	94.86
Los Angeles Metro								

8833 Beverly Blvd	Luxury Living	2022	100.0 %	9,757	100.0 %	100.0 %	1,272,860	130.46
Melrose Place Collection	The Row, Chloe, Oscar de la Renta	2019	100.0 %	14,000	100.0 %	100.0 %	2,677,460	191.25
				23,757	100.0 %	100.0 %	3,950,320	166.28
District of Columbia Metro								
1739-53 & 1801-03 Connecticut Avenue	TD Bank	2012	100.0 %	20,669	66.7 %	66.7 %	875,265	63.53
14th Street Collection (3 properties)	Mitchell Gold and Bob Williams, Verizon	2021	100.0 %	19,461	100.0 %	100.0 %	1,410,882	72.50
Rhode Island Place Shopping Center	Ross Dress for Less	2012	100.0 %	57,667	100.0 %	100.0 %	2,080,617	36.08
M Street and Wisconsin Corridor (26 Properties) [d]	Lululemon, Duxiana, Rag and Bone, Reformation, Glossier, Showfields	2011 2016 2019	24.8 %	245,249	82.1 %	87.9 %	12,867,936	63.88
				343,046	85.2 %	89.4 %	17,234,700	58.95
Boston Metro								
165 Newbury Street	Starbucks	2016	100.0 %	1,050	100.0 %	100.0 %	303,471	289.02
				1,050	100.0 %	100.0 %	303,471	289.02
Dallas Metro								
Henderson Avenue Portfolio (14 properties)	Sprouts Market	2022	100.0 %	121,715	91.8 %	93.1 %	4,379,233	39.20
Total Street and Urban Retail				**1,577,704**	**88.1 %**	**91.4 %**	**$ 97,756,900**	**$ 70.37**
Acadia Share Total Street and Urban Retail				**1,365,719**	**89.0 %**	**91.8 %**	**$ 86,404,051**	**$ 71.07**
SUBURBAN PROPERTIES								
New Jersey								
Elmwood Park Shopping Center	Walgreens, Lidl	1998	100.0 %	143,910	83.7 %	100.0 %	$ 3,245,133	$ 26.95
Marketplace of Absecon	Walgreens, Dollar Tree	1998	100.0 %	104,556	92.2 %	92.2 %	1,488,815	15.44
New York								
Village Commons Shopping Center	—	1998	100.0 %	87,128	92.1 %	92.1 %	2,765,190	34.44
Branch Plaza	LA Fitness, The Fresh Market	1998	100.0 %	123,345	98.8 %	98.8 %	3,532,225	28.98
Amboy Center	Stop & Shop (Ahold)	2005	100.0 %	63,290	88.4 %	92.2 %	1,924,058	34.38
Crossroads Shopping Center	HomeGoods, PetSmart, BJ's Wholesale Club	1998	49.0 %	311,655	85.3 %	88.5 %	8,154,634	30.68
New Loudon Center	Price Chopper, Marshalls	1993	100.0 %	258,701	95.2 %	95.2 %	2,249,812	9.14
28 Jericho Turnpike	Kohl's	2012	100.0 %	96,363	100.0 %	100.0 %	1,996,500	20.72
Bedford Green	Shop Rite, CVS	2014	100.0 %	90,589	75.1 %	75.1 %	2,366,064	34.79
Connecticut								
Town Line Plaza [e]	Wal-Mart, Stop & Shop (Ahold)	1998	100.0 %	206,089	97.3 %	97.3 %	1,807,822	17.07
Massachusetts								
Methuen Shopping Center	Wal-Mart, Market Basket	1998	100.0 %	130,021	100.0 %	100.0 %	1,467,752	11.29
Crescent Plaza	Home Depot, Shaw's (Supervalu)	1993	100.0 %	218,148	96.0 %	100.0 %	2,066,246	9.87
201 Needham Street	Michael's	2014	100.0 %	20,409	100.0 %	100.0 %	646,965	31.70
163 Highland Avenue	Staples, Petco	2015	100.0 %	40,505	100.0 %	100.0 %	1,490,575	36.80
Vermont								
The Gateway Shopping Center	Shaw's (Supervalu)	1999	100.0 %	101,474	98.6 %	98.6 %	2,205,414	22.05
Illinois								
Hobson West Plaza	Garden Fresh Markets	1998	100.0 %	98,962	98.7 %	98.7 %	1,394,982	14.28
Indiana								

Merrillville Plaza	Jo-Ann Fabrics, TJ Maxx	1998	100.0 %	235,926	78.8 %	92.8 %	2,711,118	14.57
Michigan								
Bloomfield Town Square	HomeGoods, TJ Maxx	1998	100.0 %	234,951	99.4 %	99.4 %	4,263,415	18.26
Delaware								
Town Center and Other (2 properties)	Lowes, Bed Bath & Beyond, Target	2003	100.0 %	800,063	94.0 %	94.0 %	12,980,977	17.26
Market Square Shopping Center	Trader Joe's, TJ Maxx	2003	100.0 %	102,047	100.0 %	100.0 %	3,270,246	32.05
Naamans Road	—	2006	100.0 %	19,850	63.9 %	63.9 %	698,462	55.08
Pennsylvania								
Mark Plaza	Kmart	1993	100.0 %	106,856	100.0 %	100.0 %	246,274	2.30
Plaza 422	Home Depot	1993	100.0 %	156,279	100.0 %	100.0 %	909,901	5.82
Chestnut Hill	—	2006	100.0 %	36,492	100.0 %	100.0 %	961,735	26.35
Abington Towne Center [f]	Target, TJ Maxx	1998	100.0 %	216,871	100.0 %	100.0 %	1,314,679	22.19
Total Suburban Properties				**4,004,480**	**93.7 %**	**95.7 %**	**$ 66,158,994**	**$ 18.83**
Acadia Share Total Suburban Properties				**3,845,536**	**94.1 %**	**95.9 %**	**$ 62,000,131**	**$ 18.36**
Total Core Properties				**5,582,184**	**92.1 %**	**94.4 %**	**$ 163,915,894**	**$ 33.40**
Acadia Share Total Core Properties				**5,211,255**	**92.7 %**	**94.9 %**	**$ 148,404,182**	**$ 32.29**

a) Excludes properties under development or redevelopment, see "Development and Redevelopment Activities" section below. The above occupancy and rent amounts do not include space that is currently leased, but for which rent payment has not yet commenced as of December 31, 2022 (other than under "Leased Occupancy). Residential and office GLA are excluded.

b) Represents the annual base rent paid to the Company pursuant to a master lessee and does not reflect the rent paid by the retail tenants at the property.

c) The Company's stated legal ownership is 49.99%. However, given the preferences embedded in its interests, the Company did not attribute any value to the 50.01% non-controlling interest holders.

d) Excludes 94,000 square feet of office GLA.

e) Anchor GLA includes a 97,300 square foot Wal-Mart store that is not owned by the Company. This square footage has been excluded for calculating annualized base rent per square foot.

f) Anchor GLA includes a 157,616 square foot Target store that is not owned by the Company. This square footage has been excluded for calculating annualized base rent per square foot.

The following table sets forth more specific information with respect to each of our Fund properties at December 31, 2022:

Property [a]	Key Tenants	Year Acquired	Acadia's Interest	Gross Leasable Area (GLA)	In Place Occupancy	Leased Occupancy	Annualized Base Rent (ABR)	ABR/Per Square Foot
Fund II Portfolio Detail								
New York								
City Point [b]	Primark, Target, Basis Schools, Alamo Drafthouse	2007	58.1 %	541,070	64.8 %	83.0 %	$ 14,408,337	$ 41.07
Total - Fund II				541,070	64.8 %	83.0 %	$ 14,408,337	$ 41.07
Fund III Portfolio Detail								
New York								
640 Broadway	Swatch	2012	24.5 %	4,637	91.6 %	91.6 %	$ 1,082,505	$ 254.89
Total - Fund III				4,637	91.6 %	91.6 %	$ 1,082,505	$ 254.89
Fund IV Portfolio Detail								
New York								
801 Madison Avenue	—	2015	23.1 %	2,522	— %	— %	$ —	$ —
210 Bowery	—	2012	23.1 %	2,538	— %	— %	—	—
27 East 61st Street	—	2014	23.1 %	4,177	— %	— %	—	—
17 East 71st Street	The Row	2014	23.1 %	8,432	82.2 %	82.2 %	1,878,913	271.05
1035 Third Avenue [c]	—	2015	23.1 %	7,634	100.0 %	100.0 %	1,299,967	170.29
New Jersey								
Paramus Plaza	Ashley Furniture, Marshalls	2013	11.6 %	153,494	100.0 %	100.0 %	3,258,849	21.23
Massachusetts								
Restaurants at Fort Point	—	2016	23.1 %	15,711	100.0 %	100.0 %	1,050,946	66.89
Rhode Island								
650 Bald Hill Road	Dick's Sporting Goods, Burlington Coat Factory	2015	20.8 %	160,448	85.4 %	85.4 %	2,052,672	14.99
Delaware								
Eden Square	Giant Food, LA Fitness	2014	22.8 %	229,171	90.9 %	96.3 %	3,249,992	15.60
Georgia								
Broughton Street Portfolio (13 properties)	H&M, Lululemon, Kendra Scott, Starbucks	2014	23.1 %	95,201	86.5 %	95.5 %	3,017,138	36.62
California								
146 Geary Street	—	2015	23.1 %	10,151	— %	— %	—	—
Union and Fillmore Collection (3 properties)	Eileen Fisher, Bonobos	2015	20.8 %	7,148	77.9 %	77.9 %	636,247	114
Total - Fund IV				696,627	88.6 %	91.6 %	$ 16,444,724	$ 26.66
Fund V Portfolio Detail								
New Mexico								
Plaza Santa Fe	TJ Maxx, Best Buy, Ross Dress for Less	2017	20.1 %	224,152	97.3 %	99.4 %	$ 3,998,589	$ 18.33
Texas								
Wood Ridge Plaza	Kirkland's, Office Depot	2022	18.1 %	211,674	84.5 %	87.3 %	3,787,696	$ 21.19
La Frontera Plaza	Kohl's, Hobby Lobby	2022	18.1 %	534,430	88.7 %	94.3 %	6,532,919	$ 13.78
Michigan								
New Towne Center	Kohl's, Jo-Ann's, DSW	2017	20.1 %	190,530	100.0 %	100.0 %	2,344,851	$ 12.31
Fairlane Green	TJ Maxx, Michaels	2017	20.1 %	270,187	95.2 %	95.2 %	5,051,602	$ 19.64
Maryland								
Frederick County (2 properties)	Kohl's, Best Buy, Ross Dress for Less	2019	18.1 %	530,816	88.5 %	94.8 %	6,915,187	14.72
Connecticut								
Tri-City Plaza	TJ Maxx, HomeGoods, ShopRite	2019	18.1 %	302,888	88.5 %	91.5 %	3,812,027	14.22
New Jersey								
Midstate	ShopRite, Best Buy, DSW, PetSmart	2021	20.1 %	385,116	83.8 %	88.8 %	6,223,830	19.28
New York								
Shoppes at South Hills	ShopRite, At Home, Ashley Furniture	2022	18.1 %	512,218	74.3 %	74.3 %	4,375,401	11.50
Pennsylvania								
Monroe Marketplace	Kohl's, Dick's Sporting Goods, Giant Food	2021	20.1 %	371,652	100.0 %	100.0 %	4,243,262	11.42
Rhode Island								

Lincoln Commons	Stop and Shop, Marshalls, HomeGoods	2019	20.1 %	462,021	88.0 %	88.0 %	5,482,073	13.48
Virginia								
Landstown Commons	Best Buy, Burlington Coat Factory, Ross Dress for Less	2019	20.1 %	386,415	90.4 %	90.4 %	7,366,896	21.08
Florida								
Palm Coast Landing	TJ Maxx, PetSmart, Ross Dress for Less	2019	20.1 %	171,799	96.9 %	96.9 %	3,435,796	20.64
North Carolina								
Hickory Ridge	Kohl's, Best Buy, Dick's Sporting Goods	2017	20.1 %	380,565	100.0 %	100.0 %	4,775,096	12.55
Alabama								
Trussville Promenade	Wal-Mart, Regal Cinemas	2018	20.1 %	463,681	95.6 %	95.6 %	4,491,844	10.14
Georgia								
Canton Marketplace	Dick's Sporting Goods, TJ Maxx, Best Buy	2021	20.1 %	351,988	89.3 %	94.4 %	5,434,763	17.29
Hiram Pavilion	Kohl's, HomeGoods	2018	20.1 %	362,675	99.4 %	99.4 %	4,563,956	12.66
California								
Elk Grove Commons	Kohl's, HomeGoods	2018	20.1 %	242,078	98.4 %	99.1 %	5,076,275	21.31
Utah								
Family Center at Riverdale	Target, Sportsman's Warehouse	2019	18.0 %	372,475	85.9 %	97.9 %	3,355,288	10.49
Total - Fund V				6,727,360	90.8 %	93.3 %	$ 91,267,351	$ 14.94
TOTAL FUND PROPERTIES				**7,969,694**	**88.9 %**	**92.5 %**	**$ 123,202,917**	**$ 17.40**
Acadia Share of Total Fund Properties				**1,756,761**	**86.1 %**	**91.4 %**	**$ 29,754,638**	**$ 19.68**

a) Excludes properties under development, see “Development and Redevelopment Activities” section below. The above occupancy and rent amounts do not include space which is currently leased, other than "leased occupancy," but for which rent payment has not yet commenced. Residential and office GLA are excluded.

b) In place occupancy excludes short-term percentage rent.

c) Property also includes 12,371 square feet of 2nd floor office space and a 29,760 square-foot parking garage (131 spaces).

Major Tenants

No individual retail tenant accounted for more than 5.1% of total Core Portfolio and Fund base rents for the year ended December 31, 2022 or occupied more than 7.3% of total Core Portfolio and Fund leased GLA as of December 31, 2022. The following table sets forth certain information for our 20 largest retail tenants by base rent for leases in place as of December 31, 2022. The amounts below include our pro-rata share of GLA and annualized base rent for the Operating Partnership's partial ownership interest in properties including the Funds (GLA and Annualized Base Rent in thousands):

Retail Tenant	Number of Stores in Portfolio [a]	Total GLA	Annualized Base Rent [a]	Percentage of Total Represented by Retail Tenant	
				Total Portfolio GLA	Annualized Base Rent
Target	5	512	$ 9,036	7.3 %	5.1 %
H&M	2	60	5,144	0.9 %	2.9 %
Royal Ahold [b]	6	198	4,047	2.8 %	2.3 %
TJX Companies [c]	26	326	3,857	4.7 %	2.2 %
Walgreens [d]	6	85	3,794	1.2 %	2.1 %
PetSmart, Inc.	13	121	3,756	1.7 %	2.1 %
Bed, Bath, and Beyond [e]	5	143	3,500	2.1 %	2.0 %
Trader Joe's	5	54	3,355	0.8 %	1.9 %
Kohl's	8	212	2,859	3.0 %	1.6 %
Verizon	6	28	2,844	0.4 %	1.6 %
Lululemon	4	11	2,767	0.2 %	1.6 %
Gap[f]	9	66	2,498	0.9 %	1.4 %
Fast Retailing [g]	2	32	2,388	0.5 %	1.3 %
Ulta Salon Cosmetic & Fragrance	14	54	2,088	0.8 %	1.2 %
Dick's Sporting Goods, Inc	6	141	2,086	2.0 %	1.2 %
Albertsons Companies[h]	2	123	1,981	1.8 %	1.1 %
Bob's Discount Furniture	3	75	1,945	1.1 %	1.1 %
Wakefern Food Corporation [i]	4	80	1,699	1.1 %	1.0 %
Tapestry [j]	2	4	1,696	0.1 %	1.0 %
Watches of Switzerland [k]	2	14	1,625	0.2 %	0.9 %
Total	130	2,339	62,965	33.6 %	35.5 %

a) Does not include tenants that operate at only one Company location
b) Stop and Shop (4 locations), Giant (2 locations)
c) TJ Maxx (12 locations), HomeGoods (7 locations), Marshalls (6 locations), HomeSense (1 location)
d) Walgreens (5 locations), Rite Aid (1 location)
e) Bed Bath and Beyond (4 locations), Harmon Face (1 location)
f) Old Navy (8 locations), Banana Republic (1 location)
g) Uniqlo (1 location), Theory (1 location)
h) Shaw's (2 locations)
i) ShopRite (4 locations)
j) Kate Spade (2 locations)
k) Grand Seiko (1 location), Betteridge Jewelers (1 location)

Lease Expirations

The following tables show scheduled lease expirations on a pro rata basis for retail tenants in place as of December 31, 2022, assuming that none of the tenants will exercise renewal options (GLA and Annualized Base Rent in thousands):

Core Portfolio

		Annualized Base Rent [a, b]		GLA	
Leases Maturing in	**Number of Leases**	**Current Annual Rent**	**Percentage of Total**	**Square Feet**	**Percentage of Total**
Month to Month	4	$ 156	0.1 %	5	0.1 %
2023	51	13,088	8.8 %	292	6.4 %
2024	66	16,024	10.8 %	642	14.0 %
2025	67	21,350	14.4 %	602	13.2 %
2026	71	17,650	11.9 %	616	13.5 %
2027	56	10,513	7.1 %	263	5.7 %
2028	57	20,087	13.5 %	707	15.4 %
2029	38	9,910	6.7 %	373	8.1 %
2030	19	5,055	3.4 %	96	2.1 %
2031	26	6,161	4.2 %	176	3.8 %
2032	46	10,009	6.7 %	221	4.8 %
Thereafter	36	18,401	12.4 %	585	12.9 %
Total	537	$ 148,404	100.0 %	4,578	100.0 %

Funds

		Annualized Base Rent [a, b]		GLA	
Leases Maturing in	**Number of Leases**	**Current Annual Rent**	**Percentage of Total**	**Square Feet**	**Percentage of Total**
Month to Month	7	$ 84	0.3 %	5	0.3 %
2023	51	1,200	4.0 %	61	4.1 %
2024	87	2,449	8.2 %	163	10.8 %
2025	90	3,392	11.4 %	191	12.7 %
2026	95	2,588	8.7 %	128	8.5 %
2027	81	3,330	11.2 %	164	10.8 %
2028	52	2,243	7.5 %	121	8.0 %
2029	36	1,671	5.6 %	115	7.6 %
2030	30	1,118	3.8 %	78	5.1 %
2031	38	1,515	5.1 %	91	6.0 %
2032	44	2,755	9.3 %	175	11.5 %
Thereafter	32	7,410	24.9 %	220	14.6 %
Total	643	$ 29,755	100.0 %	1,512	100.0 %

a) Base rents do not include percentage rents, additional rents for property expense reimbursements, or contractual rent escalations.

b) No single market, except as discussed below under Geographic Concentrations, represents a material amount of rent exposure to the Company. Given the diversity of our markets, properties and characteristics of the individual spaces, the Company cannot make any general representations relating to the expiring rents and the rates at which these spaces may be re-leased.

Geographic Concentrations

The following table summarizes our operating retail properties by region, excluding redevelopment properties, as of December 31, 2022. The amounts below include our pro-rata share of GLA and annualized base rent for the Operating Partnership's partial ownership interest in properties, including the Funds (GLA and Annualized Base Rent in thousands):

Region	GLA [a,c]	% Occupied [b]	Annualized Base Rent [b, c]	Annualized Base Rent per Occupied Square Foot [c]	Percentage of Total Represented by Region	
					GLA	Annualized Base Rent
Core Portfolio:						
New York Metro (d)	1,497	91.1 %	$ 56,725	$ 41.57	28.7 %	38.2 %
Chicago Metro	684	85.9 %	36,481	62.10	13.1 %	24.6 %
Mid-Atlantic	1,438	96.2 %	20,382	16.55	27.6 %	13.7 %
New England	717	97.8 %	9,988	16.46	13.8 %	6.7 %
Washington D.C. Metro	159	90.1 %	8,129	56.89	3.1 %	5.5 %
Midwest	570	90.8 %	8,370	16.18	10.9 %	5.6 %
Los Angeles Metro	24	100.0 %	3,950	166.28	0.5 %	2.7 %
Dallas Metro	122	91.8 %	4,379	39.20	2.3 %	3.0 %
Total Core Operating Properties	5,211	92.7 %	$ 148,404	$ 32.29	100.0 %	100.0 %
Fund Portfolio:						
Southeast	448	94.7 %	$ 6,741	$ 15.90	25.6 %	22.6 %
Northeast	526	86.7 %	6,609	14.50	29.9 %	22.2 %
New York Metro	339	66.7 %	9,749	43.13	19.3 %	32.8 %
West	116	91.1 %	1,624	15.41	6.6 %	5.5 %
Midwest	92	97.2 %	1,487	16.52	5.2 %	5.0 %
Mid-Atlantic	52	90.9 %	741	15.60	3.0 %	2.5 %
Southwest	180	90.0 %	2,672	16.49	10.2 %	9.0 %
San Francisco Metro	4	30.2 %	132	114.33	0.2 %	0.4 %
Total Fund Operating Properties	1,757	86.1 %	$ 29,755	$ 19.68	100.0 %	100.0 %

a) Property GLA includes a total of 255,000 square feet, which is not owned by us. This square footage has been excluded for calculating annualized base rent per square foot.
b) The above occupancy and rent amounts do not include space that is currently leased, but for which payment of rent had not yet commenced as of December 31, 2022.
c) The amounts presented reflect the Operating Partnership's pro-rata shares of properties included within each region (Note 1).
d) New York Metro includes the tri-state and surrounding states.

Development and Redevelopment Activities

As part of our strategy, we invest in retail real estate assets that may require significant development. As of December 31, 2022, we had the following development or redevelopment projects in various stages of the development process (dollars in millions):

								Acquisition and Development Costs [a]				
Property	Ownership [a]	Location	Estimated Stabilization	Estimated Square Feet Upon Completion	Occupied /Leased Rate	Key Tenants	Description	Incurred [b]	Estimated Future Range		Estimated Total Range	
Development:												
CORE												
1238 Wisconsin	80.0 %	Washington DC	2023	29,000	12%/70%	Wolford, Everbody	Redevelopment/addition to existing building with ground level retail, upper floor office and residential units upon completion. Discretionary spend upon securing tenant(s)	$ 18.3	$ 14.4 to $ 15.2		$ 32.7 to $ 33.5	
Henderson - Development 1 & 2	100.0 %	Dallas, TX	TBD	160,000	— %	TBD	Ground up development for mixed-use street-level retail spaces and upper level office spaces.	10.5	TBD	to TBD	TBD to TBD	
FUND III												
Broad Hollow Commons	100.0 %	Farmingdale, NY	TBD	TBD	— %	TBD	Discretionary spend upon securing necessary approvals and tenant(s) for lease up	25.9	24.1	to 34.1	50.0 to 60.0	
FUND IV												
717 N. Michigan Avenue	100.0 %	Chicago, IL	TBD	TBD	14%/26%	Alo Yoga	Discretionary spend upon securing tenant(s) for lease up	116.6	TBD	to TBD	TBD	to TBD
								$ 171.3	$ 38.5	to $ 49.3	$ 82.7	to $ 93.5
Major Redevelopment:												
CORE												
City Center	100.0 %	San Francisco, CA	2024	241,000	75%/99%	Target, Whole Foods, PetSmart	Ground up development of pad sites and street level retail and re-tenanting/redevelopment for Whole Foods	$ 203.3	$ 6.7	to $ 9.7	$ 210.0	to $ 213.0
555 9th Street	100.0 %	San Francisco, CA	TBD	149,000	65%/81%	The Container Store	Re-tenanting and potential split of former 46,000 square foot Nordstrom; façade upgrade and possible vertical expansion	0.2	17.8	to 27.8	18.0	to 28.0
651-671 West Diversey	100.0 %	Chicago, IL	TBD	46,000	86%/86%	TBD	'Discretionary spend for future re-tenanting and re-configuration of approximately 30,000 sf.	—	TBD	to TBD	TBD	to TBD
Route 6 Mall	100.0 %	Honesdale, PA	TBD	TBD	32%/47%	TJ Maxx	Discretionary spend for re-tenanting former 120,000 square foot Kmart anchor space once tenant(s) are secured	0.1	5.9	to 8.9	6.0	to 9.0
Mad River	100.0 %	Dayton, OH	TBD	TBD	73%/73%	TBD	Discretionary spend for the re-tenanting former 33,000 square foot Babies R Us space once tenant(s) are secured	—	1.9	to 2.3	1.9	to 2.3
								$ 203.6	$ 32.3	to $ 48.7	$ 235.9	to $ 252.3

a) Ownership percentages and costs represent total Core Portfolio or Fund level ownership and not our pro rata share.
b) Incurred amounts include costs associated with the initial carrying value.

ITEM 3. LEGAL PROCEEDINGS.

From time to time, we are a party to various legal proceedings, claims or regulatory inquiries and investigations arising out of, or incident to, our ordinary course of business. While we are unable to predict with certainty the outcome of any particular matter, management does not currently expect, when any such matters are resolved, that our resulting exposure to loss contingencies, if any, will have a material adverse effect on our consolidated financial position.

ITEM 4. MINE SAFETY DISCLOSURES.

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.

Market Information, Dividends and Holders of Record of our Common Shares

At February 15, 2023, there were 251 holders of record of our Common Shares, which are traded on the New York Stock Exchange under the symbol "AKR." Our quarterly dividends are discussed in Note 10 and the characterization of such dividends for federal income tax purposes is discussed in Note 14.

Securities Authorized for Issuance Under Equity Compensation Plans

Our 2020 Share Incentive Plan (the "2020 Plan") which was approved by our shareholders at the 2020 annual shareholders' meeting, authorizes us to issue options, restricted shares, LTIP Units and other securities (collectively, the "Awards") to, among others, the Company's officers, trustees, and employees up to a total of 2,829,953 Common Shares (on a converted basis). See Note 13 for a discussion of the 2020 Plan.

The following table provides information related to the 2020 Plan as of December 31, 2022:

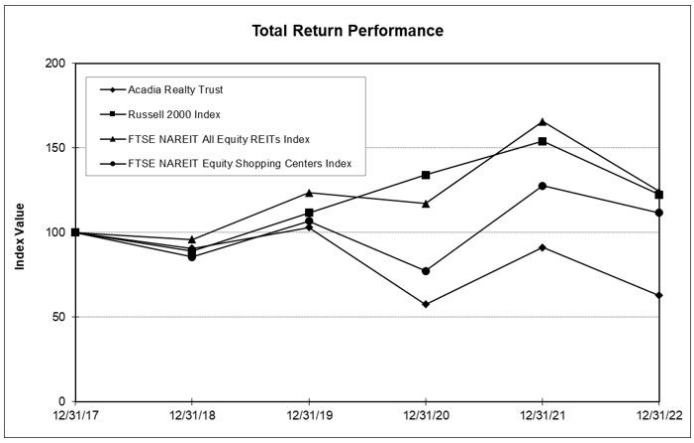
	Equity Compensation Plan Information		
	(a)	(b)	(c)
	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	—	$ —	1,540,116
Equity compensation plans not approved by security holders	—	—	—
Total	—	$ —	1,540,116

Remaining Common Shares available under the 2020 Plan are as follows:

Outstanding Common Shares as of December 31, 2022	95,120,773
Outstanding OP Units as of December 31, 2022	5,135,755
Total Outstanding Common Shares and OP Units	100,256,528
Common Shares and OP Units pursuant to the 2020 Plan	2,829,953
Less: Issuance of Restricted Shares and LTIP Units Granted	(1,289,837)
Number of Common Shares remaining available	1,540,116

Share Price Performance

The following graph compares the cumulative total shareholder return for our Common Shares for the period commencing December 31, 2017, through December 31, 2022, with the cumulative total return on the Russell 2000 Index ("Russell 2000"), the NAREIT All Equity REITs Index (the "All Equity") and the NAREIT Equity Shopping Centers Index (the "Equity Shopping Centers") (previously SNL REIT Shopping Center Index which was discontinued) over the same period. Total return values for the Russell 2000, the All Equity, the Equity Shopping Centers and the Common Shares were calculated based upon cumulative total return assuming the investment of $100.00 in each of the Russell 2000, the All Equity, the Equity Shopping Centers and our Common Shares on December 31, 2017, and assuming reinvestment of dividends. The shareholder return as set forth in the table below is not necessarily indicative of future performance. The information in this section is not "soliciting material," is not deemed "filed" with the SEC and is not to be incorporated by reference into any of our filings under the Securities Act or the Exchange Act, whether made before or after the date hereof and irrespective of any general incorporation language contained in such filing.



	At December 31,					
Index	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Acadia Realty Trust	$ 100.00	$ 90.60	$ 103.08	$ 57.63	$ 91.27	$ 62.81
Russell 2000 Index	100.00	88.99	111.70	134.00	153.85	122.41
NAREIT All Equity REITs Index	100.00	95.96	123.46	117.14	165.51	124.22
NAREIT Equity Shopping Centers Index	100.00	85.45	106.84	77.31	127.60	111.60

Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities

None.

Issuer Purchases of Equity Securities

The Company maintains a share repurchase program which authorizes management, at its discretion, to repurchase up to $200.0 million of its outstanding Common Shares. The program may be discontinued or extended at any time. The Company repurchased 1,219,065 shares for $22.4 million, inclusive of fees, during the year ended December 31, 2020. The Company did not repurchase any shares during the years ended December 31, 2022 or 2021. As of December 31, 2022, management may repurchase up to approximately $122.5 million of the Company's outstanding Common Shares under this program.

ITEM 6. [RESERVED]

Not applicable.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

OVERVIEW

As of December 31, 2022, there were 202 properties, which we own or have an ownership interest in, within our Core Portfolio and Funds. Our Core Portfolio consists of those properties either 100% owned, or partially owned through joint venture interests by the Operating Partnership, or subsidiaries thereof, not including those properties owned through our Funds. These properties primarily consist of street and urban retail, and suburban shopping centers. See Item 2. Properties for a summary of our wholly-owned and partially-owned retail properties and their physical occupancies at December 31, 2022.

The majority of our operating income is derived from rental revenues from operating properties, including expense recoveries from tenants, offset by operating and overhead expenses.

Our primary business objective is to acquire and manage commercial retail properties that will provide cash for distributions to shareholders while also creating the potential for capital appreciation to enhance investor returns. We focus on the following fundamentals to achieve this objective:

- Own and operate a Core Portfolio of high-quality retail properties located primarily in high-barrier-to-entry, densely populated metropolitan areas and create value through accretive development and re-tenanting activities coupled with the acquisition of high-quality assets that have the long-term potential to outperform the asset class as part of our Core asset recycling and acquisition initiative.
- Generate additional external growth through an opportunistic yet disciplined acquisition program within our Funds. We target transactions with high inherent opportunity for the creation of additional value through:
    - value-add investments in street retail properties, located in established and "next generation" submarkets, with re-tenanting or repositioning opportunities,
    - opportunistic acquisitions of well-located real-estate anchored by distressed retailers, and
    - other opportunistic acquisitions which may include high-yield acquisitions and purchases of distressed debt.
- Some of these investments historically have also included, and may in the future include, joint ventures with private equity investors for the purpose of making investments in operating retailers with significant embedded value in their real estate assets.
- Maintain a strong and flexible balance sheet through conservative financial practices while ensuring access to sufficient capital to fund future growth.

SIGNIFICANT DEVELOPMENTS DURING THE YEAR ENDED DECEMBER 31, 2022

Acquisitions

During the year ended December 31, 2022, we made four new consolidated investments in our Core Portfolio and Fund V acquired three unconsolidated properties totaling $425.0 million, inclusive of transaction costs, as described below (Note 2).

- On January 12, 2022, we acquired a retail condominium referred to as 121 Spring Street located in Soho, New York City, for $39.6 million, inclusive of transaction costs.
- On February 18, 2022, we invested $97.8 million in a group of properties referred to as the Williamsburg Collection located in Brooklyn, New York.
- On March 2, 2022, we acquired a single-tenant retail building referred to as 8833 Beverly Boulevard located in West Hollywood, California, for $24.1 million, inclusive of transaction costs.
- On March 21, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Wood Ridge Plaza located in Houston, Texas, for $49.3 million, inclusive of transaction costs.
- On March 30, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as La Frontera Village located in Round Rock, Texas, for $81.4 million, inclusive of transaction costs.

- On April 18, 2022, we acquired a group of properties referred to as the Henderson Portfolio located in Dallas, Texas for $85.2 million inclusive of transaction costs.

- On August 22, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Shoppes at South Hills located in Poughkeepsie, New York, for $47.6 million, inclusive of transaction costs.

On June 27, 2022, we made an $18.5 million investment in Fund II and Mervyns II increasing our ownership in each by 11.67% to 40.00%. Additionally, on August 1, 2022, we made an additional $5.8 million investment in Fund II and increased our ownership by 21.67% to 61.67% (Note 1). As the Company retained its controlling interest in Fund II and Mervyns II, we accounted for these additional investments as equity transactions.

In addition, and as discussed below, Fund III obtained the venture partner's interest in its 640 Broadway investment through a foreclosure proceeding and subsequently consolidated the property (Note 2, Note 4).

On January 27, 2023, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Mohawk Commons in Schenectady, New York, for $62.1 million, inclusive of transaction costs (Note 17).

Dispositions of Real Estate

During the year ended December 31, 2022, we disposed of one Core property and one Core land parcel, five consolidated Fund properties and one land parcel, and two unconsolidated investments, as follows:

- On January 26, 2022, Fund IV sold its consolidated Mayfair Shopping Center for $23.7 million, repaid the related mortgage of $11.3 million and recognized a gain of $7.1 million, of which the Company's proportionate share was $1.8 million (Note 2).

- On February 1, 2022, Fund V sold a land parcel at its consolidated New Town Center property for $2.2 million, and recognized a gain of $1.8 million, of which the Company’s proportionate share was $0.4 million. Fund V used a portion of the proceeds to repay $1.1 million of the property's mortgage (Note 2).

- On February 9, 2022, Fund III sold its consolidated Cortlandt Crossing property for $65.5 million and repaid the related debt of $34.5 million. Fund III recognized a gain of $13.3 million, of which the Company's proportionate share was $7.1 million (Note 2).

- On March 4, 2022, Fund IV sold its consolidated Dauphin Plaza property for $21.7 million and repaid the related debt of $12.0 million. Fund IV recognized a gain of $6.6 million, of which the Company's proportionate share was $1.7 million (Note 2).

- On March 9, 2022, we sold our interest in Self Storage Management, for $6.0 million and recognized a gain of $1.5 million (Note 4). We acquired Fund III's unconsolidated interest in Self Storage Management from the shareholders of Fund III earlier in the quarter.

- On May 25, 2022, Fund IV sold its consolidated Lincoln Place shopping center for $40.7 million, repaid the related debt of $22.7 million and recognized a gain of $12.2 million, of which the Company's proportionate share was $3.0 million (Note 2).

- On August 24, 2022, Fund IV sold its consolidated Wake Forest Crossing property for $38.9 million and repaid the related debt of $20.7 million. Fund IV recognized a gain of $8.9 million, of which the Company's proportionate share was $2.1 million (Note 2).

- On October 7, 2022, we sold a land parcel at our Henderson Avenue property for $3.0 million and recognized a loss of $0.2 million (Note 2).

- On October 13, 2022, Fund IV sold its unconsolidated Promenade at Manassas property for a total of $46.0 million and repaid the related debt of $27.3 million. Fund IV recognized a gain of $12.8 million, of which the Company's proportionate share was $3.0 million (Note 4).

- On December 13, 2022, we sold our 330-340 River Street properties for $26.4 million, repaid the related debt of $10.3 million and recognized a gain of $7.4 million (Note 2).

We recognized aggregate gains of $57.1 million on the sales of the above properties, excluding the gain recognized on the sale of our unconsolidated interest in Self Storage Management and Promenade at Manassas, during the year ended December 31, 2022, of which our share is $23.3 million.

In addition, during the third quarter of 2022, we entered into an agreement to sell a property for approximately $18.0 million. As this disposition is deemed probable within one year, this property has been classified as "held-for-sale" on the Company's consolidated balance sheet (Note 17).

Financing Activity

During the year ended December 31, 2022, we effected the following financing activities (Note 7):

- entered into a new $175.0 million term loan (the "$175.0 Million Term Loan") and an additional $75.0 million term loan facility (the "$75.0 Million Term Loan");
- entered into one new mortgage at Fund properties for $42.4 million and two new mortgages at unconsolidated properties (Note 4) totaling $87.8 million;
- modified and extended ten Fund mortgages of $280.6 million, one mortgage at an unconsolidated property of $24.4 million (Note 4), the Fund IV Bridge Loan which had an outstanding balance $42.2 million (excluding principal reduction of $8.6 million) prior to modification, and the Fund V subscription line which had an outstanding balance of $52.3 million prior to modification;
- repaid two Core Portfolio mortgages of $22.6 million, six Fund mortgages in an aggregate amount of $110.0 million, and one mortgage of $27.3 million at an unconsolidated property in connection with the sales of properties (Note 2, Note 4);
- refinanced a Core loan in the third quarter with an outstanding balance of $25.4 million;
- refinanced a Fund II mortgage and unsecured note collateralized by the real estate assets of City Point in the third quarter with an outstanding balance of $257.9 million and $40.0 million, respectively, with a single $198.0 million mortgage loan and initial proceeds of $132.3 million; and
- made principal payments of $7.5 million and repaid $17.0 million on the Fund IV bridge facility.

The Operating Partnership has a $700.0 million senior unsecured credit facility, as amended (the "Credit Facility"), with Bank of America, N.A. as administrative agent, comprised of a $300.0 million senior unsecured revolving credit facility (the "Revolver") which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating, and a $400.0 million senior unsecured term loan (the "Term Loan") which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating. Currently, the Revolver bears interest at SOFR + 1.50% and the Term Loan bears interest at SOFR + 1.65%. The Revolver matures on June 29, 2025, subject to two six-month extension options, and the Term Loan matures on June 29, 2026. The Credit Facility provides for an accordion feature, which allows for one or more increases in the revolving credit facility or term loan facility, for a maximum aggregate principal amount not to exceed $900.0 million. The Credit Facility is guaranteed by the Company and certain subsidiaries of the Company.

On April 6, 2022, the Operating Partnership entered into the $175.0 million term loan facility, with Bank of America, N.A. as administrative agent, which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating, and which matures on April 6, 2027. The proceeds of the $175.0 million term loan were used to pay down the Revolver. Currently the $175.0 million term loan bears interest at SOFR + 1.60%. The $175.0 million term loan is guaranteed by the Company and certain subsidiaries of the Company.

On July 29, 2022, the Operating Partnership entered into the $75.0 million term loan, with TD Bank, N.A. as administrative agent, which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating and which matures on July 29, 2029. Currently the $75.0 million term loan bears interest at SOFR + 2.05%. The proceeds of the $75.0 million term loan were used to pay down the Revolver. The $75.0 million term loan is guaranteed by the Company and certain subsidiaries of the Company.

Structured Financing Investments

During the year ended December 31, 2022, we:

- received full payment on a $16.0 million and a $13.5 million first mortgage loan, respectively (Note 3);
- extended one note receivable maturity date for one year (Note 3);

- originated a loan to other Fund II investors ("City Point Loan") of $65.9 million (Note 10). Fund V originated a temporary bridge loan of $52.0 million to an unconsolidated venture in the first quarter, which was repaid during the second quarter, and originated a temporary bridge loan of $31.7 million to an unconsolidated venture in the third quarter (Note 4);

- funded $7.5 million of a $12.8 million construction loan commitment to an unconsolidated venture (Note 4); and

- through an affiliate of Fund III foreclosed upon its $5.3 million note receivable, which had previously been in default. We have one Core Portfolio note receivable that remains in default (Note 3);

ATM Program Activity

We sold 5,525,419 Common Shares under our ATM Program during the year ended December 31, 2022 for gross proceeds of $123.9 million, or $119.5 million net of issuance costs, at a weighted-average gross price per share of $22.43 (Note 10).

Albertsons

On January 20, 2023, Mervyns II received cash dividends totaling $28.2 million related to the special dividend received from its investment in Albertsons Companies Inc. ("Albertsons") (Note 4). The special dividend was originally scheduled to be paid on November 7, 2022 and was delayed by a temporary restraining order which enjoined Albertsons from paying the special dividend. The Company's proportionate share of the special dividend was $11.3 million. The special dividend will be recognized in the first quarter of 2023 given the uncertainty that existed as of December 31, 2022, which was resolved following the lifting of the temporary restraining order by the Supreme Court of the State of Washington on January 17, 2023 (Note 17).

Fund II and City Point Refinancing

During the second and third quarter, we further increased our effective ownership in Fund II from 28.33% to 61.67% (Note 1). The purchase price of the combined 33.34% interest was $120.8 million, inclusive of $112.0 million of assumed obligations.

Additionally, in August 2022, through Fund II, we refinanced and de-levered City Point. The outstanding mortgage debt of $257.9 million and term loan of $40.0 million were refinanced with a single mortgage loan of $198.0 million, with initial proceeds of $132.2 million (Note 7). We provided a loan, through a separate lending subsidiary, to other Fund II investors in City Point, through a separate borrower subsidiary, to fund the investors' pro rata contribution necessary to complete the refinancing of the City Point debt, of which $65.9 million was funded at closing ("City Point Loan") (Note 3). In addition, the remaining partners have certain redemption rights that could enable us to further increase our ownership in Fund II (Note 10).

RESULTS OF OPERATIONS

See Note 12 in the Notes to Consolidated Financial Statements for an overview of our three reportable segments.

Comparison of Results for the Year Ended December 31, 2022 to the Year Ended December 31, 2021

The results of operations by reportable segment for the year ended December 31, 2022 compared to the year ended December 31, 2021 are summarized in the table below (in millions, totals may not add due to rounding):

	Year Ended December 31, 2022				Year Ended December 31, 2021				Increase (Decrease)			
	Core	Funds	SF	Total	Core	Funds	SF	Total	Core	Funds	SF	Total
Revenues	$ 202.5	$ 123.7	$ —	$ 326.3	$ 181.3	$ 111.2	$ —	$ 292.5	$ 21.2	$ 12.5	$ —	$ 33.8
Depreciation and amortization	(75.6)	(60.3)	—	(135.9)	(69.1)	(54.3)	—	(123.4)	6.5	6.0	—	12.5
Property operating expenses, other operating and real estate taxes	(60.3)	(41.6)	—	(101.9)	(57.0)	(41.9)	—	(98.9)	3.3	(0.3)	—	3.0
General and administrative expenses	—	—	—	(44.1)	—	—	—	(40.1)	—	—	—	4.0
Impairment charges	—	(33.3)	—	(33.3)	—	(9.9)	—	(9.9)	—	23.4	—	23.4
Gain on disposition of properties	7.2	49.9	—	57.2	4.6	5.9	—	10.5	2.6	44.0	—	46.7
Operating income	73.9	38.4	—	68.2	59.9	10.9	—	30.7	14.0	27.5	—	37.5
Interest income	—	—	14.6	14.6	—	—	9.1	9.1	—	—	5.5	5.5
Equity in (losses) earnings of unconsolidated affiliates	(45.9)	13.0	—	(32.9)	0.4	5.0	—	5.3	(46.3)	8.0	—	(38.2)
Interest expense	(37.9)	(42.3)	—	(80.2)	(29.5)	(38.6)	—	(68.0)	8.4	3.7	—	12.2
Realized and unrealized holding gains (losses) on investments and other	1.2	(35.6)	(0.6)	(35.0)	—	53.7	(4.5)	49.1	1.2	(89.3)	3.9	(84.1)
Income tax provision	—	—	—	—	—	—	—	(0.1)	—	—	—	0.1
Net (loss) income	(8.8)	(26.4)	14.0	(65.3)	30.8	30.9	4.5	26.0	(39.6)	(57.3)	9.5	(91.3)
Net loss attributable to redeemable noncontrolling interests	—	5.5	—	5.5	—	—	—	—	—	(5.5)	—	(5.5)
Net loss (income) attributable to noncontrolling interests	1.0	23.3	—	24.3	(2.3)	(0.2)	—	(2.5)	(3.3)	(23.5)	—	(26.8)
Net (loss) income attributable to Acadia	$ (7.8)	$ 2.4	$ 14.0	$ (35.4)	$ 28.5	$ 30.7	$ 4.5	$ 23.5	$ (36.3)	$ (28.3)	$ 9.5	$ (58.9)

Core Portfolio

The results of operations for our Core Portfolio segment are depicted in the table above under the headings labeled “Core.” Segment net income attributable to Acadia for our Core Portfolio decreased $36.3 million for the year ended December 31, 2022 compared to the prior year as a result of the changes further described below.

Revenues for our Core Portfolio increased $21.2 million for the year ended December 31, 2022 compared to the prior year primarily due to (i) $15.1 million from Core Portfolio property acquisitions in 2021 and 2022 (Note 2), (ii) $2.2 million from lease up within the Core Portfolio, (iii) $2.1 million collection of cash for a fully reserved tenant, (iv) $1.8 million from the write off of two tenant's below market leases, and (v) $0.9 million from the conversion of tenants from cash to accrual basis. These increases were offset by a $0.9 million credit loss benefit related to the collection of previously reserved tenants accounts in 2021.

Depreciation and amortization for our Core Portfolio increased $6.5 million for the year ended December 31, 2022 compared to the prior year primarily due to Core Portfolio acquisitions in 2021 and 2022.

Property operating expenses, other operating and real estate taxes for our Core Portfolio increased $3.3 million for the year ended December 31, 2022 compared to the prior year primarily due to Core Portfolio property acquisitions in 2021 and 2022.

The gain on disposition of properties for our Core Portfolio of $7.2 million for the year ended December 31, 2022 relates to the sale of 330-340 River Street of $7.4 million offset by a loss of $0.2 million for the sale of the Henderson Parcel. The gain on disposition of properties for our Core Portfolio of $4.6 million for the year ended December 31, 2021 relates to the sale of 60 Orange Street (Note 3).

Equity in (losses) earnings of unconsolidated affiliates for our Core Portfolio decreased $46.3 million for the year ended December 31, 2022 compared to the prior year primarily due to the Company's $50.8 million proportionate share of an impairment charge at 840 N. Michigan Avenue

(Note 4). This decrease was offset by (i) a $2.2 million decrease in credit loss reserves in 2022 at unconsolidated properties related to the COVID-19 Pandemic, and (ii) $1.3 million for the acceleration of a below market tenant lease at a property in 2022.

Interest expense for our Core Portfolio increased $8.4 million for the year ended December 31, 2022 compared to the prior year primarily due to $7.1 million from higher average outstanding borrowings in 2022, and by $1.3 million higher average interest rates in 2022.

Realized and unrealized holding gains (losses) on investments and other for our Core Portfolio includes $1.2 million related to the bargain purchase gain on the acquisition of the Williamsburg Collection (Note 2).

Net loss attributable to noncontrolling interests for our Core Portfolio decreased $3.3 million for the year ended December 31, 2022 compared to the prior year based on the noncontrolling interests' share of the variances discussed above.

Funds

The results of operations for our Funds segment are depicted in the table above under the headings labeled "Funds." Segment net income attributable to Acadia for the Funds decreased $28.3 million for the year ended December 31, 2022 compared to the prior year as a result of the changes described below.

Revenues for the Funds increased $12.5 million for the year ended December 31, 2022 compared to the prior year primarily due to (i) $13.7 million from consolidated Fund property acquisitions in 2021 (Note 2), (ii) $4.4 million related to the completion and rent commencement from development projects placed in service during 2021, (iii) $4.0 million from new tenant lease up, and (iv) a $3.0 million increase from the consolidation of a previously unconsolidated investment. These increases were offset by a $11.4 million decrease from consolidated Fund property dispositions in 2021 and 2022 and $1.0 million decrease due to reversals of credit loss reserves in 2021.

Depreciation and amortization for the Funds increased $6.0 million for the year ended December 31, 2022 compared to the prior year primarily due to Fund property acquisitions in 2021 (Note 2).

Impairment charges for the Funds increased $23.4 million for the year ended December 31, 2022 compared to the prior year (Note 8). Impairment charges totaling $33.3 million during 2022 relate to 146 Geary Street and 717 N. Michigan Avenue in Fund IV. Impairment charges totaling $9.9 million in 2021 related to 27 East 61st Street and 210 Bowery in Fund IV.

Gain on disposition of properties for the Funds increased $44.0 million for the year ended December 31, 2022 compared to the prior year due to the sales of Cortlandt Crossing at Fund III, Wake Forest Crossing, Lincoln Place, Mayfair and Dauphin at Fund IV, and a New Towne outparcel at Fund V in 2022 compared to the dispositions of 654 Broadway at Fund III, and the NE Grocer Portfolio and 110 University at Fund IV in 2021 (Note 2, Note 11).

Equity in (losses) earnings of unconsolidated affiliates for the Funds increased $8.0 million for the year ended December 31, 2022 compared to the prior year due to the $12.8 million gain on sale of Promenade at Manassas in 2022 offset by a $3.2 million gain on sale related to two land parcels at Riverdale Family Center in Fund V (Note 5) in 2021.

Interest expense for the Funds increased $3.7 million for the year ended December 31, 2022 compared to the prior year primarily due to $6.6 million from higher average rates in 2022, offset by $2.6 million from lower average outstanding borrowings in 2022.

Realized and unrealized holding gains (losses) on investments and other for the Funds decreased $89.3 million for the year ended December 31, 2022 compared to the prior year primarily due to a $38.9 million mark-to-market unrealized loss on the Investment in Albertsons offset by $ 1.5 million related to the Company's proportionate share of the gain on sale of Fund III's interest in Self Storage Management (Note 4) in 2022 compared to a $51.9 million mark-to-market unrealized gain on the Investment in Albertsons in 2021.

Net loss (income) attributable to redeemable noncontrolling interests for the Funds increased $5.5 million for the year ended December 31, 2022 compared to the prior year due to the City Point Loan in 2022 (Note 10).

Net loss attributable to noncontrolling interests for the Funds decreased $23.5 million for the year ended December 31, 2022 compared to the prior year based on the noncontrolling interests' share of the variances discussed above. Net loss attributable to noncontrolling interests in the Funds includes asset management fees earned by the Company of $9.5 million and $11.1 million for the years ended December 31, 2022 and 2021, respectively.

Structured Financing

The results of operations for our Structured Financing segment are depicted in the table above under the headings labeled "SF." Interest and other income for the Structured Financing portfolio increased $5.5 million for the year ended December 31, 2022 compared to the prior year period primarily due to new notes issued in 2021 and 2022 (Note 3). Realized and unrealized holding gains (losses) on investments and other for the Structured Financing Portfolio increased $3.9 million for the year ended December 31, 2022 compared to the prior year due to a decrease in the allowance for credit loss.

Unallocated

The Company does not allocate general and administrative expense and income taxes to its reportable segments. These unallocated amounts are depicted in the table above under the headings labeled "Total." Unallocated general and administrative expense increased $4.0 million for the year ended December 31, 2022 compared to the prior year due to $2.0 million related to acquisition costs (Note 2) and $2.0 million from an increase in salaries.

Discussions of 2020 items and comparisons between the year ended December 31, 2021 and 2020, respectively, that are not included in this Report can be found in "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 of the Company's Annual Report on Form 10-K for the year ended December 31, 2021.

NON-GAAP FINANCIAL MEASURES

Net Property Operating Income

The following discussion of net property operating income ("NOI") and rent spreads on new and renewal leases includes the activity from both our consolidated and our pro-rata share of unconsolidated properties within our Core Portfolio. Our Funds invest primarily in properties that typically require significant leasing and development. Given that the Funds are finite-life investment vehicles, these properties are sold following stabilization. For these reasons, we believe NOI and rent spreads are not meaningful measures for our Fund investments.

NOI represents property revenues less property expenses. We consider NOI and rent spreads on new and renewal leases for our Core Portfolio to be appropriate supplemental disclosures of Core Portfolio operating performance due to their widespread acceptance and use within the REIT investor and analyst communities. NOI and rent spreads on new and renewal leases are presented to assist investors in analyzing our property performance, however, our method of calculating these may be different from methods used by other REITs and, accordingly, may not be comparable to such other REITs.

A reconciliation of consolidated operating income to net operating income (loss) - Core Portfolio follows (in thousands):

	Year Ended December 31,		
	2022	**2021**	**2020**
Consolidated operating income (loss)	$ 68,230	$ 30,656	$ (115,062)
Add back:			
General and administrative	44,066	40,125	35,798
Depreciation and amortization	135,917	123,439	147,229
Impairment charges	33,311	9,925	85,598
Less:			
Above/below-market rent, straight-line rent and other adjustments [a]	(20,182)	(19,488)	13,581
Gain on disposition of properties	(57,161)	(10,521)	(683)
Consolidated NOI	204,181	174,136	166,461
Redeemable noncontrolling interest in consolidated NOI	(1,919)	—	—
Noncontrolling interest in consolidated NOI	(57,957)	(48,401)	(46,316)
Less: Operating Partnership's interest in Fund NOI included above	(15,310)	(12,337)	(11,518)
Add: Operating Partnership's share of unconsolidated joint ventures NOI [b]	14,965	13,811	15,659
NOI - Core Portfolio	$ 143,960	$ 127,209	$ 124,286

a) Includes straight-line rent reserves. See Note 1 for additional information about straight-line rent reserves and adjustments for the periods presented.
b) Does not include the Operating Partnership's share of NOI from unconsolidated joint ventures within the Funds.

Same-Property NOI includes Core Portfolio properties that we owned for both the current and prior periods presented, but excludes those properties which we acquired, sold or expected to sell, redeveloped and developed during these periods. The following table summarizes Same-Property NOI for our Core Portfolio (in thousands):

	Year Ended December 31,	
	2022	2021
Core Portfolio NOI	$ 143,960	$ 127,209
Less properties excluded from Same-Property NOI	(23,515)	(13,954)
Same-Property NOI	$ 120,445	$ 113,255
Percent change from prior year period	6.3%	
Components of Same-Property NOI:		
Same-Property Revenues	$ 170,575	$ 165,841
Same-Property Operating Expenses	(50,130)	(52,586)
Same-Property NOI	$ 120,445	$ 113,255

Rent Spreads on Core Portfolio New and Renewal Leases

The following table summarizes rent spreads on both a cash basis and straight-line basis for new and renewal leases based on leases executed within our Core Portfolio for the periods presented. Cash basis represents a comparison of rent most recently paid on the previous lease as compared to the initial rent paid on the new lease. Straight-line basis represents a comparison of rents as adjusted for contractual escalations, abated rent, and lease incentives for the same comparable leases. The table below includes embedded option renewals for which the renewed rent was equal to or approximated existing base rent.

	Year Ended December 31, 2022	
Core Portfolio New and Renewal Leases	**Cash Basis**	**Straight-Line Basis**
Number of new and renewal leases executed	76	76
GLA commencing	713,312	713,312
New base rent	$ 33.80	$ 34.85
Expiring base rent	$ 30.68	$ 30.09
Percent growth in base rent	10.2%	15.8%
Average cost per square foot [(a)]	$ 15.65	$ 15.65
Weighted average lease term (years)	5.4	5.4

a) The average cost per square foot includes tenant improvement costs, leasing commissions and tenant allowances.

Funds from Operations

We consider funds from operations ("FFO") as defined by the National Association of Real Estate Investment Trusts ("NAREIT") to be meaningful non-GAAP measure of operating performance for an equity REIT due to its widespread acceptance and use within the REIT and analyst communities. FFO is presented to assist investors in analyzing our performance. It is helpful as it excludes various items included in net income that are not indicative of the operating performance, such as gains (losses) from sales of depreciated property, depreciation and amortization, and impairment of real estate. Our method of calculating FFO may be different from methods used by other REITs and, accordingly, may not be comparable to such other REITs. FFO does not represent cash generated from operations as defined by generally accepted accounting principles ("GAAP") and is not indicative of cash available to fund all cash needs, including distributions. It should not be considered as an alternative to net income for the purpose of evaluating our performance or to cash flows as a measure of liquidity. Consistent with the NAREIT definition, we define FFO as net income (computed in accordance with GAAP), excluding gains (losses) from sales of depreciated property and impairment of depreciable real estate, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. Also consistent with NAREIT's definition of FFO, the Company has elected to include gains and losses incidental to its main business (including those related to its RCP investments such as Albertsons) in FFO. A reconciliation of net income attributable to Acadia to FFO follows (dollars in thousands, except per share amounts):

	Year Ended December 31,		
	2022	**2021**	**2020**
Net (loss) income attributable to Acadia	$ (35,445)	$ 23,548	$ (8,976)
Depreciation of real estate and amortization of leasing costs (net of noncontrolling interests' share)	104,910	93,388	106,220
Impairment charges (net of noncontrolling interests' share) [(a)]	58,481	2,294	17,323
Gain on disposition of properties (net of noncontrolling interests' share)	(22,137)	(4,163)	(291)
(Loss) Income attributable to Common OP Unit holders	(1,800)	1,584	(370)
Distributions - Preferred OP Units	492	492	495
Funds from operations attributable to Common Shareholders and Common OP Unit holders	$ 104,501	$ 117,143	$ 114,401
Less: Impact of City Point share conversion [(b)]	(906)	—	—
Funds from operations attributable to Common Shareholders and Common OP Unit holders - Diluted	$ 103,595	$ 117,143	$ 114,401
Funds From Operations per Share - Diluted			
Basic weighted-average shares outstanding, GAAP earnings	94,575,251	87,653,818	86,441,922
Weighted-average OP Units outstanding	6,299,222	5,115,319	4,993,267
Basic weighted-average shares and OP Units outstanding, FFO	100,874,473	92,769,137	91,435,189
Assumed conversion of Preferred OP Units to Common Shares	463,898	464,623	464,623
Assumed conversion of LTIP units and restricted share units to Common Shares	—	—	—
Diluted weighted-average number of Common Shares and Common OP Units outstanding, FFO	101,338,371	93,233,760	91,899,812
Diluted Funds from operations, per Common Share and Common OP Unit [(c)]	$ 1.02	$ 1.26	$ 1.24

a) Represents the Company's total share of impairment charges from consolidated assets (Note 8) and allocated impairment charges from investments in and advances to unconsolidated affiliates (Note 4).

b) The adjustment represents the impact of assumed conversion of dilutive convertible securities issued in connection with the City Point Loan in August 2022 that enabled the holder to convert its interest into the Company's Common Shares. The instrument was subsequently modified in the third quarter of 2022 to provide for a cash-only settlement option (Note 10).

c) Diluted Funds from operations, per Common Share and Common OP Unit decreased for the year ended December 31, 2022 as compared to the prior year primarily related to the mark-to-market adjustment on our investment in Albertsons.

LIQUIDITY AND CAPITAL RESOURCES

Uses of Liquidity and Cash Requirements

Generally, our principal uses of liquidity are (i) distributions to our shareholders and OP unit holders, (ii) investments which include the funding of our capital committed to the Funds and property acquisitions and development/re-tenanting activities within our Core Portfolio, (iii) distributions to our Fund investors, (iv) debt service and loan repayments and (v) share repurchases.

Distributions

In order to qualify as a REIT for federal income tax purposes, we must currently distribute at least 90% of our taxable income to our shareholders. During the year ended December 31, 2022, we paid dividends and distributions on our Common Shares, Common OP Units and Preferred OP Units totaling $68.3 million.

Investments

During the year ended December 31, 2022, we made four new consolidated investments in our Core Portfolio and Fund V acquired three unconsolidated properties totaling $425.0 million as described below (Note 2, Note 4):

- On January 12, 2022, we acquired a retail condominium referred to as 121 Spring Street located in Soho, New York City, for $39.6 million, inclusive of transaction costs.
- On February 18, 2022, we invested $97.8 million in a group of properties referred to as the Williamsburg Collection located in Brooklyn, New York.
- On March 2, 2022, we acquired a single-tenant retail building referred to as 8833 Beverly Boulevard located in West Hollywood, California, for $24.1 million, inclusive of transaction costs.
- On March 21, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Wood Ridge Plaza located in Houston, Texas, for $49.3 million, inclusive of transaction costs.
- On March 30, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as La Frontera Village located in Round Rock, Texas, for $81.4 million, inclusive of transaction costs.
- On April 18, 2022, we acquired a group of properties referred to as the Henderson Portfolio located in Dallas, Texas for $85.2 million inclusive of transaction costs.
- On August 22, 2022, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Shoppes at South Hills located in Poughkeepsie, New York, for $47.6 million, inclusive of transaction costs.

On June 27, 2022, we made an $18.5 million investment in Fund II and Mervyns II increasing our ownership in each by 11.67% to 40.00%. Additionally, on August 1, 2022, we made an additional $5.8 million investment in Fund II and increased our ownership by 21.67% to 61.67% (Note 1). As the Company retained its controlling interest in Fund II and Mervyns II, we accounted for these additional investments as equity transactions.

On January 27, 2023, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Mohawk Commons in Schenectady, New York, for $62.1 million, inclusive of transaction costs (Note 17).

Structured Financing Investments

On August 1, 2022, we originated the City Point Loan to other Fund II investors of $65.9 million (Note 3, Note 10). We funded $7.5 million of a $12.8 million construction loan commitment to an unconsolidated venture (Note 4). Fund V originated a temporary bridge loan of $31.7 million to an unconsolidated venture in the third quarter (Note 4).

Capital Commitments

During the year ended December 31, 2022, we made capital contributions aggregating $25.6 million to our Funds and $106.1 million to Fund II along with the City Point Loan to other Fund II investors (see Structured Financing Investments above) (Note 10). Additionally, we made an additional $24.3 million investment in Fund II and Mervyns II, increasing our ownership from 28.33% in each to 61.67% and 40.00%, respectively (Note 1).

At December 31, 2022, our share of the remaining capital commitments to our Funds aggregated $44.8 million as follows:

- $0.0 million to Fund II. During August 2020, a recallable distribution of $15.7 million was made by Mervyn's II to its investors, of which our share is $4.5 million. During 2021 and 2022, Mervyn's II recalled $11.9 million and $3.8 million, respectively, of the $15.7 million of which our share is $3.4 million and $1.2 million, respectively.

- $0.5 million to Fund III. Fund III was launched in May 2007 with total committed capital of $450.0 million of which our share was $89.6 million. During 2015, we acquired an additional interest, which had an original capital commitment of $20.9 million.

- $9.7 million to Fund IV. Fund IV was launched in May 2012 with total committed capital of $530.0 million of which our share was $122.5 million.

- $34.6 million to Fund V. Fund V was launched in August 2016 with total committed capital of $520.0 million of which our share is $104.5 million.

Development Activities

During the year ended December 31, 2022, capitalized costs associated with development activities totaled $4.9 million (Note 2). At December 31, 2022, we had a total of nine consolidated projects and one unconsolidated project under development or redevelopment, for which the estimated total cost to complete these projects through 2025 was $70.8 million to $98.0 million, and our estimated share was approximately $49.7 million to $69.2 million. Substantially all remaining development and redevelopment costs are discretionary, which could be affected by various risks and uncertainties, including, but not limited to, the effects of the current inflationary environment, rising interest rates, and other risks detailed in Part I, Item 1A. Risk Factors.

Debt

A summary of our consolidated debt, which includes the full amount of Fund related obligations and excludes our pro rata share of debt at our unconsolidated subsidiaries, is as follows (in thousands):

	December 31, 2022	December 31, 2021
Total Debt - Fixed and Effectively Fixed Rate	$ 1,440,773	$ 1,038,803
Total Debt - Variable Rate	364,641	780,935
	1,805,414	1,819,738
Net unamortized debt issuance costs	(12,697)	(7,946)
Unamortized premium	343	446
Total Indebtedness	$ 1,793,060	$ 1,812,238

As of December 31, 2022, our consolidated indebtedness aggregated $1,805.4 million, excluding unamortized premium of $0.3 million and unamortized loan costs of $12.7 million, and were collateralized by 31 properties and related tenant leases. Stated interest rates on our outstanding indebtedness ranged from 3.35% to LIBOR + 3.65% with maturities that ranged from January 2023 to April 2035, without regard to available extension options. Taking into consideration $1,264.0 million of notional principal under variable to fixed-rate swap agreements currently in effect, $1,440.8 million of the portfolio debt, or 79.8%, was fixed at a 5.19% weighted-average interest rate and $364.6 million, or 20.2% was floating at a 6.13% weighted average interest rate as of December 31, 2022. Our variable-rate debt includes $103.8 million of debt subject to interest rate caps.

Without regard to available extension options, at December 31, 2022 there is $333.0 million of debt maturing in 2023 at a weighted-average interest rate of 6.06%; there is $7.1 million of scheduled principal amortization due in 2023; and our share of scheduled 2023 principal payments and maturities on our unconsolidated debt was $47.2 million. In addition, $251.7 million of our total consolidated debt and $45.0 million of our

pro-rata share of unconsolidated debt will come due in 2024. As it relates to the aforementioned maturing debt in 2023 and 2024, we have options to extend consolidated debt aggregating $51.2 million and $0.0 million at December 31, 2022, respectively; however, there can be no assurance that we will be able to successfully execute any or all of its available extension options. As it relates to the remaining maturing debt in 2023 and 2024, we may not have sufficient cash on hand to repay such indebtedness, and, therefore, we expect to refinance at least a portion of this indebtedness or select other alternatives based on market conditions as these loans mature; however, there can be no assurance that we will be able to obtain financing at acceptable terms or at all. Our ability to obtain financing could be affected by various risks and uncertainties, including, but not limited to, the effects of the current inflationary environment, rising interest rates, and other risks detailed in Part I, Item 1A. Risk Factors

Share Repurchase Program

We maintain a share repurchase program under which $122.5 million remains available as of December 31, 2022 (Note 10). The Company did not repurchase any of its Common Shares under this program during the year ended December 31, 2022.

Sources of Liquidity

Our primary sources of capital for funding our short-term (less than 12 months) and long-term (12 months and longer) liquidity needs include (i) the issuance of both public equity and OP Units, (ii) the issuance of both secured and unsecured debt, (iii) unfunded capital commitments from noncontrolling interests within our Funds, (iv) future sales of existing properties, (v) repayments of structured financing investments, and (vi) cash on hand and future cash flow from operating activities. Our cash on hand in our consolidated subsidiaries at December 31, 2022 totaled $17.2 million. Our remaining sources of liquidity are described further below.

ATM Program

We have an ATM Program (Note 10) that provides us with an efficient and low-cost vehicle for raising capital through public equity issuances on an as-we-go basis to fund our capital needs. Through this program, we have been able to effectively “match-fund” the required capital for our Core Portfolio and Fund acquisitions through the issuance of Common Shares over extended periods employing a price averaging strategy. In addition, from time to time, we have issued and intend to continue to issue, equity in follow-on offerings separate from our ATM Program. Net proceeds raised through our ATM Program and follow-on offerings are primarily used for acquisitions, both for our Core Portfolio and our pro-rata share of Fund acquisitions, and for general corporate purposes. During the year ended December 31, 2022, we sold 5,525,419 shares under our ATM Program for gross proceeds of $123.9 million, or $119.5 million net of issuance costs, at a weighted-average gross price per share of $22.43.

Fund Capital

During the year ended December 31, 2022, Funds II and V called for capital contributions of $175.8 million and $121.7 million, respectively, of which our aggregate share was $131.7 million, inclusive of $106.1 million to Fund II along with the City Point Loan to other Fund II investors (see Structured Financing Investments above). At December 31, 2022, unfunded capital commitments from noncontrolling interests within our Funds II, III, IV and V were zero, $1.4 million, $32.2 million, and $137.5 million, respectively.

Asset Sales and Other Transactions

During the year ended December 31, 2022, we disposed of one Core property, five consolidated Fund properties, two land parcels and two unconsolidated investments as follows (Note 2):

- On January 26, 2022, Fund IV sold its consolidated Mayfair Shopping Center for $23.7 million, repaid the related mortgage of $11.3 million and recognized a gain of $7.1 million, of which the Company's proportionate share was $1.8 million (Note 2).
- On February 1, 2022, Fund V sold a land parcel at its consolidated New Towne Center property for $2.2 million, and recognized a gain of $1.8 million, of which the Company’s proportionate share was $0.4 million. Fund V used a portion of the proceeds to repay $1.1 million of the property's mortgage.
- On February 9, 2022, Fund III sold its consolidated Cortlandt Crossing property for $65.5 million and repaid the related debt of $34.5 million. Fund III recognized a gain of $13.3 million, of which the Company's proportionate share was $7.1 million.
- On March 4, 2022, Fund IV sold its consolidated Dauphin Plaza property for $21.7 million and repaid the related debt of $12.0 million. Fund IV recognized a gain of $6.6 million, of which the Company's proportionate share was $1.7 million.

- On March 9, 2022, we sold its interest in Self Storage Management, for $6.0 million and recognized a gain of $1.5 million (Note 4). We acquired Fund III's unconsolidated interest in Self Storage Management from the shareholders of Fund III earlier in the quarter.

- On May 25, 2022, Fund IV sold its consolidated Lincoln Place shopping center for $40.7 million, repaid the related debt of $22.7 million and recognized a gain of $12.2 million, of which the Company's proportionate share was $3.0 million.

- On August 24, 2022, Fund IV solids its consolidated Wake Forest Crossing property for $38.9 million and repaid the related debt of $20.7 million. Fund IV recognized a gain of $8.9 million, of which the Company's proportionate share was $2.1 million.

- On October 7, 2022, we sold a land parcel at our Henderson Avenue property for $3.0 million and recognized a loss of $0.2 million.

- On October 13, 2022, Fund IV sold its unconsolidated Promenade at Manassas property for a total of $46.0 million and repaid the related debt of $27.3 million. Fund IV recognized a gain of $12.8 million, of which the Company's proportionate share was $3.0 million (Note 4).

- On December 13, 2022, we sold our 330-340 River Street properties for $26.4 million, repaid the related debt of $10.3 million and recognized a gain of $7.4 million.

We recognized aggregate gains of $57.1 million on the sales of the above properties during the year ended December 31, 2022, excluding the gain recognized on the sale of our unconsolidated properties, of which our share was $23.3 million.

In January 2023, we recognized cash dividends totaling $28.2 million related to the special dividend received from Mervyns II investment in Albertsons, of which our share was $11.3 million (Note 17).

Structured Financing Repayments

During the year ended December 31, 2022, we received full payment on a $16.0 million and $13.5 million first mortgage loan, respectively (Note 3). In January 2022, through an affiliate of Fund III, foreclosed on one Structured Financing loan in the amount of $10.0 million including accrued interest (exclusive of default interest and other amounts due on the loan that have not been recognized), which had previously been in default. We also have one Structured Financing investment in the amount of $21.6 million including accrued interest (exclusive of default interest and other amounts due on the loan that have not been recognized), that previously matured and has not been repaid. Scheduled maturities of Structured Financing loans include $39.3 million maturing during 2023 (Note 3).

Financing and Debt

As of December 31, 2022, we had $173.5 million of additional capacity under existing consolidated Core and Fund revolving debt facilities. In addition, at that date within our Core and Fund portfolios, we had 94 unleveraged consolidated properties with an aggregate carrying value of approximately $1.8 billion, although there can be no assurance that we would be able to obtain financing for these properties at favorable terms, if at all.

Inflation and Economic Condition Considerations

In the past two years, microeconomic and macroeconomic conditions, including the fallout from the COVID-19 Pandemic, the war in Ukraine, supply-chain disruptions, and the recessionary outlook of the current financial markets, has increased volatility in the market and has caused a surge in already increasing inflation and interest rates. We believe we manage our properties in a cost-conscious manner to minimize recurring operational expenses and utilize multi-year contracts to alleviate the impact of inflation on our business and our tenants. Most of our leases require tenants to pay their share of operating expenses, including common area maintenance, real estate taxes and insurance, thereby reducing our exposure to increases in costs and operating expenses resulting from inflation. These provisions are designed to partially mitigate the impact of inflation; however, current inflation levels are much greater than the contractual rent increases we obtain from our tenant base. The rate hikes enacted by the Federal Reserve have had a significant impact on interest rate indexes such as LIBOR, SOFR and the Prime Rate. As of December 31, 2022, approximately 79.8% of our outstanding debt is fixed or effectively fixed interest rate with the remaining 20.2% indexed to LIBOR, SOFR or Prime plus an applicable margin per the loan agreement. As of December 31, 2022, we were counterparty to 36 interest rate swap agreements and three interest rate cap agreements, all of which qualify for and are designated as hedging instruments, which helps to alleviate the impact of rising interest rates on our operations. While we have not experienced any material negative impacts at this time, we are actively managing our business to respond to the ongoing economic and social impact from such events. See Item 1A Risk Factors.

HISTORICAL CASH FLOW

Year Ended December 31, 2022 Compared to Year Ended December 31, 2021

The following table compares the historical cash flow for the year ended December 31, 2022 with the cash flow for the year ended December 31, 2021 (in millions, totals may not add due to rounding):

	Year Ended December 31,		
	2022	**2021**	**Variance**
Net cash provided by operating activities	$ 133.2	$ 105.0	$ 28.2
Net cash used in investing activities	(124.2)	(198.5)	74.3
Net cash (used in) provided by financing activities	(4.4)	91.3	(95.7)
Increase (decrease) in cash and restricted cash	$ 4.7	$ (2.2)	$ 6.9

Operating Activities

Our operating activities provided $28.2 million more cash during the year ended December 31, 2022 as compared to the year ended December 31, 2021, primarily due to Core and Fund property acquisitions and an increase in cash receipts from tenants.

Investing Activities

During the year ended December 31, 2022 as compared to the year ended December 31, 2021, our investing activities used $74.3 million less cash, primarily due to (i) $160.7 million more cash received from the disposition of properties, (ii) $60.1 million more cash received from return of capital from unconsolidated affiliates and other, (iii) $57.9 million less cash used in the issuance of notes receivable, and (iv) $29.5 million more cash received from proceeds from notes receivable. These sources of cash were primarily offset by (i)$139.9 million more cash used for investments in and advances to unconsolidated affiliate, (ii) $81.5 million more cash used to acquire properties in 2022, and (iii) $10.4 million more cash used for development, construction and property improvement costs.

Financing Activities

Our financing activities used $95.7 million more cash during the year ended December 31, 2022 as compared to the year ended December 31, 2021, primarily from (i) $125.0 million more cash used by net borrowings, (ii) $78.6 million more cash used for the acquisition of and distributions to noncontrolling interests, and (iii) $25.1 million more cash used in dividends paid to common shareholders. These uses of cash were partially offset by (i) $79.3 million more cash provided by contributions from noncontrolling interests and (ii) $55.6 million more cash provided by the sale of Common Shares.

OFF-BALANCE SHEET ARRANGEMENTS

We have the following investments made through joint ventures (that may include, among others, tenancy-in common and other similar investments) for the purpose of investing in operating properties. We account for these investments using the equity method of accounting. As such, our financial statements reflect our investment and our share of income and loss from, but not the individual assets and liabilities, of these joint ventures.

See Note 4 in the Notes to Consolidated Financial Statements, for a discussion of our unconsolidated investments. The Operating Partnership's pro-rata share of unconsolidated non-recourse debt related to those investments is as follows (dollars in millions):

	Operating Partnership		December 31, 2022	
Investment	**Ownership Percentage**	**Pro-rata Share of Mortgage Debt**	**Effective Interest Rate [a]**	**Maturity Date**
Eden Square	22.8 %	$ 5.1	6.41 %	Mar 2023
Gotham Plaza	49.0 %	8.7	5.09 %	Jun 2023
Renaissance Portfolio	20.0 %	32.0	3.81 %	Aug 2023
3104 M Street	20.0 %	0.8	7.50 %	Jan 2024
Crossroads	49.0 %	29.8	3.94 %	Oct 2024
Tri-City Plaza [c]	18.1 %	7.0	3.01 %	Oct 2024
Frederick Crossing [c]	18.1 %	4.4	3.26 %	Dec 2024
Paramus Plaza [b]	11.6 %	3.3	6.43 %	Dec 2024
Frederick County Square [c]	18.1 %	4.1	4.00 %	Jan 2025
840 N. Michigan Avenue	88.4 %	65.0	4.36 %	Feb 2025
Wood Ridge Plaza [b]	18.1 %	5.9	7.63 %	Mar 2025
650 Bald Hill Road	20.8 %	3.3	3.75 %	Jun 2026
La Frontera	18.1 %	10.0	6.68 %	Jun 2027
Family Center at Riverdale [b]	18.0 %	6.1	5.99 %	Nov 2027
Georgetown Portfolio	50.0 %	7.5	4.72 %	Dec 2027
Total		$ 193.0		

a) Effective interest rates incorporate the effect of interest rate swaps and caps that were in effect at December 31, 2022, where applicable.
b) The debt has two available 12-month extension options.
c) The debt has one available 12-month extension option.

CRITICAL ACCOUNTING ESTIMATES

Management's discussion and analysis of financial condition and results of operations is based upon our Consolidated Financial Statements, which have been prepared in accordance with GAAP. The preparation of these Consolidated Financial Statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, and expenses. We base our estimates on historical experience and assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. We believe the following critical accounting policies affect the significant judgments and estimates used by us in the preparation of our Consolidated Financial Statements.

Impairment of Properties and Investments in and Advances to Unconsolidated Affiliates

On a periodic basis, we assess whether there are any indicators that the value of real estate assets, including undeveloped land and construction in progress, may be impaired. A property's value is impaired only if the estimate of the aggregate future cash flows (undiscounted and without interest charges) to be generated by the property are less than the carrying value of the property. The determination of undiscounted cash flows requires significant estimates by management. In management's estimate of cash flows, it considers factors such as expected future sale of an asset or development alternatives, capitalization rates and the undiscounted future cash flows analysis, which is probability-weighted based upon management's best estimate of the likelihood of the alternative courses of action. Expected future cash flows and recoverability conclusions could be materially impacted by changes in items such as future leasing activity, occupancy, property operating costs, market pricing, our view or strategy relative to a tenant's business or industry, the manner in which a property is used and the expected hold period of an asset. Subsequent changes in estimated undiscounted cash flows arising from changes in anticipated actions could affect the determination of whether an impairment exists and whether the effects could have a material impact on the Company's net income. To the extent an impairment has occurred, the loss will be measured as the excess of the carrying amount of the property over the fair value of the property.

The Company is required to make subjective assessments as to whether there are impairments in the value of its real estate properties and other investments. These assessments have a direct impact on the Company's estimates of the projected future cash flows, anticipated holding periods or market conditions change, its evaluation of the impairment charges may be different, and such differences could be material to the Company's consolidated financial statements. Plans to hold properties over longer periods decrease the likelihood of recording impairment losses.

We periodically review our investment in unconsolidated joint ventures and other cost-method investments for other-than-temporary declines in market value. An impairment charge is recorded for a decline that is considered to be other-than-temporary as a reduction in the carrying value of the investment.

During 2022 and 2021, the Company recognized impairment charges on properties of $33.3 million and $9.9 million, respectively. See Note 8 for a discussion of impairments recognized during the periods presented.

Additionally, during 2022, the Company impaired its unconsolidated investment in 840 N. Michigan Avenue resulting in a charge of $50.8 million. See Note 4 for a discussion of impairments recognized during the periods presented.

Bad Debts

We assess the collectability of our accounts receivable related to tenant revenues under ASC *Topic 842 "Leases"* ("ASC 842"). Management exercises judgment in assessing collectability and considers customer credit worthiness, assessment of risk associated with the tenant, and current economic trends, among other factors. In addition to the lease-specific collectability assessment performed under ASC 842, the Company may also recognize a general reserve based on the Company's historical collection experience, as provided under ASC 450-20, as a reduction to Lease income for its portfolio of operating lease receivables which are not expected to be fully collectible. Billed tenant receivables, and receivables arising from the straight-lining of rents, are reserved when management deems the collectability of substantially all future lease payments from a specific lease is not probable, at which point, the Company will begin recognizing revenue from such leases prospectively on a cash basis, based on actual amounts received. If the Company subsequently determines that it is probable it will collect substantially all of the lessee's remaining lease payments under the lease term, the Company will reinstate the receivables balance, including those arising from the straight-lining of rents, adjusting for the amount related to the period when the lease was accounted for on a cash basis.

Rents receivable at December 31, 2022 and 2021 are shown net of an allowance for doubtful accounts of $32.1 million and $38.5 million, respectively (Note 11). Rental income for the years ended December 31, 2022, 2021 and 2020 are reported net of adjustments to allowances for doubtful accounts of $(0.4) million, $(0.1) million, and $46.4 million, respectively.

Real Estate

Real estate assets are stated at cost less accumulated depreciation. Expenditures for acquisition, development, construction and improvement of properties, as well as significant renovations are capitalized. Interest costs are capitalized until construction is substantially complete. Construction in progress includes costs for significant property expansion and development. Depreciation is computed on the straight-line basis over estimated useful lives of 40 years for buildings, the shorter of the useful life or lease term for tenant improvements and five years for furniture, fixtures, and equipment. Expenditures for maintenance and repairs are charged to operations as incurred.

Upon acquisitions of real estate, we assess the fair value of acquired assets (including land, buildings and improvements, and identified intangibles such as above and below-market leases and acquired in-place leases) and acquired liabilities in accordance with the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") *Topic 805 "Business Combinations"* and ASC *Topic 350 "Intangibles – Goodwill and Other,"* and allocate purchase price based on their relative fair values. When acquisitions of properties do not meet the criteria for business combinations, as is the case for the majority of the Company's acquisitions, no goodwill is recorded, and acquisition costs are capitalized. We assess fair value based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends, and market/economic conditions that may affect the property.

Revenue Recognition and Accounts Receivable

Leases with tenants are accounted for as operating leases. Minimum rents are recognized on a straight-line basis over the non-cancelable term of the respective leases. Certain of these leases also provide for percentage rents based upon the level of sales achieved by the tenant. Percentage rent is recognized in the period when the tenants' sales breakpoint is met. In addition, leases typically provide for the reimbursement to us of real estate taxes, insurance, and other property operating expenses. These reimbursements are recognized as revenue in the period the expenses are incurred.

We assess the collectability of our accounts receivable related to tenant revenues as described under the heading "Bad Debts" above.

Structured Financings

Real estate notes receivable investments and preferred equity investments ("Structured Financings") are intended to be held to maturity and are carried at cost less an allowance for credit loss. Interest income from Structured Financings is recognized on the effective interest method over the expected life of the loan. Under the effective interest method, interest or fees to be collected at the origination of the Structured Financing investment is recognized over the term of the loan as an adjustment to yield. Changes in cash flows from previous estimates are included in future interest income on a prospective basis and a new effective interest rate is computed based on the current cost basis of the instrument and remaining cash flows.

Allowances for credit loss related to our Structured Financing investments are established based upon management's quarterly review of the investments. In performing this review, management considers the estimated net recoverable value of the investment as well as other factors, including the fair value of any collateral, the amount and status of any senior debt, and the prospects for the borrower. Because this determination is based upon projections of future economic events, which are inherently subjective, the amounts ultimately realized from the Structured Financings may differ materially from the carrying value at the balance sheet date. Interest income recognition is generally suspended for investments when, in the opinion of management, a full recovery of income and principal becomes doubtful. Income recognition is resumed when the suspended investment becomes contractually current, and performance is demonstrated to be resumed.

Notes receivable at December 31, 2022 and 2021 are reported net of an allowance for credit loss of $0.9 million and $5.8 million, respectively (Note 3).

Recently Issued Accounting Pronouncements

Reference is made to Note 1 for information about recently issued and recently adopted accounting pronouncements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Information as of December 31, 2022

Our primary market risk exposure is to changes in interest rates related to our mortgage and other debt. See Note 7 in the Notes to Consolidated Financial Statements, for certain quantitative details related to our mortgage and other debt.

Currently, we manage our exposure to fluctuations in interest rates primarily through the use of fixed-rate debt and interest rate swap and cap agreements. As of December 31, 2022, we had total mortgage and other notes payable of $1,805.4 million, excluding the unamortized premium of $0.3 million and unamortized debt issuance costs of $12.7 million, of which $1,440.8 million, or 79.8% was fixed-rate, inclusive of debt with rates fixed through the use of derivative financial instruments, and $364.6 million, or 20.2%, was variable-rate based upon LIBOR rates plus certain spreads. As of December 31, 2022, we were party to 36 interest rate swap and three interest rate cap agreements to hedge our exposure to changes in interest rates with respect to $1,264.0 million and $103.8 million of LIBOR or SOFR-based variable-rate debt, respectively. For a discussion of the risks associated with the discontinuation of LIBOR, see Item 1A. Risk Factors—Risks Related to Our Liquidity and Indebtedness — If we decided to employ higher leverage levels, we would be subject to increased debt service requirements and a higher risk of default on our debt obligations, which could adversely affect our financial conditions, cash flows and ability to make distributions to our shareholders. In addition, increases or changes in interest rates could cause our borrowing costs to rise and may limit our ability to refinance debt.

The following table sets forth information as of December 31, 2022 concerning our long-term debt obligations, including principal cash flows by scheduled maturity and weighted average interest rates of maturing amounts (dollars in millions):

Core Consolidated Mortgage and Other Debt

Year	Scheduled Amortization	Maturities	Total	Weighted-Average Interest Rate
2023	$ 2.1	$ —	$ 2.1	—%
2024	1.7	7.3	9.0	4.7%
2025	2.1	228.3	230.4	4.1%
2026	2.4	400.0	402.4	4.1%
2027	2.2	200.1	202.3	4.0%
Thereafter	4.3	161.6	165.9	4.4%
	$ 14.8	$ 997.3	$ 1,012.1	

Fund Consolidated Mortgage and Other Debt

Year	Scheduled Amortization	Maturities	Total	Weighted-Average Interest Rate
2023	$ 5.0	$ 333.0	$ 338.0	6.1%
2024	2.6	240.0	242.6	3.6%
2025	0.2	178.4	178.6	6.1%
2026	0.1	34.0	34.1	6.8%
2027	—	—	—	—%
Thereafter	—	—	—	—%
	$ 7.9	$ 785.4	$ 793.3	

Mortgage Debt in Unconsolidated Partnerships (at our Pro-Rata Share)

Year	Scheduled Amortization	Maturities	Total	Weighted-Average Interest Rate
2023	$ 1.5	$ 45.7	$ 47.2	4.3%
2024	1.3	43.7	45.0	4.0%
2025	0.5	74.6	75.1	4.6%
2026	0.4	3.0	3.4	3.8%
2027	0.3	22.0	22.3	5.9%
Thereafter	—	—	—	—%
	$ 4.0	$ 189.0	$ 193.0	

Without regard to available extension options, in 2023, $340.1 million of our total consolidated debt and $47.2 million of our pro-rata share of unconsolidated outstanding debt will become due. In addition, $251.7 million of our total consolidated debt and $45.0 million of our pro-rata share of unconsolidated debt will become due in 2024. As it relates to the maturing debt in 2023 and 2024, we have options to extend consolidated debt aggregating $51.2 million and $0.0 million, respectively; however, there can be no assurance that the Company will be able to successfully execute any or all of its available extension options. As we intend on refinancing some or all of such debt at the then-existing market interest rates, which may be greater than the current interest rate, our interest expense would increase by approximately $6.8 million annually if the interest rate on the refinanced debt increased by 100 basis points. After giving effect to noncontrolling interests, our share of this increase would be $1.3 million. Interest expense on our variable-rate debt of $364.6 million, net of variable to fixed-rate swap agreements currently in effect, as of December 31, 2022, would increase $3.6 million if interest rates increased by 100 basis points. After giving effect to noncontrolling interests, our share of this increase would be $1.2 million. We may seek additional variable-rate financing if and when pricing and other commercial and financial terms warrant. As such, we would consider hedging against the interest rate risk related to such additional variable-rate debt through interest rate swaps and protection agreements, or other means.

Based on our outstanding debt balances as of December 31, 2022, the fair value of our total consolidated outstanding debt would decrease by approximately $5.4 million if interest rates increase by 1%. Conversely, if interest rates decrease by 1%, the fair value of our total outstanding debt would increase by approximately $6.5 million.

As of December 31, 2022, and 2021, we had consolidated notes receivable of $123.9 million and $153.9 million, respectively. We determined the estimated fair value of our notes receivable by discounting future cash receipts utilizing a discount rate equivalent to the rate at which similar notes receivable would be originated under conditions then existing.

Based on our outstanding notes receivable balances as of December 31, 2022, the fair value of our total outstanding notes receivable would decrease by approximately $0.4 million if interest rates increase by 1%. Conversely, if interest rates decrease by 1%, the fair value of our total outstanding notes receivable would increase by approximately $2.6 million.

Summarized Information as of December 31, 2021

As of December 31, 2021, we had total mortgage and other notes payable of $1,819.7 million, excluding the unamortized premium of $0.4 million and unamortized debt issuance costs of $7.9 million, of which $1,038.8 million, or 57.1% was fixed-rate, inclusive of debt with rates fixed through the use of derivative financial instruments, and $780.9 million, or 42.9%, was variable-rate based upon LIBOR, SOFR or Prime rates plus certain spreads. As of December 31, 2021, we were party to 28 interest rate swap and three interest rate cap agreements to hedge our exposure to changes in interest rates with respect to $860.4 million and $110.5 million of variable-rate debt, respectively.

Interest expense on our variable-rate debt of $780.9 million as of December 31, 2021, would have increased $7.8 million if corresponding rate indices increased by 100 basis points. Based on our outstanding debt balances as of December 31, 2021, the fair value of our total outstanding debt would have decreased by approximately $8.4 million if interest rates increased by 1%. Conversely, if interest rates decreased by 1%, the fair value of our total outstanding debt would have increased by approximately $16.0 million.

Changes in Market Risk Exposures from December 31, 2021 to December 31, 2022

Our interest rate risk exposure from December 31, 2021, to December 31, 2022, has decreased on an absolute basis, as the $780.9 million of variable-rate debt as of December 31, 2021, has decreased to $364.6 million as of December 31, 2022. As a percentage of our overall debt, our interest rate risk exposure has decreased as our variable-rate debt accounted for 42.9% of our consolidated debt as of December 31, 2021 compared to 20.2% as of December 31, 2022.

ITEM 8. FINANCIAL STATEMENTS.

ACADIA REALTY TRUST AND SUBSIDIARIES

INDEX TO FINANCIAL STATEMENTS

	Page
Financial Statements:	
Report of Independent Registered Public Accounting Firm (BDO USA, LLP; New York, New York, PCAOB ID #243)	63
Consolidated Balance Sheets as of December 31, 2022 and 2021	65
Consolidated Statements of Operations for the years ended December 31, 2022, 2021 and 2020	66
Consolidated Statements of Comprehensive Income (Loss) for the years ended December 31, 2022, 2021 and 2020	67
Consolidated Statements of Changes in Shareholders' Equity for the years ended December 31, 2022, 2021 and 2020	68
Consolidated Statements of Cash Flows for the years ended December 31, 2022, 2021 and 2020	70
Notes to Consolidated Financial Statements	72
Financial Statement Schedules:	
Schedule II – Valuation and Qualifying Accounts	118
Schedule III – Real Estate and Accumulated Depreciation	119
Schedule IV – Mortgage Loans on Real Estate	124

Report of Independent Registered Public Accounting Firm

Shareholders and Board of Trustees
Acadia Realty Trust
Rye, New York

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Acadia Realty Trust (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, comprehensive income (loss), changes in shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2022, and the related notes and financial statement schedules listed in the accompanying index (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2022**,** in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") and our report dated March 1, 2023 expressed an unqualified opinion thereon.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.
Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of a critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Assessment of Impairment of Real Estate and Real Estate Related Investments

As described in Notes 2, 4 and 6 to the consolidated financial statements, as of December 31, 2022, the Company's net investment in real estate was $3.5 billion, the net carrying value of intangible lease assets was $0.1 billion, and the carrying value of investments in and advances to unconsolidated affiliates was $0.3 billion. The Company tests the recoverability of the real estate and intangible lease assets held by the Company and its unconsolidated affiliates, whenever events or changes in circumstances indicate that amounts may not be recoverable. The Company identified impairment indicators, which resulted in the Company recording impairment charges of $33.3 million in 2022 related to its consolidated real estate investments and $50.8 million, representing the Company's share of real estate impairment related to its unconsolidated affiliate.

We identified the assessment of impairment of the real estate and intangible lease assets held by the Company and its unconsolidated affiliates as a critical audit matter due to the complexity of management's judgments relating to: (i) the assessment of impairment indicators for the real estate and intangible lease assets held by the Company and its unconsolidated affiliates, including long-term vacancy, recurring negative cash flows and tenant bankruptcies, (ii) the assessment of assumptions used in the expected future undiscounted cash flows for certain properties, and (iii) the assessment of assumptions used in the measurement of impairment of certain properties, including discount rates, market rents and capitalization rates, given the inherent uncertainties that exist related to the Company's forecasts and how various economic and other factors could affect the Company's forecasted future cash flows. Auditing management's assumptions relating to its assessment of potential impairment indicators, market rents and capitalization rates used in the cash flow projections, and the discount rates used in the measurement of impairment, involved especially challenging auditor judgment due to the nature and extent of audit effort required to address these matters, including the extent of specialized skill or knowledge required.

The primary procedures we performed to address this critical audit matter included:

- Evaluating management's assessment of potential impairment indicators which could result in impairment, including long-term vacancy, recurring negative cash flows and tenant bankruptcies.
- Evaluating management's assumptions, including discount rates, market rents and capitalization rates used in cash flow models for certain properties.
- Utilizing professionals with specialized skills and knowledge to assist in evaluating the reasonableness of the assumptions used by management, including discount rates, market rents and capitalization rates for certain properties, for which impairment indicators have been identified.

/s/ BDO USA, LLP

We have served as the Company's auditor since 2005.

New York, New York
March 1, 2023

ACADIA REALTY TRUST AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(dollars in thousands, except per share amounts)	December 31, 2022	December 31, 2021
ASSETS		
Investments in real estate, at cost		
Operating real estate, net	$ 3,343,265	$ 3,219,373
Real estate under development	184,602	203,773
Net investments in real estate	3,527,867	3,423,146
Notes receivable, net	123,903	153,886
Investments in and advances to unconsolidated affiliates	291,156	322,326
Other assets, net	229,591	186,509
Right-of-use assets - operating leases, net	37,281	40,743
Cash and cash equivalents	17,158	17,746
Restricted cash	15,063	9,813
Rents receivable, net	49,506	43,625
Assets of properties held for sale	11,057	63,952
Total assets [(a)]	$ 4,302,582	$ 4,261,746
LIABILITIES		
Mortgage and other notes payable, net	$ 928,639	$ 1,140,293
Unsecured notes payable, net	696,134	559,040
Unsecured line of credit	168,287	112,905
Accounts payable and other liabilities	196,491	236,415
Lease liability - operating leases, net	35,271	38,759
Dividends and distributions payable	18,395	14,460
Distributions in excess of income from, and investments in, unconsolidated affiliates	10,505	9,939
Total liabilities [(a)]	2,053,722	2,111,811
Commitments and contingencies		
Redeemable noncontrolling interests	67,664	—
EQUITY		
Acadia Shareholders' Equity		
Common shares, $0.001 par value per share, authorized 200,000,000 shares, issued and outstanding 95,120,773 and 89,303,545 shares, respectively	95	89
Additional paid-in capital	1,945,322	1,754,383
Accumulated other comprehensive income (loss)	46,817	(36,214)
Distributions in excess of accumulated earnings	(300,402)	(196,645)
Total Acadia shareholders' equity	1,691,832	1,521,613
Noncontrolling interests	489,364	628,322
Total equity	2,181,196	2,149,935
Total liabilities, equity and redeemable noncontrolling interests	$ 4,302,582	$ 4,261,746

(a) Represents the consolidated assets and liabilities of Acadia Realty Limited Partnership (the "Operating Partnership"), which is a consolidated variable interest entity ("VIE") (Note 16). The consolidated balance sheets include the following amounts related to our consolidated VIEs that are consolidated by the Operating Partnership: $1,466.4 million and $1,482.6 million of Operating real estate, net; $129.9 million and $161.5 million of Real estate under development; $- and $0.7 million of Notes receivable, net; $210.9 million and $200.8 million of Investments in and advances to unconsolidated affiliates; $98.7 million and $94.3 million of Other assets, net; $2.5 million and $2.9 million of Right-of-use assets - operating leases, net; $13.3 million and $9.8 million of Cash and cash equivalents; $15.0 million and $9.8 million of Restricted cash; $17.9 million and $16.1 million of Rents receivable, net; $761.2 million and $948.0 million of Mortgage and other notes payable, net; $51.2 million and $162.8 million of Unsecured notes payable, net; $95.4 million and $96.2 million of Accounts payable and other liabilities; $2.7 million and $3.1 million of Lease liability- operating leases, net as of December 31, 2022 and 2021, respectively.

The accompanying notes are an integral part of these consolidated financial statements

ACADIA REALTY TRUST AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands except per share amounts)	Year Ended December 31, 2022	2021	2020
Revenues			
Rental income	$ 317,814	$ 285,898	$ 246,432
Other	8,476	6,599	4,476
Total revenues	326,290	292,497	250,908
Operating expenses			
Depreciation and amortization	135,917	123,439	147,229
General and administrative	44,066	40,125	35,798
Real estate taxes	44,932	45,357	42,477
Property operating	56,995	53,516	55,551
Impairment charges	33,311	9,925	85,598
Total operating expenses	315,221	272,362	366,653
Gain on disposition of properties	57,161	10,521	683
Operating Income (loss)	68,230	30,656	(115,062)
Equity in (losses) earnings of unconsolidated affiliates	(32,907)	5,330	(3,057)
Interest income	14,641	9,065	8,979
Realized and unrealized holding (losses) gains on investments and other	(34,994)	49,120	113,362
Interest expense	(80,209)	(68,048)	(69,671)
(Loss) income from continuing operations before income taxes	(65,239)	26,123	(65,449)
Income tax provision	(12)	(93)	(269)
Net (loss) income	(65,251)	26,030	(65,718)
Net loss attributable to redeemable noncontrolling interests	5,536	—	—
Net loss (income) attributable to noncontrolling interests	24,270	(2,482)	56,742
Net (loss) income attributable to Acadia	$ (35,445)	$ 23,548	$ (8,976)
Basic (loss) earnings per share	$ (0.38)	$ 0.26	$ (0.11)
Diluted (loss) earnings per share	$ (0.40)	$ 0.26	$ (0.11)

The accompanying notes are an integral part of these consolidated financial statements

ACADIA REALTY TRUST AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

(in thousands)	Year Ended December 31, 2022	2021	2020
Net (loss) income	$ (65,251)	$ 26,030	$ (65,718)
Other comprehensive income (loss):			
Unrealized gain (loss) on valuation of swap agreements	96,858	30,500	(73,686)
Reclassification of realized interest on swap agreements	8,232	21,407	15,059
Other comprehensive income (loss)	105,090	51,907	(58,627)
Comprehensive income (loss)	39,839	77,937	(124,345)
Comprehensive loss attributable to redeemable noncontrolling interests	5,536	—	—
Comprehensive loss (income) attributable to noncontrolling interests	2,211	(15,712)	71,952
Comprehensive income (loss) attributable to Acadia	$ 47,586	$ 62,225	$ (52,393)

The accompanying notes are an integral part of these consolidated financial statements.

ACADIA REALTY TRUST AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
Years Ended December 31, 2022, 2021 and 2020

	Acadia Shareholders								
(in thousands, except per share amounts)	**Common Shares**	**Share Amount**	**Additional Paid-in Capital**	**Accumulated Other Comprehensive Income (Loss)**	**Distributions in Excess of Accumulated Earnings**	**Total Common Shareholders' Equity**	**Noncontrolling Interests**	**Total Equity**	**Redeemable Noncontrolling Interest**
Balance at January 1, 2022	**89,304**	**$ 89**	**$ 1,754,383**	**$ (36,214)**	**$ (196,645)**	**$ 1,521,613**	**$ 628,322**	**$ 2,149,935**	**$ —**
Issuance of Common Shares, net	5,525	6	119,479	—	—	119,485	—	119,485	—
Conversion of OP Units to Common Shares by limited partners of the Operating Partnership	235	—	3,945	—	—	3,945	(3,945)	—	—
Dividends/distributions declared ($0.72 per Common Share/OP Unit)	—	—	—	—	(68,312)	(68,312)	(5,094)	(73,406)	—
Acquisition of noncontrolling interest	—	—	67,475	—	—	67,475	(91,811)	(24,336)	—
City Point Loan	—	—	—	—	—	—	—	—	(65,391)
City Point Loan accrued interest	—	—	—	—	—	—	—	—	(3,923)
Employee and trustee stock compensation, net	57	—	1,122	—	—	1,122	10,000	11,122	—
Noncontrolling interest distributions	—	—	—	—	—	—	(79,838)	(79,838)	—
Noncontrolling interest contributions	—	—	—	—	—	—	109,428	109,428	65,945
Comprehensive income (loss)	—	—	—	83,031	(35,445)	47,586	(2,211)	45,375	(5,536)
Reclassification of redeemable noncontrolling interests	—	—	—	—	—	—	(76,569)	(76,569)	76,569
Reallocation of noncontrolling interests	—	—	(1,082)	—	—	(1,082)	1,082	—	—
Balance at December 31, 2022	**95,121**	**$ 95**	**$ 1,945,322**	**$ 46,817**	**$ (300,402)**	**$ 1,691,832**	**$ 489,364**	**$ 2,181,196**	**$ 67,664**
Balance at January 1, 2021	**86,269**	**$ 86**	**$ 1,683,165**	**$ (74,891)**	**$ (167,321)**	**$ 1,441,039**	**$ 609,165**	**$ 2,050,204**	**$ —**
Conversion of OP Units to Common Shares by limited partners of the Operating Partnership	90	—	1,431	—	—	1,431	(1,431)	—	—
Cancellation of OP Units	—	—	—	—	—	—	(568)	(568)	—
Issuance of Common Shares	2,889	3	63,873	—	—	63,876	—	63,876	—
Dividends/distributions declared ($0.60 per Common Share/OP Unit)	—	—	—	—	(52,872)	(52,872)	(4,185)	(57,057)	—
Employee and trustee stock compensation, net	56	—	1,146	—	—	1,146	11,284	12,430	—
Noncontrolling interest distributions	—	—	—	—	—	—	(27,051)	(27,051)	—
Noncontrolling interest contributions	—	—	—	—	—	—	30,164	30,164	—
Comprehensive income	—	—	—	38,677	23,548	62,225	15,712	77,937	—
Reallocation of noncontrolling interests	—	—	4,768	—	—	4,768	(4,768)	—	—
Balance at December 31, 2021	**89,304**	**$ 89**	**$ 1,754,383**	**$ (36,214)**	**$ (196,645)**	**$ 1,521,613**	**$ 628,322**	**$ 2,149,935**	**$ —**

(in thousands, except per share amounts)	Acadia Shareholders								
	Common Shares	Share Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Distributions in Excess of Accumulated Earnings	Total Common Shareholders' Equity	Noncontrolling Interests	Total Equity	Redeemable Noncontrolling Interest
Balance at January 1, 2020	**87,050**	**$ 87**	**$ 1,706,357**	**$ (31,474)**	**$ (133,019)**	**$ 1,541,951**	**$ 646,439**	**$ 2,188,390**	**$ —**
Conversion of OP Units to Common Shares by limited partners of the Operating Partnership	408	—	6,544	—	—	6,544	(6,544)	—	—
Cumulative effect of change in accounting principle	—	—	—	—	(389)	(389)	(11)	(400)	—
Dividends/distributions declared ($0.29 per Common Share/OP Unit)	—	—	—	—	(24,937)	(24,937)	(2,218)	(27,155)	—
Employee and trustee stock compensation, net	30	—	782	—	—	782	10,130	10,912	—
Repurchase of Common Shares	(1,219)	(1)	(22,385)	—	—	(22,386)	—	(22,386)	—
Acquisition of noncontrolling interest	—	—	(15,330)	—	—	(15,330)	15,918	588	—
Noncontrolling interest distributions	—	—	—	—	—	—	(27,574)	(27,574)	—
Noncontrolling interest contributions	—	—	—	—	—	—	52,174	52,174	—
Comprehensive (loss) income	—	—	—	(43,417)	(8,976)	(52,393)	(71,952)	(124,345)	—
Reallocation of noncontrolling interests	—	—	7,197	—	—	7,197	(7,197)	—	—
Balance at December 31, 2020	**86,269**	**$ 86**	**$ 1,683,165**	**$ (74,891)**	**$ (167,321)**	**$ 1,441,039**	**$ 609,165**	**$ 2,050,204**	**$ —**

The accompanying notes are an integral part of these consolidated financial statements.

ACADIA REALTY TRUST AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)	Year Ended December 31, 2022	2021	2020
CASH FLOWS FROM OPERATING ACTIVITIES			
Net (loss) income	$ (65,251)	$ 26,030	$ (65,718)
Adjustments to reconcile net (loss) income to net cash provided by operating activities:			
Depreciation and amortization	135,917	123,439	147,229
Gain on disposition of properties and other investments	(58,634)	(10,521)	(683)
Net unrealized holding losses (gains) on investments	37,751	(51,925)	(72,391)
Stock compensation expense	11,122	12,430	10,912
Straight-line rents	(8,669)	(6,726)	(4,869)
Equity in losses (earnings) of unconsolidated affiliates	32,907	(5,330)	3,057
Distributions of operating income from unconsolidated affiliates	24,179	3,828	3,286
Adjustments to straight-line rent reserves	(292)	2,682	21,871
Amortization of financing costs	5,639	4,396	5,038
Non-cash lease expense	3,462	3,721	3,392
Adjustments to allowance for credit loss	(102)	(2,796)	24,569
Impairment charges	33,311	9,925	85,598
Termination of ground lease	—	(3,615)	—
Gain on debt extinguishment	—	—	(18,339)
Other, net	(7,675)	(5,304)	(8,155)
Changes in assets and liabilities:	—	—	
Rents receivable	1,586	7,384	(28,321)
Other liabilities	(2,959)	7,856	(3,959)
Accounts payable and accrued expenses	(2,141)	572	3,005
Prepaid expenses and other assets	(3,452)	(7,427)	4
Lease liability - operating leases	(3,488)	(3,636)	(1,579)
Net cash provided by operating activities	**133,211**	**104,983**	**103,947**
CASH FLOWS FROM INVESTING ACTIVITIES			
Acquisitions of real estate	(242,633)	(161,846)	(21,208)
Proceeds from the disposition of properties and other investments, net	224,558	63,901	20,930
Investments in and advances to unconsolidated affiliates and other	(154,695)	(14,835)	(14,483)
Development, construction and property improvement costs	(51,046)	(40,671)	(36,579)
Deposits for properties under purchase contract	(729)	—	187
Deposits for properties under sales contract	2,000	—	—
Change in control of previously unconsolidated affiliate	3,592	—	950
Return of capital from unconsolidated affiliates and other	77,774	17,722	14,686
Payment of deferred leasing costs	(7,997)	(4,914)	(6,407)
Acquisition of investment interests	(4,527)	—	—
Proceeds from notes receivable	29,530	—	—
Issuance of notes receivable	—	(57,895)	(59,000)
Net cash used in investing activities	**(124,173)**	**(198,538)**	**(100,924)**
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from unsecured debt	850,120	323,200	236,804
Principal payments on unsecured debt	(656,556)	(206,781)	(136,490)
Proceeds from the sale (repurchase) of Common Shares	119,485	63,876	(22,386)
Capital contributions from noncontrolling interests	109,428	30,164	52,174
Principal payments on mortgage and other notes	(447,998)	(98,602)	(51,949)
Distributions to noncontrolling interests	(84,723)	(30,410)	(31,461)
Dividends paid to Common Shareholders	(64,586)	(39,476)	(50,182)
Proceeds received from mortgage and other notes	204,138	56,847	5,351
Deferred financing and other costs	(9,348)	(7,436)	(2,215)
Acquisition of noncontrolling interest	(24,336)	—	—
Payments of finance lease obligations	—	(63)	(903)
Net cash (used in) provided by financing activities	**(4,376)**	**91,319**	**(1,257)**
Increase (decrease) in cash and restricted cash	4,662	(2,236)	1,766
Cash of $17,746, $18,699 and $14,149 and restricted cash of $9,813, $11,096 and $13,880, respectively, beginning of year	27,559	29,795	28,029
Cash of $17,158, $17,746 and $18,699 and restricted cash of $15,063, $9,813 and $11,096, respectively, end of year	$ 32,221	$ 27,559	$ 29,795

CONSOLIDATED STATEMENTS OF CASH FLOWS - Continued

(in thousands)	Year Ended December 31, 2022	2021	2020
Supplemental disclosure of cash flow information			
Cash paid during the period for interest, net of capitalized interest of $4,166 and $3,421 and $7,110 respectively	$ 65,109	$ 44,663	$ 70,383
Cash paid for income taxes, net of (refunds)	$ 11	$ 147	$ (329)
Supplemental disclosure of non-cash investing and financing activities			
Distribution declared and payable on January 13, 2023, and January 14, 2022 and January 15, 2020, respectively	$ 18,368	$ 14,314	$ 123
Assumption of accounts payable and accrued expenses through acquisition of real estate	$ 4,062	$ 1,319	$ 116
Right-of-use assets, operating leases exchanged for operating lease liabilities	$ —	$ 412	$ 33,189
Issuance of note receivable used as capital contributions from redeemable noncontrolling interests	$ 65,945	$ —	$ —
Accrued interest on note receivable recorded to redeemable noncontrolling interest	$ 3,923	$ —	$ —
Reclassification of non-controlling interest in excess of amount paid to additional paid-in capital	$ 67,475	$ —	$ —
Adjustment to equity as a result of the implementation of CECL (defined below)	$ —	$ —	$ 400
Note receivable exchanged for real estate	$ —	$ —	$ 72,430
Acquisition of real estate through assumption of debt	$ —	$ 31,801	$ —
Right-of-use assets, finance leases (modified) obtained in exchange for finance lease liabilities	$ —	$ —	$ (70,427)
Right of use assets, operating leases terminated in exchange for finance lease liabilities	$ —	$ —	$ (1,432)
Settlement of note receivable through cancellation of OP Units	$ —	$ 479	$ —
Change in control of previously unconsolidated investment			
Increase in real estate	$ (55,791)	$ —	$ (135,190)
Increase in mortgage notes payable	35,970	—	—
Decrease in investments in and advances to unconsolidated affiliates	17,822	—	96,816
Decrease in notes receivable	5,306	—	—
Decrease (increase) in reserve on note receivable	(4,582)	—	38,674
Decrease in accrued interest on notes receivable	4,691	—	—
Change in other assets and liabilities	176	—	1,238
Acquisition of noncontrolling interest asset	—	—	(588)
Increase in cash and restricted cash upon change of control	$ 3,592	$ —	$ 950

The accompanying notes are an integral part of these consolidated financial statements.

1. Organization, Basis of Presentation and Summary of Significant Accounting Policies

Organization

Acadia Realty Trust, a Maryland real estate investment trust (collectively with its subsidiaries, the "Company"), is a fully-integrated equity real estate investment trust ("REIT") focused on the ownership, acquisition, development, and management of retail properties located primarily in high-barrier-to-entry, supply-constrained, densely populated metropolitan areas in the United States.

All of the Company's assets are held by, and all of its operations are conducted through, Acadia Realty Limited Partnership (the "Operating Partnership") and entities in which the Operating Partnership owns an interest. As of December 31, 2022 and 2021, the Company controlled approximately 95% of the Operating Partnership as the sole general partner and is entitled to share, in proportion to its percentage interest, in the cash distributions and profits and losses of the Operating Partnership. The limited partners primarily represent entities or individuals that contributed their interests in certain properties or entities to the Operating Partnership in exchange for common or preferred units of limited partnership interest ("Common OP Units" or "Preferred OP Units") and employees who have been awarded restricted Common OP Units ("LTIP Units") as long-term incentive compensation (Note 13). Limited partners holding Common OP and LTIP Units are generally entitled to exchange their units on a one-for-one basis for common shares of beneficial interest, par value $0.001 per share, of the Company ("Common Shares"). This structure is referred to as an umbrella partnership REIT or "UPREIT."

As of December 31, 2022, the Company has ownership interests in 151 properties within its core portfolio, which consist of those properties either 100% owned, or partially owned through joint venture interests, by the Operating Partnership, or subsidiaries thereof, not including those properties owned through its funds ("Core Portfolio"). The Company also has ownership interests in 51 properties within its opportunity funds, Acadia Strategic Opportunity Fund II, LLC ("Fund II"), Acadia Strategic Opportunity Fund III LLC ("Fund III"), Acadia Strategic Opportunity Fund IV LLC ("Fund IV"), and Acadia Strategic Opportunity Fund V LLC ("Fund V" and, collectively with Fund II, Fund III, and Fund IV, the "Funds"). The 202 Core Portfolio and Fund properties primarily consist of street and urban retail, and suburban shopping centers. In addition, the Company, together with the investors in the Funds, invested in operating companies through Acadia Mervyn Investors I, LLC ("Mervyns I," which was liquidated in 2018) and Acadia Mervyn Investors II, LLC ("Mervyns II"), all on a non-recourse basis.

The Operating Partnership is the sole general partner or managing member of the Funds and Mervyns II and earns fees or priority distributions for asset management, property management, construction, development, leasing, and legal services. Cash flows from the Funds and Mervyns II are distributed pro-rata to their respective partners and members (including the Operating Partnership) until each receives a certain cumulative return ("Preferred Return") and the return of all capital contributions. Thereafter, remaining cash flow is distributed 20% to the Operating Partnership ("Promote") and 80% to the partners or members (including the Operating Partnership). All transactions between the Funds and the Operating Partnership have been eliminated in consolidation.

The following table summarizes the general terms and Operating Partnership's equity interests in the Funds and Mervyns II (dollars in millions):

Entity	Formation Date	Operating Partnership Share of Capital	Capital Called as of December 31, 2022 [b]	Unfunded Commitment [b, c]	Equity Interest Held By Operating Partnership [a]	Preferred Return	Total Distributions as of December 31, 2022 [b, c]
Fund II and Mervyns II [c,d]	6/2004	61.67%	$ 557.3	$ —	61.67%	8%	$ 172.9
Fund III	5/2007	24.54%	448.1	1.9	24.54%	6%	603.5
Fund IV	5/2012	23.12%	488.1	41.9	23.12%	6%	221.4
Fund V [e]	8/2016	20.10%	347.9	172.1	20.10%	6%	88.7

a) Amount represents the current economic ownership at December 31, 2022, which could differ from the stated legal ownership based upon the cumulative preferred returns of the respective Fund.

b) Represents the total for the Funds, including the Operating Partnership and noncontrolling interests' shares.

c) During the second quarter of 2022, the Company increased its ownership in Fund II and Mervyns II through an acquisition of its partner's interest by 11.67%, from 28.33% to 40.00%, for $18.5 million. Additionally, during the third quarter of 2022, the Company increased its ownership in Fund II through an acquisition of a partner's interest by 21.67%, from 40.00% to 61.67%, for $5.8 million. Each of the remaining partners in Fund II have a right to put their equity interests to the Company beginning in August 2023. As the Company retained its controlling interest, these additional investments were accounted for as equity transactions (Note 10).

d) During August 2020, a recallable distribution of $15.7 million was made by Mervyn's II to its investors, of which $4.5 million was the Company's share. During 2021 and 2022, Mervyn's II recalled $11.9 million and $3.8 million, respectively, of the $15.7 million, of which the Company's share is $3.4 million and $1.2 million, respectively.
e) As of August 23, 2022, Fund V's investment period was extended to August 25, 2023.

Basis of Presentation

Segments

At December 31, 2022, the Company had three reportable operating segments: Core Portfolio, Funds and Structured Financing. The Company's chief operating decision maker may review operational and financial data on a property-level basis and does not differentiate properties on a geographical basis for purposes of allocating resources or capital.

Principles of Consolidation

The consolidated financial statements include the consolidated accounts of the Company and its investments in partnerships and limited liability companies in which the Company has control, including where the Company has been determined to be a primary beneficiary of a variable interest entity ("VIE"), in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 810 "Consolidation" ("ASC Topic 810"). The ownership interests of other investors in these entities are recorded as noncontrolling interests. All significant intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates

GAAP requires the Company's management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. The most significant assumptions and estimates relate to the valuation of real estate, depreciable lives, revenue recognition and the collectability of notes receivable and rents receivable. Application of these estimates and assumptions requires the exercise of judgment as to future uncertainties and, as a result, actual results could differ from these estimates.

Summary of Significant Accounting Policies

Real Estate

Land, buildings, and personal property are carried at cost less accumulated depreciation. Improvements and significant renovations that extend the useful life of the properties are capitalized, while replacements, maintenance, and repairs that do not improve or extend the lives of the respective assets are expensed as incurred. Real estate under development includes costs for significant property expansion and development.

Depreciation is computed on the straight-line basis over estimated useful lives of the assets as follows:

Buildings and improvements	Useful lives of 40 years for buildings and 15 years for improvements
Furniture and fixtures	Useful lives, ranging from five years to 10 years
Tenant improvements	Shorter of economic life or lease terms

Purchase Accounting – Upon acquisitions of real estate, the Company assesses the fair value of acquired assets and assumed liabilities (including land, buildings and improvements, and identified intangibles such as above- and below-market leases and acquired in-place leases) and assumed liabilities in accordance with ASC Topic 805, *"Business Combinations" and ASC Topic 350 "Intangibles – Goodwill and Other,"* and allocates the acquisition price based on their relative fair values. When acquisitions of properties do not meet the criteria for business combinations, they are accounted for as asset acquisitions; therefore, no goodwill is recorded, and acquisition costs are capitalized.

The Company assesses fair value of its tangible assets acquired and assumed liabilities based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information at the measurement period. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends, and market/economic conditions that may affect the property.

In determining the value of above- and below-market leases, the Company estimates the present value difference between contractual rent obligations and estimated market rate of leases at the time of the transaction. To the extent there were fixed-rate options at below-market rental

rates, the Company included these periods along with the current term below-market rent in arriving at the fair value of the acquired leases. The discounted difference between contract and market rents is being amortized to rental income over the remaining applicable lease term, inclusive of any option periods.

In determining the value of acquired in-place leases, the Company considers market conditions at the time of the transaction and values the costs to execute similar leases during the expected lease-up period from vacancy to existing occupancy, including carrying costs. The value assigned to in-place leases and tenant relationships is amortized over the estimated remaining term of the leases. If a lease were to be terminated prior to its scheduled expiration, all unamortized costs (e.g., lease intangibles) relating to that lease would be written off.

The Company estimates the value of any assumption of mortgage debt based on market conditions at the time of acquisitions including prevailing interest rates, terms, and ability to obtain financing for a similar asset. Mortgage debt discounts or premiums are amortized into interest expense over the remaining term of the related debt instrument.

Real Estate Under Development – The Company capitalizes certain costs related to the development of real estate. Interest and real estate taxes incurred during the period of the construction, expansion or development of real estate are capitalized and depreciated over the estimated useful life of the building. The Company will cease the capitalization of these costs when construction activities are substantially completed and the property is available for occupancy by tenants, but no later than one year from the completion of major construction activity at which time the project is placed in service and depreciation commences. If the Company suspends substantially all activities related to the development of a qualifying asset, the Company will cease capitalization of interest and taxes until activities are resumed.

Real Estate Impairment – The Company reviews its real estate, real estate under development and right-of-use assets for impairment when there is an event or a change in circumstances that indicates that the carrying amount may not be recoverable. In cases where the Company does not expect to recover its carrying amounts on properties held for use, the Company reduces its carrying amounts to fair value. The determination of anticipated undiscounted cash flows is inherently subjective, requiring significant estimates made by management, and considers the most likely expected course of action at the balance sheet date based on current plans, intended holding periods and available market information. If the Company is evaluating the potential sale of an asset, the undiscounted future cash flows analysis is probability-weighted based upon management's best estimate of the likelihood of the alternative courses of action as of the balance sheet date. Such cash flow projections consider factors such as expected future operating income, trends, and prospects, as well as the effects of demand, competition, and other factors. If an impairment is indicated, an impairment loss is recognized based on the excess of the carrying amount of the asset over its estimated fair value. See Note 8 for information about impairment charges recorded during the periods presented.

Dispositions of Real Estate – The Company recognizes property sales in accordance with ASC Topic 610-20 "*Other Income—Gains and losses from the derecognition of nonfinancial assets*." Sales of real estate include the sale of land, operating properties, and investments in real estate joint ventures. Gains on sale of investment properties are recognized, and the related real estate derecognized, when the Company has satisfied its performance obligations by transferring control of the property. Typically, the timing of payment and satisfaction of performance obligations occur simultaneously on the disposition date upon transfer of the property's ownership.

Real Estate Held for Sale – The Company generally considers assets to be held for sale when it has entered into a contract to sell the property, all material due diligence requirements have been satisfied, and management believes it is probable that the disposition will occur within one year. Assets that are classified as held for sale are recorded at the lower of their carrying amount or fair value, less cost to sell.

Notes Receivable

Notes receivable include certain loans that are held for investment and are collateralized by real estate-related investments and may be subordinate to other senior loans. Notes receivable are reported net of allowance for credit loss ("CECL") and are recorded at stated principal amounts or at initial investment less accretive yield for loans purchased at a discount, which is accreted over the life of the note. The Company defers loan origination and commitment fees, net of origination costs, and amortizes them over the term of the related loan. Changes in cash flows from previous estimates are included in future interest income on a prospective basis and a new effective interest rate is computed based on the current cost basis of the instrument and remaining cash flows. The Company evaluates the collectability of both principal and interest based upon an assessment of the underlying collateral value to determine whether it is impaired. Allowance for credit loss represents management's estimate of future losses based on national historical economic loss rates for similar obligations, management's estimate of future economic impacts and factors specific to the borrower. Certain of the Company's loans are considered "collateral dependent" in that settlement of the amount is likely to be achieved by obtaining access to the collateral (e.g., notes in default). The same valuation techniques are used to value the collateral for such collateral dependent instruments as those used to determine the fair value of real estate investments for impairment purposes. Given the small number of notes outstanding, the Company believes the characteristics of its notes are not sufficiently similar to allow an evaluation as a group for credit loss allowance. As such, all of the Company's notes are evaluated individually for this purpose. Interest income on performing notes is

accrued as earned. A note is placed on non-accrual status when, based upon current information and events, it is probable that the Company will not be able to collect all amounts due according to the existing contractual terms. Income accrual is generally suspended for loans when recovery of income and principal becomes doubtful. Interest received is then recorded as a reduction in the outstanding principal balance until the accrual is resumed when it is probable that the Company will be able to collect amounts due according to the contractual terms of the notes.

Investments in and Advances to Unconsolidated Joint Ventures

Some of the Company's joint ventures obtain non-recourse third-party financing on their property investments, contractually limiting the Company's exposure to losses. The Company recognizes income for distributions in excess of its investment where there is no recourse to the Company and no intention or obligation to contribute additional capital. For investments in which there is recourse to the Company or an obligation or intention to contribute additional capital exists, distributions in excess of the investment are recorded as a liability.

When characterizing distributions from equity investees within the Company's consolidated statements of cash flows, all distributions received are first applied as returns on investment to the extent there are cumulative earnings related to the respective investment and are classified as cash inflows from operating activities. If cumulative distributions are in excess of cumulative earnings, distributions are considered return of investment. In such cases, the distribution is classified as cash inflows from investing activities.

To the extent that the Company's carrying basis in an unconsolidated affiliate is different from the basis reflected at the joint venture level, the basis difference is amortized over the life of the related assets and included in the Company's share of equity in earnings (losses) of unconsolidated affiliates the joint venture.

The Company periodically reviews its investments in unconsolidated joint ventures for other-than-temporary losses in investment value. Any decline that is not expected to be recovered based on the underlying assets of the investment, is considered other than temporary and an impairment charge is recorded as a reduction in the carrying value of the investment. During the periods presented there were no impairment charges related to the Company's investments in unconsolidated joint ventures.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents. Cash and cash equivalents are maintained at financial institutions and, at times, balances may exceed the limits insured by the Federal Deposit Insurance Corporation.

Restricted Cash

Restricted cash consists principally of cash held for real estate taxes, construction costs, property maintenance, insurance, minimum occupancy, and property operating income requirements at specific properties as required by certain loan agreements.

Deferred Costs

External fees and costs paid in the successful negotiation of leases are deferred and amortized on a straight-line basis over the terms of the respective leases. External fees and costs incurred in connection with obtaining financing are deferred and amortized as a component of interest expense over the term of the related debt obligation on a straight-line basis, which approximates the effective interest method.

Derivative Instruments and Hedging Activities

The Company measures derivative instruments at fair value and records them as assets or liabilities, depending on its rights or obligations under the applicable derivative contract. Derivatives that are not designated as hedges must be adjusted to fair value through earnings. For a derivative designated and that qualified as a cash flow hedge, the effective portion of the change in fair value of the derivative is recognized in Accumulated other comprehensive loss until the hedged item is recognized in earnings. The ineffective portion of a derivative's change in fair value is immediately recognized in earnings.

Although the Company's derivative contracts are subject to master netting arrangements, which serve as credit mitigants to both the Company and its counterparties under certain situations, the Company does not net its derivative fair values or any existing rights or obligations to cash collateral on the consolidated balance sheets. The Company does not use derivatives for trading or speculative purposes. For the periods presented, all of the Company's derivatives qualified and were designated as cash flow hedges, and none of its derivatives were deemed ineffective.

Noncontrolling Interests

Noncontrolling interests represent the portion of equity that the Company does not own in those entities it consolidates. The Company identifies its noncontrolling interests separately within the equity section on the Company's consolidated balance sheets. The amounts of consolidated net earnings attributable to the Company and to the noncontrolling interests are presented separately on the Company's consolidated statements of operations. Noncontrolling interests also include amounts related to common and preferred OP Units issued to unrelated third parties in connection with certain property acquisitions. In addition, the Company periodically issues common OP Units and LTIPs to certain employees of the Company under its share-based incentive program. Unit holders generally have the right to redeem their units for Common Shares subject to blackout and other limitations. Common and restricted OP Units are included in the caption Noncontrolling interest within the equity section on the Company's consolidated balance sheets.

Variable Interest Entities

The Company consolidates a VIE in which it is considered the primary beneficiary. The primary beneficiary is the entity that has (i) the power to direct the activities that most significantly impact the entity's economic performance and (ii) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE that could be significant to the VIE. The Company assesses the accounting treatment and determines whether it is the primary beneficiary of a VIE at the time it becomes involved with a VIE and continuously reconsiders that conclusion. In determining whether the Company is the primary beneficiary, it evaluates its control rights as well as economic interests in the entity held either directly or indirectly by the Company. Each entity is assessed on an individual basis to determine the rights provided to each party and whether those rights are protective or participating. For all VIEs, the Company reviews such agreements in order to determine which party has the power to direct the activities that most significantly impact the entity's economic performance.

For those entities evaluated under the voting interest model, the Company consolidates the entity if it has a controlling financial interest. The Company has a controlling financial interest in a voting interest entity ("VOE") if it owns a majority voting interest in the entity. Investments in entities for which the Company has the ability to exercise significant influence over but does not have financial or operating control through its voting interest and entities which are VIEs but where the Company is not the primary beneficiary, are accounted for using the equity method of accounting. Accordingly, the Company's share of the earnings (or losses) of these entities are included in consolidated net income or loss.

Revenue Recognition and Accounts Receivable

The Company accounts for its leases under ASC 842. Pursuant to ASC 842, the Company has made an accounting policy election to not separate the non-lease components from its leases, such as common area maintenance, and has accounted for each of its leases as a single lease component. In addition, the Company has elected to account only for those taxes that it pays on behalf of the tenant as reimbursable costs and will not account for those taxes paid directly by the tenant. Minimum rents from tenants are recognized using the straight-line method over the non-cancelable lease term of the respective leases. Lease termination fees are recognized upon the effective termination of a tenant's lease when the Company has no further obligations under the lease. As of December 31, 2022 and 2021, unbilled rents receivable relating to the straight-lining of rents of $48.1 million and $43.4 million, respectively, are included in Rents Receivable, net on the accompanying consolidated balance sheets. Certain of these leases also provide for percentage rents based upon the level of sales achieved by the tenant. Percentage rent is recognized in the period when the tenants' sales breakpoint is met. In addition, leases typically provide for the reimbursement to the Company of real estate taxes, insurance, and other property operating expenses. These reimbursements are recognized as revenue in the period the related expenses are incurred.

The Company assesses the collectability of its accounts receivable related to tenant revenues under ASC 842. The Company estimates the collectability of the accounts receivable related to billed rents, straight-line rents, recoveries from tenants, and other revenue taking into consideration the Company's historical write-off experience, tenant creditworthiness, current economic trends, and remaining lease terms. Rents receivable at December 31, 2022 and 2021 are shown net of an allowance for doubtful accounts of $32.1 million and $38.5 million, respectively. Rental income for the years ended December 31, 2022, 2021 and 2020 are reported net of adjustments of $0.4 million, $0.1 million, and $46.4 million, respectively, to allowance for doubtful accounts.

Stock-Based Compensation

Stock-based compensation expense for all equity-classified stock-based compensation awards is based on the grant date fair value estimated in accordance with current accounting guidance for share-based payments. The Company recognizes these compensation costs for only those shares or units expected to vest on a straight-line or graded-vesting basis, as appropriate, over the requisite service period of the award. The Company includes stock-based compensation within general and administrative expense on the consolidated statements of operations.

Income Taxes

The Company has made an election to be taxed, and believes it qualifies, as a REIT under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"). To maintain REIT status for Federal income tax purposes, the Company is generally required to distribute at least 90% of its REIT taxable income to its shareholders as well as comply with certain other income, asset and organizational requirements as defined in the Code. Accordingly, the Company is generally not subject to Federal corporate income tax to the extent that it distributes 100% of its REIT taxable income each year.

The Company is permitted to participate in certain activities and still maintain its qualification as a REIT, so long as these activities are conducted in entities that elect to be treated as taxable subsidiaries under the Code. As such, the Company is subject to Federal and state income taxes on the income from these activities.

Although it may qualify for REIT status for federal income tax purposes, the Company is subject to state or local income or franchise taxes in certain jurisdictions in which some of its properties are located. In addition, taxable income from non-REIT activities managed through the Company's Taxable REIT Subsidiary ("TRS") is fully subject to federal, state and local income taxes.

The Company accounts for TRS income taxes under the liability method as required by ASC Topic 740, "Income Taxes." Under the liability method, deferred income taxes are recognized for the temporary differences between the GAAP basis and tax basis of the TRS income, assets, and liabilities.

In March 2020, Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") temporarily relaxed existing limitations on the use and carryback of net operating losses incurred by our TRSs. Net operating losses generated in taxable years beginning in 2019, 2020 or 2021 can be carried back to the preceding 5 years. In addition, TRSs can fully offset their taxable income for taxable years beginning before 2022 using net operating loss carrybacks and carryforwards and can fully offset their taxable income for taxable years beginning after 2021 using pre-2019 net operating loss carryforwards. Any post-2018 net operating loss carryforwards can be used to offset up to 80% of taxable income after using pre-2019 net operating loss carryforwards. In 2020, the Company carried back $3.1 million of net operating losses, resulting in a refund of $1.0 million.

The Company records net deferred tax assets to the extent it believes it is more likely than not that these assets will be realized. In 2022 and 2021, the Company recorded valuation allowances to reduce deferred tax assets when it determined that an uncertainty existed regarding their realization, which increased the provision for income taxes. In making such determination, the Company considered all available positive and negative evidence, including forecasts of future taxable income, the reversal of other existing temporary differences, available net operating loss carryforwards, tax planning strategies and recent results of operations. Several of these considerations require assumptions and significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates that the Company is utilizing to manage its business. To the extent facts and circumstances change in the future, further adjustments to the valuation allowances may be required.

Recent Accounting Pronouncements

In January 2021, the FASB issued Accounting Standards Update ("ASU") 2021-01 Reference Rate Reform (Topic 848) which modifies ASC 848, which was intended to provide relief related to "contracts and transactions that reference LIBOR or a reference rate that is expected to be discontinued as a result of reference rate reform." ASU 2021-01 expands the scope of ASC 848 to include all affected derivatives and give reporting entities the ability to apply certain aspects of the contract modification and hedge accounting expedients to derivative contracts affected by the discounting transition. ASU 2021-01 also adds implementation guidance to clarify which optional expedients in ASC 848 may be applied to derivative instruments that do not reference LIBOR or a reference rate that is expected to be discontinued, but that are being modified as a result of the discounting transition. The Company has elected the optional practical expedient under ASU 2020-04 and 2021-01, which allows entities to account for the modification as if the modification was not substantial. As a result, the implementation of this guidance did not have an effect on the Company's consolidated financial statements.

In December 2022, the FASB issued ASU 2022-06 Reference Rate Reform (Topic 848). The guidance in this update defers the sunset date of Topic 848 from December 31, 2022, to December 31, 2024, after which entities will no longer be permitted to apply the relief in Topic 848. The amendments are effective for all entities in scope upon issuance of the ASU. The Company plans to transition all variable rate loans currently indexed to LIBOR to SOFR or another applicable benchmark index based on discussions with its lenders.

Any other recently issued accounting standards or pronouncements not disclosed above have been excluded as they are not relevant to the Company, or they are not expected to have a material impact on the consolidated financial statements.

2. Real Estate

The Company's consolidated real estate is comprised of the following for the periods presented (in thousands):

	December 31, 2022	December 31, 2021
Land	$ 817,802	$ 739,641
Buildings and improvements	2,987,594	2,892,051
Tenant improvements	216,899	199,925
Construction in progress	21,027	11,131
Right-of-use assets - finance leases (Note 11)	25,086	25,086
Total	4,068,408	3,867,834
Less: Accumulated depreciation and amortization	(725,143)	(648,461)
Operating real estate, net	3,343,265	3,219,373
Real estate under development	184,602	203,773
Net investments in real estate	$ 3,527,867	$ 3,423,146

Acquisitions and Foreclosure

During the years ended December 31, 2022 and 2021, the Company acquired (through purchase, investment, or foreclosure) the following consolidated retail properties and other real estate investments (dollars in thousands):

Property and Location	Percent Acquired	Date of Acquisition	Purchase Price
2022 Acquisitions and Foreclosure			
Core			
121 Spring Street - New York, NY	100%	Jan 12, 2022	$ 39,637
Williamsburg Collection - Brooklyn, NY [a]	(a)	Feb 18, 2022	97,750
8833 Beverly Boulevard - West Hollywood, CA	100%	Mar 2, 2022	24,117
Henderson Avenue Portfolio - Dallas, TX [b]	100%	Apr 18, 2022	85,192
Subtotal Core			246,696
Fund III			
640 Broadway - New York, NY (Foreclosure) [c]	100%	Jan 26, 2022	59,207
Subtotal Fund III			59,207
Total 2022 Acquisitions and Foreclosure			**$ 305,903**
2021 Acquisitions			
Core			
14th Street Portfolio - Washington, DC	100%	Dec 23, 2021	$ 26,320
Subtotal Core			26,320
Fund V			
Canton Marketplace - Canton, GA	100%	Aug 20, 2021	50,954
Monroe Marketplace - Selinsgrove, PA	100%	Sept 9, 2021	44,796
Monroe Marketplace (Parcel) - Selinsgrove, PA	100%	Nov 12, 2021	1,029
Midstate - East Brunswick, NJ	100%	Dec 14, 2021	71,867
Subtotal Fund V			168,646
Total 2021 Acquisitions			**$ 194,966**

a) The Company invested $2.8 million in its 49.99% equity interest and, through a separate lending subsidiary, provided a $64.1 million first mortgage loan and a $30.9 million mezzanine loan to subsidiaries of the venture (such equity and loans have been eliminated in consolidation). Pursuant to the entity's operating agreement, the venture partner has a one-time right to put its 50.01% interest in the entity (the "Williamsburg NCI", which is further described in Note 10) to the Company for fair value

at a future date. Given the preferred rate of return of the Company embedded in its equity interests and the accruing debt senior to the equity, the Company did not attribute any initial redemption value to the Williamsburg NCI and recognized a bargain purchase gain of $1.2 million, which is included in Realized and unrealized holding (losses) gains on investments and other in the consolidated statements of operations.

b) The Henderson Avenue Portfolio comprises 14 operating retail assets, one residential building and two development and redevelopment sites. One of the development sites was sold in October 2022.

c) The entity was previously accounted for as an equity method investment until an affiliate of Fund III acquired the venture partner's interest in a foreclosure action. Fund III now indirectly owns 100% of the entity and consolidates it (Note 4).

For the years ended December 31, 2022 and 2021, the Company capitalized $1.2 million and $3.6 million of acquisition costs in connection with the 2022 Acquisitions and Foreclosure and the 2021 Acquisitions, respectively. In addition, during the year ended December 31, 2022, the Company expensed $2.0 million of acquisition costs (including a $1.5 million acquisition fee paid to an affiliate of a joint venture partner). Acquisition costs that were expensed are included in General and administrative expenses in the consolidated statements of operations. During the year ended December 31, 2022, the Company assumed a $36.0 million mortgage with the consolidation of 640 Broadway and during the year ended December 31, 2021, the Company assumed a $31.8 million mortgage with the acquisition of Canton Marketplace (Note 7).

Purchase Price Allocations

The purchase prices for the 2022 Acquisitions and Foreclosure and 2021 Acquisitions were allocated to the acquired assets and assumed liabilities based on their estimated relative fair values at the dates of acquisition. The following table summarizes the allocation of the purchase price of properties acquired during the years ended December 31, 2022 and 2021 (in thousands):

	Year Ended December 31, 2022	Year Ended December 31, 2021
Net Assets Acquired		
Land	$ 119,898	$ 37,290
Buildings and improvements	168,862	134,065
Acquisition-related intangible assets (Note 6)	29,016	39,953
Accounts receivable, prepaids and other assets	4,077	—
Accounts payable and other liabilities	(661)	—
Acquisition-related intangible liabilities (Note 6)	(14,126)	(16,342)
Net assets acquired	$ 307,066	$ 194,966
Consideration		
Cash	$ 242,633	$ 161,846
Carrying value of note receivable exchanged in foreclosure (Note 3)	5,416	—
Existing interest in previously unconsolidated investment (Note 4)	17,822	—
Debt assumed	35,970	31,801
Liabilities assumed	4,062	1,319
Total consideration	305,903	194,966
Gain on bargain purchase	1,163	—
	$ 307,066	$ 194,966

The Company determines the fair value of the individual components of income producing real estate asset acquisitions primarily through calculating the "as-if vacant" value of a building, using an income approach, which relies significantly upon internally determined assumptions. The Company has determined that these estimates primarily rely on Level 3 inputs, which are unobservable inputs based on our own assumptions. The most significant assumptions used in calculating the "as-if vacant" value for acquisition activity during 2022 and 2021, respectively, are as follows:

	2022		2021	
	Low	High	Low	High
Exit Capitalization Rate	4.25%	7.25%	6.50%	7.75%
Annual net rental rate per square foot on acquired buildings	$ 20.00	$ 825.00	$ 10.00	$ 85.00
Annual net rental rate per square foot on acquired ground lease	$ —	$ —	$ 3.65	$ 95.00

The estimate of the portion of the "as-if vacant" value that is allocated to the land underlying the acquired real estate relies on Level 3 inputs and is primarily determined by reference to recent comparable transactions.

Dispositions

During the years ended December 31, 2022 and 2021, the Company disposed of the following consolidated properties and other real estate investments (in thousands):

Property and Location	Owner	Date Sold	Sale Price	Gain (Loss) on Sale
2022 Dispositions				
NE Grocer Portfolio (Selected Assets) - Pennsylvania	Fund IV	Jan 26, 2022 Mar 4, 2022	$ 45,350	$ 13,784
New Towne (Parcel) - Canton, MI	Fund V	Feb 1, 2022	2,231	1,776
Cortlandt Crossing - Westchester County, NY	Fund III	Feb 9, 2022	65,533	13,255
Lincoln Place - Fairview Heights, IL	Fund IV	May 25, 2022	40,670	12,216
Wake Forest Crossing - Wake Forest, NC	Fund IV	Aug 24, 2022	38,919	8,885
Henderson Avenue (Parcel) - Dallas, TX	Core	Oct 7, 2022	3,050	(194)
330-340 River Street - Cambridge, MA	Core	Dec 13, 2022	26,400	7,439
Total 2022 Dispositions			**$ 222,153**	**$ 57,161**
2021 Dispositions				
60 Orange St - Bloomfield, NJ	Core	Jan 29, 2021	$ 16,400	$ 4,612
654 Broadway - New York, NY	Fund III	May 19, 2021	10,000	111
NE Grocer Portfolio (Selected Assets) - ME	Fund IV	Jun 18, 2021	39,925	5,064
Total 2021 Dispositions [(a)]			**$ 66,325**	**$ 9,787**

a) Does not include the gain on lease termination of $0.7 million related to the Fund IV lease at 110 University Place (Note 11).

The aggregate rental revenue, expenses and pre-tax income reported within continuing operations for the aforementioned consolidated properties that were sold as well as the lease that was terminated (Note 11) during the years ended December 31, 2022 and 2021 were as follows (in thousands):

	Year Ended December 31,		
	2022	2021	2020
Revenues	$ 6,598	$ 22,002	$ 27,514
Expenses	(5,205)	(19,661)	(24,945)
Gain on disposition of properties	57,161	10,521	683
Net income attributable to noncontrolling interests	(39,117)	(5,893)	(1,627)
Net income attributable to Acadia	$ 19,437	$ 6,969	$ 1,625

Properties Held for Sale

At December 31, 2022, the Company had one property under contract for sale with assets totaling $11.1 million, which was probable of disposition. This property was classified as "held for sale" on the Company's consolidated balance sheets at December 31, 2022.

Real Estate Under Development and Construction in Progress

Real estate under development represents the Company’s consolidated properties that have not yet been placed into service while undergoing substantial development or construction.

Development activity for the Company's consolidated properties comprised the following during the periods presented (dollars in thousands):

	January 1, 2022		Year Ended December 31, 2022			December 31, 2022	
	Number of Properties	Carrying Value	Transfers In	Capitalized Costs	Transfers Out	Number of Properties	Carrying Value
Core	—	$ 42,517	$ 9,610	$ 2,690	$ —	2	$ 54,817
Fund II [a]	—	35,125	—	503	1,556	—	34,072
Fund III	1	24,296	—	1,502	—	1	25,798
Fund IV [b]	1	101,835	—	215	32,135	1	69,915
Total	2	$ 203,773	$ 9,610	$ 4,910	$ 33,691	4	$ 184,602

a) Transfers out include $1.6 million related to a portion of one Fund II property that was transferred out of development.
b) Transfers out include $13.4 million related to a portion of one Fund IV property that was transferred out of development and an impairment charge totaling $18.7 million on one Fund IV development property (Note 8).

	January 1, 2021		Year Ended December 31, 2021			December 31, 2021	
	Number of Properties	Carrying Value	Transfers In	Capitalized Costs	Transfers Out	Number of Properties	Carrying Value
Core	—	$ 63,875	$ —	$ 1,855	$ 23,213	—	$ 42,517
Fund II	—	74,657	—	3,921	43,453	—	35,125
Fund III	1	23,104	—	1,192	—	1	24,296
Fund IV [a]	2	85,565	29,758	2,026	15,514	1	101,835
Total	3	$ 247,201	$ 29,758	$ 8,994	$ 82,180	2	$ 203,773

a) Transfers in include $29.8 million related to the remaining portion of one Fund IV property that was placed in development.

The number of properties in the tables above refers to projects comprising the entire property under development; however, certain projects represent a portion of a property. At December 31, 2022, consolidated development projects included: portions of the Henderson Portfolio, City Center, 555 9th Street, 651-671 West Diversey, Route 6 Mall and Mad River for the Core Portfolio, portions of City Point Phase I and II at Fund II, Broad Hollow Commons at Fund III, and a portion of 717 N. Michigan Avenue at Fund IV. In addition, at December 31, 2022, the Company had one Core unconsolidated development project, 1238 Wisconsin Avenue.

During the year ended December 31, 2022, the Company:

- placed a portion of one Fund IV property, 717 N. Michigan Avenue, into service in the first quarter;
- place a portion of one Fund II property, City Point, into service in the fourth quarter; and
- placed two Core properties in the Henderson Portfolio into development in the second quarter.

At December 31, 2021, consolidated development projects included: portions of City Center, 555 9th Street, Route 6 Mall and Mad River for Core, portions of City Point Phase I and II at Fund II, Broad Hollow Commons at Fund III and 717 N. Michigan Avenue at Fund IV. In addition, at December 31, 2021, the Company had one Core unconsolidated development project, 1238 Wisconsin Avenue. During the year ended December 31, 2021, the Company:

- placed portions of one Core project, City Center, into service in the first and second quarters of 2021;
- disposed of building improvements related to one Fund IV project, 110 University Place, in connection with a lease termination in the second quarter of 2021 (Note 11);
- placed the remaining portion of one Fund IV property, 717 N. Michigan Avenue, into development in the fourth quarter of 2021; and
- placed a portion of Fund II's City Point Phase III into service in the fourth quarter of 2021.

Construction in progress pertains to construction activity at the Company's operating properties that are in service and continue to operate during the construction period.

3. Notes Receivable, Net

The Company's notes receivable, net are generally collateralized either by the underlying properties or the borrowers' ownership interests in the entities that own the properties, and were as follows (dollars in thousands):

Description	December 31, 2022	December 31, 2021	December 31, 2022		
			Number	Maturity Date	Interest Rate
Core Portfolio [(a)]	$ 124,801	$ 154,332	5	Apr 2020 - Dec 2027	4.65% - 9.00%
Fund III	—	5,306	—	—	—
Total notes receivable	124,801	159,638			
Allowance for credit loss	(898)	(5,752)			
Notes receivable, net	$ 123,903	$ 153,886	5		

(a) Includes one note receivable from an OP Unit holder, with a balance of $6.0 million at December 31, 2022 and 2021.

During the year ended December 31, 2022, the Company:

- through Fund III obtained the remaining venture partner's interest in an entity that held a property, which was collateral for a note with a balance of $5.3 million, accrued interest of $4.7 million, less credit loss reserve of $4.6 million (exclusive of default interest and other amounts due on the loan that have not been recognized), via a foreclosure auction in January 2022. The entity was previously accounted for as an equity method investment until Fund III acquired the venture partner's interest in a foreclosure auction. Fund III now owns 100% of the entity and consolidates it (Note 4);
- originated a new loan to other Fund II investors of $65.9 million in the third quarter, which is presented in redeemable noncontrolling interest on the Company's consolidated balance sheets (Note 10);
- funded $7.5 million of a $12.8 million construction loan commitment to an unconsolidated venture, which is presented in investments in and advances to unconsolidated affiliates, net of an allowance for credit loss (Note 4). The loan has a stated interest rate of Prime + 1.00%, matures on December 28, 2023 and is collateralized by the venture members' interest in an entity that holds the 1238 Wisconsin development property;
- Fund V made a bridge loan to an unconsolidated venture for $52.0 million during the first quarter, which was repaid during the second quarter. Additionally, Fund V made a bridge loan to an unconsolidated venture for $31.7 million during the third quarter, which is presented in investments in and advances to unconsolidated affiliates, net of an allowance for credit loss (Note 4). The loan has a stated interest rate of 8.0%, matures on February 6, 2023 and is collateralized by the Shoppes at South Hills property. The bridge loan was refinanced with third-party mortgage debt in February 2023 (Note 17) ;
- received full payment on a $16.0 million Core Portfolio loan during the second quarter, and full payment on a $13.5 million Core Portfolio loan and partial payment of $5.7 million of accrued interest on a Core Portfolio loan during the third quarter;
- extended the maturity date of one Core note receivable of $54.0 million from January 13, 2023 to January 9, 2024; and
- decreased its allowance for credit loss by $4.9 million, of which approximately $4.6 million was attributable to the aforementioned Fund III foreclosure.

During the year ended December 31, 2021, the Company:

- originated a new Core Portfolio note for $16.0 million with a stated interest rate of 9% and a maturity date of October 20, 2022 collateralized by a single tenant property in Silver Spring, Maryland on April 20, 2021;

- exchanged 21,109 OP Units in settlement of a note receivable in the amount of $0.5 million on July 12, 2021 (Note 10);
- originated a new Core Portfolio note for $43.0 million, of which $42.0 million was funded, with three tranches with stated interest rates ranging from 5% to 12% and a maturity date of September 17, 2024 collateralized by a retail condominium in Soho, New York on September 17, 2021;
- extended the maturity date of one Core note receivable of $13.5 million from October 28, 2021 to June 1, 2022; and
- recorded an increase in its allowance for credit loss of approximately $4.5 million primarily attributable to the Fund III note that matured in July 2020.

Default

One Core Portfolio note aggregating $21.6 million including accrued interest (exclusive of default interest and other amounts due on the loan that have not been recognized) was in default at December 31, 2022 and December 31, 2021. On April 1, 2020, the loan matured and was not repaid. The Company expects to take appropriate actions to recover the amounts due under the loan and has issued a reservation of rights letter to the borrowers and guarantor, reserving all of its rights and remedies under the applicable loan documents and otherwise. The Company has determined that the collateral for this loan is sufficient to cover the loan's carrying value at December 31, 2022 and December 31, 2021.

Allowance for Credit Losses

The Company monitors the credit quality of its notes receivable on an ongoing basis and considers indicators of credit quality such as loan payment activity, the estimated fair value of the underlying collateral, the seniority of the Company's loan in relation to other debt secured by the collateral and the prospects of the borrower.

Earnings from these notes and mortgages receivable are reported within the Company's Structured Financing segment (Note 12). Interest receivable is included in Other assets (Note 5).

The Company's estimated allowance for credit losses related to its Structured Financing segment has been computed for its amortized cost basis in the portfolio, including accrued interest (Note 5), factoring historical loss experience in the United States for similar loans, as adjusted for current conditions, as well as the Company's expectations related to future economic conditions. Due to the lack of comparability across the Structured Financing portfolio, each loan was evaluated separately. As a result, there were three non-collateral-dependent loans with a total amortized cost of $112.9 million, inclusive of accrued interest of $11.9 million, for which an allowance for credit losses has been recorded aggregating $0.9 million at December 31, 2022. For two loans in this portfolio, aggregating $27.9 million, inclusive of accrued interest of $4.1 million at December 31, 2022, the Company has elected to apply a practical expedient in accordance with ASC 326 and did not establish an allowance for credit losses because (i) these loans are collateral-dependent loans, which due to their settlement terms are not expected to be settled in cash but rather by the Company's possession of the real estate collateral; and (ii) at December 31, 2022, the Company determined that the estimated fair value of the collateral at the expected realization date for these loans was sufficient to cover the carrying value of its investments in these notes receivable. Impairment charges may be required if and when such amounts are estimated to be nonrecoverable upon a realization event, which is generally at the time a loan is repaid, or in the case of foreclosure, when the underlying asset is sold; however, non-recoverability may also be concluded if it is reasonably certain that all amounts due will not be collected.

4. Investments in and Advances to Unconsolidated Affiliates

The Company accounts for its investments in and advances to unconsolidated affiliates primarily under the equity method of accounting as it has the ability to exercise significant influence but does not have financial or operating control over the investment, which is maintained by each of the unaffiliated partners who co-invest with the Company. The Company's investments in and advances to unconsolidated affiliates consist of the following (dollars in thousands):

Portfolio	Property	Ownership Interest December 31, 2022	December 31, 2022	December 31, 2021
Core:	840 N. Michigan Avenue [a,h]	88.43%	$ —	$ 51,513
	Renaissance Portfolio	20%	28,755	28,466
	Gotham Plaza	49%	30,112	29,187
	Georgetown Portfolio [b]	50%	4,048	4,089
	1238 Wisconsin Avenue [b, c]	80%	14,502	5,895
			77,417	119,150
Mervyns II:	KLA/ABS [d]	36.7%	85,403	124,316
Fund III:	Self Storage Management [b]	0%	—	207
	640 Broadway [e]	100%	—	17,825
			—	18,032
Fund IV:	Fund IV Other Portfolio	98.57%	7,914	12,675
	650 Bald Hill Road	90%	10,203	11,677
	Paramus Plaza	50%	936	1,975
			19,053	26,327
Fund V:	Family Center at Riverdale [a]	89.42%	4,995	12,449
	Tri-City Plaza	90%	8,422	6,827
	Frederick County Acquisitions	90%	12,240	10,748
	Wood Ridge Plaza	90%	12,751	—
	La Frontera Village	90%	20,803	—
	Shoppes at South Hills [f]	90%	44,677	—
	Mohawk Commons	90%	775	—
			104,663	30,024
Various:	Due from (to) Related Parties		305	666
	Other [g]		4,315	3,811
	Investments in and advances to unconsolidated affiliates		**$ 291,156**	**$ 322,326**
Core:	Crossroads [h]	49%	$ 8,832	$ 9,939
	840 N. Michigan Avenue [a, h]	88.43%	$ 1,673	—
	Distributions in excess of income from, and investments in, unconsolidated affiliates		**$ 10,505**	**$ 9,939**

a) Represents a tenancy-in-common interest.
b) Represents a VIE for which the Company is not the primary beneficiary (Note 16).
c) Includes a $12.8 million construction commitment from the Company to the venture that holds its investment in 1238 Wisconsin. As of December 31, 2022 and 2021 the note receivable from a related party had a balance of $7.5 million, net of CECL allowance of $0.1 million, and zero, respectively. The loan is collateralized by the venture members' equity interest, bears interest at Prime + 1.0% subject to a 4.5% floor, and matures on December 28, 2023. Interest is recognized over the life of the loan.
d) Mervyns II has retained an effective indirect ownership of approximately 4.1 million shares (approximately 1% interest) through its Investment in Albertsons Companies Inc. ("Albertsons"), which is accounted for at fair value (Note 8). On October 13, 2022, Albertsons entered into a merger agreement with Kroger, that is expected to close in 2024. As part of the transaction, Albertsons announced it will pay a $6.85 per common share Special Dividend (the "Special Dividend") payable on November 7, 2022,

to stockholders of record as of October 24, 2022, which Albertsons was prohibited from paying under a temporary restraining order until January 2023 (Note 17). In addition, the entity that holds the shares of Albertsons extended the expiration of lockup through May 2023.

e) In January 2022, the Company, through an affiliate of Fund III, foreclosed on partner's interest and now owns 100% and consolidates the entity (Note 2).

f) Includes a $31.7 million bridge loan from the Company to the venture that holds the property in its investment in Shoppes at South Hills. As of December 31, 2022 and 2021 the note receivable from a related party had a balance of $31.7 million, net of CECL allowance of $0.2 million, and zero, respectively. The loan bears interest at 8.0% and matures on February 6, 2023. Interest is recognized over the life of the loan. The loan was refinanced with a third-party lender in February 2023 (Note 17).

g) Includes cost-method investments in Storage Post, Fifth Wall, and other investments.

h) Distributions have exceeded the Company's investment; however, the Company recognizes a liability balance as it may elect to contribute capital to the entity.

During the year ended December 31, 2022, the Company:

- through Fund V, acquired a 90% interest in a venture for $15.9 million, which acquired Shoppes at South Hills, a shopping center located in Poughkeepsie, New York for $47.6 million. In addition, Fund V made a bridge loan to the entity for $31.7 million during the third quarter (Note 3);

- recorded an impairment charge of $50.8 million related to its 840 N. Michigan Avenue investment during the third quarter, which is included in Equity in (losses) earnings of unconsolidated affiliates in the consolidated statements of operations, reflecting management's estimate of fair value at that date;

- through Fund V, acquired a 90% interest in a venture for $26.5 million, which acquired La Frontera Village, a shopping center located in Round Rock, Texas for $81.4 million. In addition, Fund V made a bridge loan to the entity for $52.0 million during the first quarter, which was repaid during the second quarter. On June 10, 2022, the venture entered into a $57.0 million mortgage loan, of which $55.5 million was funded at closing;

- through Fund V, acquired a 90% interest in a venture for $15.3 million, which acquired Wood Ridge Plaza, a shopping center located in Houston, Texas for $49.3 million during the first quarter. In addition, on March 21, 2022 the Wood Ridge Plaza venture entered into a $36.6 million mortgage loan, of which $32.3 million was funded at closing;

- through an affiliate of Fund III, foreclosed on the remaining 37% interest in 640 Broadway during the first quarter. Accordingly, the Company now consolidates this property (Note 2);

- through Fund III, sold its investment in Self Storage Management for $6.0 million and recognized its proportionate gain of $1.5 million during the first quarter, which is included in Realized and unrealized holding (losses) gains on investments and other in the consolidated statements of operations;

- through Fund IV, sold its investment in Promenade at Manassas for $46.0 million and repaid $27.3 million of the related mortgage. Fund IV recognized a gain of $12.8 million, of which the Company's share was $3.0 million during the fourth quarter;

- through Fund V, acquired a 90% interest in a venture that acquired Mohawk Commons, a shopping center located in Schenectady, New York in January 2023 (Note 17);

- funded $0.2 million of its capital commitment to its Fifth Wall investment during the second and third quarter. Funded $7.5 million of its construction commitment to the venture that holds 1238 Wisconsin (Note 3); and

- received cash dividends totaling $1.9 million at Mervyns II related to distributions from its Investment in Albertsons and recorded a net unrealized holding loss of $38.9 million reflecting the change in fair value of its Investment in Albertsons (Note 8). Received a special cash dividend in January 2023 totaling $28.2 million at Mervyns II from its Investment in Albertsons (Note 17).

During the year ended December 31, 2021, the Company:

- received dividends of $1.7 million at Mervyns II related to distributions from its Investment in Albertsons and recorded a net unrealized holding gain of $51.9 million reflecting the change in fair value of its Investment in Albertsons;
- on January 4, 2021, Fund V sold two land parcels at its unconsolidated Family Center at Riverdale property for a total of $10.5 million, repaid $7.9 million of the related mortgage and the venture recognized a gain of $3.2 million, of which the Company's share was $0.6 million;
- called capital for its Crossroads investment of $7.5 million, of which the venture partner's share was $5.4 million; and
- made a capital contribution to its Fifth Wall investment in the amount of $1.9 million.

Fees from Unconsolidated Affiliates

The Company earned property management, construction, development, legal and leasing fees from its investments in unconsolidated partnerships totaling $0.4 million and $0.6 million and $1.1 million for the years ended December 31, 2022, 2021 and 2020, respectively, which is included in other revenues in the consolidated statements of operations.

In addition, the Company paid certain unaffiliated partners of its joint ventures, $1.6 million and $1.4 million and $2.1 million for the years ended December 31, 2022, 2021 and 2020, respectively, for leasing commissions, development, management, construction, and overhead fees.

Summarized Financial Information of Unconsolidated Affiliates

The following combined and condensed Balance Sheets and Statements of operations, in each period, summarize the financial information of the Company's investments in unconsolidated affiliates that were held as of December 31, 2022, and accordingly exclude the results of any investments disposed of or consolidated prior to that date (in thousands):

	December 31, 2022	December 31, 2021
Combined and Condensed Balance Sheets		
Assets:		
Rental property, net	$ 650,997	$ 631,661
Real estate under development	17,359	8,112
Other assets	127,070	78,300
Total assets	$ 795,426	$ 718,073
Liabilities and partners' equity:		
Mortgage notes payable	$ 609,923	$ 571,461
Other liabilities	96,532	69,166
Partners' equity	88,971	77,446
Total liabilities and partners' equity	$ 795,426	$ 718,073
Company's share of accumulated equity	$ 131,878	$ 113,285
Basis differential	52,813	66,031
Deferred fees, net of portion related to the Company's interest	5,937	4,071
Amounts receivable/payable by the Company	305	666
Investments in and advances to unconsolidated affiliates, net of Company's share of distributions in excess of income from and investments in unconsolidated affiliates	190,933	184,053
Investments carried at fair value or cost	89,718	128,334
Company's share of distributions in excess of income from and investments in unconsolidated affiliates	10,505	9,939
Investments in and advances to unconsolidated affiliates	$ 291,156	$ 322,326

	Year Ended December 31,		
	2022	2021	2020
Combined and Condensed Statements of Operations			
Total revenues	$ 96,080	$ 80,823	$ 78,054
Operating and other expenses	(29,858)	(28,572)	(28,718)
Interest expense	(26,807)	(21,228)	(22,651)
Depreciation and amortization	(34,596)	(30,518)	(30,917)
Loss on extinguishment of debt	(7)	(35)	—
Impairment of Investment [a]	(57,423)	—	—
Gain on disposition of properties [b]	12,983	3,206	—
Net (loss) income attributable to unconsolidated affiliates	$ (39,628)	$ 3,676	$ (4,232)
Company's share of equity in net (loss) income of unconsolidated affiliates	$ (31,907)	$ 6,023	$ (2,503)
Income attributable to unconsolidated affiliates recently sold or consolidated	—	—	$ 1,280
Basis differential amortization	(1,000)	(693)	(1,834)
Company's equity in (losses) earnings of unconsolidated affiliates	$ (32,907)	$ 5,330	$ (3,057)

a) Represents the impairment charge related to 840 N. Michigan Avenue for the year ended December 31, 2022.
b) Represents the gain on the sale of Promenade at Manassas on October 13, 2022, and two land parcels by the Family Center at Riverdale on January 4, 2021.

5. Other Assets, Net and Accounts Payable and Other Liabilities

Other assets, net and accounts payable and other liabilities are comprised of the following for the periods presented:

(in thousands)	December 31, 2022	December 31, 2021
Other Assets, Net:		
Lease intangibles, net (Note 6)	$ 102,374	$ 108,918
Derivative financial instruments (Note 8)	54,902	7
Deferred charges, net (a)	28,478	28,438
Accrued interest receivable (Note 3)	18,082	21,148
Prepaid expenses	15,872	17,230
Due from seller	3,036	3,364
Income taxes receivable	1,876	2,279
Deposits	1,624	1,647
Corporate assets, net	1,287	1,648
Other receivables	2,060	1,830
	$ 229,591	$ 186,509
(a) Deferred Charges, Net:		
Deferred leasing and other costs	$ 63,920	$ 58,281
Deferred financing costs related to line of credit	9,494	9,953
	73,414	68,234
Accumulated amortization	(44,936)	(39,796)
Deferred charges, net	$ 28,478	$ 28,438
Accounts Payable and Other Liabilities:		
Lease intangibles, net (Note 6)	$ 78,416	$ 76,778
Accounts payable and accrued expenses	59,922	56,580
Deferred income	34,503	38,373
Tenant security deposits, escrow and other	16,582	13,045
Lease liability - finance leases, net (Note 11)	7,022	6,612
Derivative financial instruments (Note 8)	46	45,027
	$ 196,491	$ 236,415

6. Lease Intangibles

Upon acquisitions of real estate (Note 2), the Company assesses the relative fair value of acquired assets (including land, buildings, and improvements, and identified intangibles such as above- and below-market leases, including below-market options and acquired in-place leases) and assumed liabilities. The lease intangibles are amortized over the remaining terms of the respective leases, including option periods where applicable.

Intangible assets and liabilities are included in Other assets and Accounts payable and other liabilities (Note 5) on the consolidated balance sheets and summarized as follows (in thousands):

	December 31, 2022			December 31, 2021		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Amortizable Intangible Assets						
In-place lease intangible assets	$ 301,556	$ (205,951)	$ 95,605	$ 290,819	$ (189,981)	$ 100,838
Above-market rent	24,064	(17,295)	6,769	24,191	(16,111)	8,080
	$ 325,620	$ (223,246)	$ 102,374	$ 315,010	$ (206,092)	$ 108,918
Amortizable Intangible Liabilities						
Below-market rent	$ (176,253)	$ 98,182	$ (78,071)	$ (171,245)	$ 94,871	$ (76,374)
Above-market ground lease	(671)	326	(345)	(671)	267	(404)
	$ (176,924)	$ 98,508	$ (78,416)	$ (171,916)	$ 95,138	$ (76,778)

During the year ended December 31, 2022, the Company:

- acquired in-place lease intangible assets of $28.2 million, above-market rents of $0.8 million, and below-market rents of $14.1 million with weighted-average useful lives of 6.4, 6.9, and 11.4 years, respectively (Note 2);
- derecognized in-place lease intangible assets of $1.5 million and below-market rent of $2.1 million, of which the Company's share was $0.5 million and $0.5 million, respectively, related to disposed properties (Note 2); and
- recorded accelerated amortization related to in-place lease intangible assets of $0.2 million and below-market rents of $5.5 million, of which the Company's share was $0.1 million and $5.4 million, respectively, related to notification of tenant non-renewals and early tenant lease terminations.

During the year ended December 31, 2021, the Company:

- acquired in-place lease intangible assets of $34.7 million, above-market rents of $5.3 million, and below-market rents of $16.3 million with weighted-average useful lives of 5.8, 5.4, and 27.7 years, respectively (Note 2);
- derecognized in-place lease intangible assets of $2.2 million and below-market rent of $4.4 million, of which the Company's share was $1.7 million and $3.0 million, respectively, related to disposed properties (Note 2); and
- recorded accelerated amortization related to in-place lease intangible assets of $1.6 million and below-market rents of $3.6 million, of which the Company's share was $1.1 million and $3.1 million, respectively, related to notification of tenant non-renewals and early tenant lease terminations.

Amortization of in-place lease intangible assets is recorded in depreciation and amortization expense and amortization of above-market rent and below-market rent is recorded as a reduction to and increase to rental income, respectively, in the consolidated statements of operations. Amortization of above-market ground leases are recorded as a reduction to rent expense in the consolidated statements of operations.

The scheduled amortization of acquired lease intangible assets and assumed liabilities as of December 31, 2022 is as follows (in thousands):

Years Ending December 31,	Net Increase in Lease Revenues	Increase to Amortization	Reduction of Rent Expense	Net (Expense) Income
2023	$ 5,768	$ (25,125)	$ 58	$ (19,299)
2024	5,607	(18,056)	58	(12,391)
2025	5,177	(13,075)	58	(7,840)
2026	4,901	(10,674)	58	(5,715)
2027	4,737	(8,474)	58	(3,679)
Thereafter	45,112	(20,201)	55	24,966
Total	$ 71,302	$ (95,605)	$ 345	$ (23,958)

7. Debt

A summary of the Company's consolidated indebtedness is as follows (dollars in thousands):

	Interest Rate at			Carrying Value at	
	December 31, 2022	December 31, 2021	Maturity Date at December 31, 2022	December 31, 2022	December 31, 2021
Mortgages Payable					
Core Fixed Rate	3.88%-5.89%	3.88%-5.89%	Feb 2024 - Apr 2035	$ 143,838	$ 145,464
Core Variable Rate - Swapped [(a)]	4.54%	3.41%-4.54%	Nov 2028	50,000	72,957
Total Core Mortgages Payable				**193,838**	**218,421**
Fund II Variable Rate	SOFR+2.61%	LIBOR+2.75% - PRIME+2.00%	Aug 2025	83,655	255,978
Fund II Variable Rate - Swapped [(a)]	5.85%		Aug 2025	50,000	—
Total Fund II Mortgages Payable				**133,655**	**255,978**
Fund III Variable Rate	SOFR+3.35%	LIBOR+2.75%	Jul 2023	**35,970**	**34,728**
Fund IV Fixed Rate	4.50%	4.50%	Oct 2025	1,120	1,120
Fund IV Variable Rate	LIBOR+2.25%-LIBOR+3.65%	LIBOR+1.60%-LIBOR+3.65%	Apr 2023 - Jun 2026	145,110	221,832
Fund IV Variable Rate - Swapped [(a)]		3.48%-4.61%		—	23,316
Total Fund IV Mortgages and Other Notes Payable				**146,230**	**246,268**
Fund V Fixed Rate	3.35%	3.35%	May 2023	31,801	31,801
Fund V Variable Rate	LIBOR + 1.85% - SOFR + 2.76%	LIBOR + 1.85% - SOFR + 2.76%	Jun 2023 - Nov 2026	36,409	58,878
Fund V Variable Rate - Swapped [(a)]	2.93%-5.11%	2.43%-4.78%	Jan 2023 - Apr 2025	358,014	297,731
Total Fund V Mortgages Payable				**426,224**	**388,410**
Net unamortized debt issuance costs				(7,621)	(3,958)
Unamortized premium				343	446
Total Mortgages Payable				**$ 928,639**	**$ 1,140,293**
Unsecured Notes Payable					
Core Variable Rate Unsecured Term Loans - Swapped [(a)]	3.74%-5.11%	3.65%-5.32%	Jun 2026 - Jul 2029	**$ 650,000**	**$ 400,000**
Fund II Unsecured Notes Payable		LIBOR+2.25%		—	**40,000**
Fund IV Subscription Facility		SOFR+2.01%		—	**5,000**
Fund V Subscription Facility	SOFR+1.86%	LIBOR+1.90%	May 2023	**51,210**	**118,028**
Net unamortized debt issuance costs				(5,076)	(3,988)
Total Unsecured Notes Payable				**$ 696,134**	**$ 559,040**
Unsecured Line of Credit					
Core Unsecured Line of Credit - Variable Rate	SOFR+1.50%	LIBOR + 1.40%	Jun 2025	$ 12,287	$ 46,491
Core Unsecured Line of Credit - Swapped [(a)]	3.74%-5.11%	3.65%-5.32%	Jun 2025	156,000	66,414
Total Unsecured Line of Credit				**$ 168,287**	**$ 112,905**
Total Debt - Fixed Rate [(b)]				$ 1,440,773	$ 1,038,803
Total Debt - Variable Rate [(c)]				364,641	780,935
Total Debt				1,805,414	1,819,738
Net unamortized debt issuance costs				(12,697)	(7,946)
Unamortized premium				343	446
Total Indebtedness				**$ 1,793,060**	**$ 1,812,238**

a) At December 31, 2022, the stated rates ranged from 4.54% for Core variable-rate debt; SOFR + 2.61% for Fund II variable-rate debt; SOFR + 3.35% for Fund III variable-rate debt; LIBOR + 2.25% to LIBOR + 3.65% for Fund IV variable-rate debt; LIBOR + 1.85% to SOFR + 2.76% for Fund V variable-rate debt; 3.74%-5.11% for Core variable-rate unsecured term loans; and SOFR + 1.50% for Core variable-rate unsecured lines of credit.

b) Includes $1,264.0 million and $860.4 million, respectively, of variable-rate debt that has been fixed with interest rate swap agreements as of the periods presented. Fixed-rate debt at December 31, 2022 and 2021 includes $12.3 million and $0.0 million, respectively of Core swaps that may be used to hedge debt instruments of the Funds.

c) Includes $103.8 million and $110.5 million, respectively, of variable-rate debt that is subject to interest cap agreements as of the periods presented.

Credit Facilities

The Operating Partnership has a $700.0 million senior unsecured credit facility, as amended (the "Credit Facility"), with Bank of America, N.A. as administrative agent, comprised of a $300.0 million senior unsecured revolving credit facility (the "Revolver") which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating, and a $400.0 million senior unsecured term loan (the "Term Loan") which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating. Currently, the Revolver bears interest at SOFR + 1.50% and the Term Loan bears interest at SOFR + 1.65%. The Revolver matures on June 29, 2025, subject to two six-month extension options, and the Term Loan matures on June 29, 2026. The Credit Facility provides for an accordion feature, which allows for one or more increases in the revolving credit facility or term loan facility, for a maximum aggregate principal amount not to exceed $900.0 million. The Credit Facility is guaranteed by the Company and certain subsidiaries of the Company.

On April 6, 2022, the Operating Partnership entered into a $175.0 million term loan facility (the "$175.0 Million Term Loan"), with Bank of America, N.A. as administrative agent, which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating, and which matures on April 6, 2027. The proceeds of the $175.0 million term loan were used to pay down the Revolver. Currently the $175.0 million term loan bears interest at SOFR + 1.60%. The $175.0 million term loan is guaranteed by the Company and certain subsidiaries of the Company.

On July 29, 2022, the Operating Partnership entered into the $75.0 million term loan (the "$75.0 Million Term Loan"), with TD Bank, N.A. as administrative agent, which bears interest at a floating rate based on SOFR with margins based on leverage or credit rating and which matures on July 29, 2029. Currently the $75.0 million term loan bears interest at SOFR + 2.05%. The proceeds of the $75.0 million term loan were used to pay down the Revolver. The $75.0 million term loan is guaranteed by the Company and certain subsidiaries of the Company.

The Company has entered into various swap agreements to effectively fix its interest costs on a portion of its Revolver and term loans, as described above, at December 31, 2022 (Note 8).

Mortgages and Other Notes Payable

During the year ended December 31, 2022, the Company (amounts represent balances at the time of transactions):

- entered into a new Fund mortgage in the amount of $42.4 million in the second quarter;
- modified and extended ten Fund mortgages, four of which were extended during the first quarter totaling $99.0 million (excluding principal reductions of $1.1 million), two of which were extended during the second quarter totaling $62.2 million, one of which was extended during the third quarter totaling $36.0 million, and three of which were extended during the fourth quarter totaling $83.4 million (excluding principal reductions and interest reserve of $3.5 million and $4.2 million, respectively);
- modified the Fund IV bridge loan with an outstanding balance of $42.2 million (excluding principal reductions of $8.6 million) and changed the rate to SOFR plus 2.56% and extended the term by two-months in the second quarter; During the third quarter, the Company modified the facility and extended the maturity date to December 29, 2023.
- refinanced a Core loan in the third quarter with an outstanding balance of $25.4 million with a new loan of $26.0 million at an interest rate of 4.0% maturing July 10, 2027;
- refinanced Fund II mortgage debt and unsecured note collateralized by the real estate assets of City Point Phase II in the third quarter with an aggregate outstanding balance of $257.9 million and $40.0 million, respectively, ("City Point debt"), with a single $198.0 million mortgage loan, with initial proceeds of approximately $132.3 million and a loan from the Company to other Fund II Investors (Note 10). The mortgage has a three-year initial term and bears interest at SOFR + 2.61%. The mortgage is collateralized by the real estate assets of City Point, of which $50.0 million is guaranteed by the Operating Partnership;

- repaid one Core mortgage of $12.3 million during the first quarter and repaid three Fund mortgages in the aggregate amount of $57.8 million in connection with the sale of properties during the first quarter (Note 2); repaid one Fund mortgage during the second quarter in the amount of $22.7 million; repaid two Fund mortgages during the third quarter in the aggregate amount of $29.5 million in connection with the sale of a property during the third quarter; repaid one Core mortgage of $10.3 million in connection with the sale of a property in the fourth quarter; and

- made principal payments of $7.5 million and repaid $17.0 million on the Fund IV secured bridge facility.

During the year ended December 31, 2021, the Company (amounts represent balances at the time of transactions):

- assumed a $31.8 million mortgage upon the acquisition of Canton Marketplace (Note 2) with an interest rate of 3.35% and a maturity date of May 1, 2023; Entered into a $29.2 million mortgage collateralized by Monroe Marketplace (Note 2) with an interest rate of SOFR plus 2.76% and a maturity date of November 12, 2026;

- extended 11 Fund mortgages, two of which were extended during the first quarter totaling $37.7 million (after principal reductions of $1.7 million), five of which were extended during the second quarter totaling $125.7 million (after principal reductions of $6.5 million), two of which were extended during the third quarter totaling $53.1 million (after principal reductions of $10.2 million), and two of which were extended during the fourth quarter totaling $14.8 million (after principal reductions of $3.0 million);

- modified the terms of the Fund IV Bridge facility during the fourth quarter reflecting an extension of maturity to June 30, 2022 which had an outstanding balance of $64.2 million prior to modification. The facility had an outstanding balance of $59.2 million and $79.2 million at December 31, 2021 and 2020, respectively, reflecting repayments during 2021. In addition, during the first quarter of 2021, the interest rate was changed from LIBOR + 2.00% to LIBOR + 2.50% with a floor of 0.25%;

- refinanced a Fund II loan for $18.5 million with a new loan of $16.8 million at an interest rate of LIBOR + 2.75% maturing August 11, 2022;

- entered into a swap agreement during the first quarter with a notional value of $16.7 million, for its New Towne Plaza mortgage replacing the existing swap which expired. In addition, the Company terminated two forward-starting interest rate swaps resulting in cash proceeds of approximately $3.4 million during the first quarter (Note 8);

- repaid one Core mortgage of $6.7 million in connection with the sale of 60 Orange Street during the first quarter and four Fund mortgages in the aggregate amount of $23.5 million in connection with the sale of the properties during the second quarter (Note 2); and

- made principal payments of $8.6 million.

At December 31, 2022 and 2021, the Company's mortgages were collateralized by 31 and 37 properties, respectively, and the related tenant leases. Certain loans are cross-collateralized and contain cross-default provisions. The loan agreements contain customary representations, covenants, and events of default. Certain loan agreements require the Company to comply with affirmative and negative covenants, including the maintenance of debt service coverage and leverage ratios. The Operating Partnership has guaranteed up to $50.0 million related to the Fund II City Point mortgage loan. The Company is not in default on any of its loan agreements at December 31, 2022. A portion of the Company's variable-rate mortgage debt has been effectively fixed through certain cash flow hedge transactions (Note 8).

Unsecured Notes Payable

Unsecured notes payable for which total availability was $41.8 million and $16.3 million at December 31, 2022 and 2021, respectively, are comprised of the following:

- The outstanding balance of the Term Loan was $400.0 million at each of December 31, 2022 and December 31, 2021.

- The outstanding balance of the $175.0 Million Term Loan was $175.0 million at December 31, 2022 and zero at December 31, 2021. During the second quarter of 2022, the Company entered into swap agreements fixing the rate of the $175.0 Million Term Loan balance.

- The outstanding balance of the $75.0 Million Term Loan was $75.0 million at December 31, 2022 and zero at December 31, 2021.

- Fund II refinanced its $40.0 million term loan in the third quarter as part of the aforementioned City Point debt. The term loan had an outstanding balance of $40.0 million prior to refinancing, and also at December 31, 2021, and was collateralized by the real estate assets of City Point Phase II and guaranteed by the Operating Partnership. There was no availability prior to the modification, and also at December 31, 2021.

- Fund IV had a $5.0 million subscription line that expired on December 29, 2022, which had an outstanding balance and total available credit of $0.0 and $0.0 million, respectively, at maturity. The outstanding balance and total availability at December 31, 2021 were $5.0 million and zero, respectively. At December 31, 2022 and 2021, Fund IV had $0.0 million available on its bridge facility. The Operating Partnership has guaranteed up to $22.5 million of the Fund IV Bridge loan.

- Fund V has a $100.0 million subscription line collateralized by Fund V's unfunded capital commitments, and, to the extent of Acadia's capital commitments, is guaranteed by the Operating Partnership. The total capacity was reduced by $50.0 million in the second quarter of 2022, which had an outstanding balance of $52.3 million prior to modification. The outstanding balance and total available credit of the Fund V subscription line was $51.2 million and $41.8 million, respectively at December 31, 2022, reflecting outstanding letters of credit of $7.0 million. The outstanding balance and total available credit were $118.0 million and $16.3 million at December 31, 2021 respectively, reflecting outstanding letters of credit of $7.0 million.

Unsecured Revolving Line of Credit

At December 31, 2022 and 2021, the Company had a total of $131.7 million and $183.1 million, respectively, available under its Revolver, reflecting borrowings of $168.3 million and $112.9 million and letters of credit of $0.0 million and $4.0 million at December 31, 2022 and 2021, respectively. At each of December 31, 2022 and 2021, $156.0 million and $66.4 million, respectively, of outstanding borrowings under its revolver were swapped to a fixed rate.

Scheduled Debt Principal Payments

The scheduled principal repayments, without regard to available extension options (described further below), of the Company's consolidated indebtedness, as of December 31, 2022 are as follows (in thousands):

Year Ending December 31,		
2023	$	340,075
2024		251,663
2025		408,988
2026		436,426
2027		202,354
Thereafter		165,908
		1,805,414
Unamortized premium		343
Net unamortized debt issuance costs		(12,697)
Total indebtedness	$	1,793,060

The table above does not reflect available extension options (subject to customary conditions) on consolidated debt with balances as of December 31, 2022 of $51.2 million contractually due in 2023, $0.0 million contractually due in 2024, $344.3 million contractually due in 2025 and $0.0 million contractually due in 2026; all for which the Company has available options to extend by up to 12 months and for some an additional 12 months thereafter. However, there can be no assurance that the Company will be able to successfully execute any or all of its available extension options.

See Note 4 for information about liabilities of the Company's unconsolidated affiliates.

8. Financial Instruments and Fair Value Measurements

The fair value of an asset is defined as the exit price, which is the amount that would either be received when an asset is sold or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The guidance establishes a three-tier fair value hierarchy

based on the inputs used in measuring fair value. These tiers are: Level 1, for which quoted market prices for identical instruments are available in active markets, such as money market funds, equity securities, and U.S. Treasury securities; Level 2, for which there are inputs other than quoted prices included within Level 1 that are observable for the instrument, such as certain derivative instruments including interest rate caps and interest rate swaps; and Level 3, for financial instruments or other assets/liabilities that do not fall into Level 1 or Level 2 and for which little or no market data exists, therefore requiring the Company to develop its own assumptions.

Items Measured at Fair Value on a Recurring Basis

The methods and assumptions described below were used to estimate the fair value of each class of financial instrument. For significant Level 3 items, the Company has also provided the unobservable inputs.

Money Market Funds — The Company has money market funds, which at times have zero balances and are included in Cash and cash equivalents in the consolidated balance sheets, and are comprised of government securities and/or U.S. Treasury bills. These funds were classified as Level 1 as the Company used quoted prices from active markets to determine their fair values.

Equity Investments – Albertsons became publicly traded during 2020 (Note 4). Upon Albertsons' IPO, the Company's Investment in Albertsons has a readily determinable market value (traded on an exchange) and is being accounted for as a Level 1 investment.

Derivative Assets — The Company has derivative assets, which are included in Other assets, net on the consolidated balance sheets, and comprised of interest rate swaps and caps. The derivative instruments were measured at fair value using readily observable market inputs, such as quotations on interest rates, and were classified as Level 2 as these instruments are custom, over-the-counter contracts with various bank counterparties that are not traded in an active market. See "Derivative Financial Instruments," below.

Derivative Liabilities — The Company has derivative liabilities, which are included in Accounts payable and other liabilities on the consolidated balance sheets and are comprised of interest rate swaps. These derivative instruments were measured at fair value using readily observable market inputs, such as quotations on interest rates, and were classified as Level 2 because they are custom, over-the-counter contracts with various bank counterparties that are not traded in an active market. See "Derivative Financial Instruments," below.

The Company did not have any transfers into or out of Level 1, Level 2, and Level 3 measurements during the year ended December 31, 2022 or 2021.

The following table presents the Company's fair value hierarchy for those assets and liabilities measured at fair value on a recurring basis (in thousands):

	December 31, 2022			December 31, 2021		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Assets						
Money market funds	$ —	$ —	$ —	$ —	$ —	$ —
Derivative financial instruments	—	54,902	—	—	7	—
Investment in Albertsons (Note 4)	85,403	—	—	124,316	—	—
Liabilities						
Derivative financial instruments	—	(46)	—	—	(45,027)	—

In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the level in the fair value hierarchy within which the entire fair value measurement falls is based on the lowest level input that is significant to the fair value measurement in its entirety. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the asset or liability.

Items Measured at Fair Value on a Nonrecurring Basis

Impairment Charges

During 2022, the Company reduced its holding period and intended use, and projected operating income at certain properties. During 2021, the Company was impacted by the COVID-19 Pandemic, which caused the Company to reduce its forecasted operating income at certain properties. As a result, several impairments were recorded. Impairment charges for the periods presented are as follows (in thousands):

					Impairment Charge	
Property and Location	**Owner**	**Triggering Event**	**Level 3 Inputs**	**Effective Date**	**Total**	**Acadia's Share**
2022 Impairment Charges						
146 Geary Street, San Francisco, CA	Fund IV	Reduced projected operating income	Projections of: holding period, net operating income, cap rate, incremental costs	Sept 30, 2022	$ 12,435	$ 2,875
717 N. Michigan Avenue, Chicago, IL	Fund IV	Reduced holding period and intended use	Offering price	Sept 30, 2022	20,876	4,827
Total 2022 Impairment Charges					$ 33,311	$ 7,702
2021 Impairment Charges						
210 Bowery commercial unit, New York, NY	Fund IV	Reduced projected operating income	Projections of: holding period, net operating income, cap rate, incremental costs	Sept 30, 2021	$ 3,016	$ 697
27 E. 61st Street New York, NY	Fund IV	Reduced projected operating income	Projections of: holding period, net operating income, cap rate, incremental costs	Sept 30, 2021	6,909	1,597
Total 2021 Impairment Charges					**$ 9,925**	**$ 2,294**

Derivative Financial Instruments

The Company had the following interest rate swaps and caps for the periods presented (dollars in thousands):

Derivative Instrument	Aggregate Notional Amount	Effective Date	Maturity Date	Strike Rate		Balance Sheet Location	Fair Value	
				Low	High		December 31, 2022	December 31, 2021
Core								
Interest Rate Swaps	$ 50,000	Dec 2022	Dec 2029	3.61 % —	3.61 %	Other Liabilities	$ (46)	$ (40,650)
Interest Rate Swap	806,000	Mar 2015 - Aug 2022	Mar 2023 - Jul 2030	2.10 % —	3.36 %	Other Assets	40,884	—
	$ 856,000						$ 40,838	$ (40,650)
Fund II								
Interest Rate Swap [a]	$ —	Jan 2023	Dec 2029	3.23 % —	3.23 %	Other Assets	$ 1,108	$ —
Fund III								
Interest Rate Cap	$ 35,970	Jul 2022	Jul 2023	3.50 % —	3.50 %	Other Assets	$ 232	$ —
Fund IV								
Interest Rate Swaps	$ —					Other Liabilities	$ —	$ (167)
Interest Rate Caps	76,338	Jul 2021 - Dec 2022	Jul 2023 - Dec 2023	3.00 % —	3.50 %	Other Assets	1,093	7
	$ 76,338						$ 1,093	$ (160)
Fund V								
Interest Rate Swaps [b]	$ 308,014	Jun 2018 - Jan 2023	Jan 2023 - Dec 2027	0.91 % —	3.36 %	Other Assets	$ 11,585	$ —
Interest Rate Swaps	—					Other Liabilities	—	(4,210)
	$ 308,014						$ 11,585	$ (4,210)
Total asset derivatives							$ 54,902	$ 7
Total liability derivatives							$ (46)	$ (45,027)

a) Includes one swap with an aggregate fair value of $1.1 million at December 31, 2022, with a notional value of $50.0 million which was acquired during December 2022 and is not effective until January 2023.

b) Includes one swap with an aggregate fair value of $0.8 million at December 31, 2022, with a notional value of $50.0 million which was acquired during December 2022 and is not effective until January 2023.

All of the Company's derivative instruments have been designated as cash flow hedges and hedge the future cash outflows on variable-rate debt (Note 7). It is estimated that approximately $26.4 million included in Accumulated other comprehensive income related to derivatives will be reclassified to interest expense within the next twelve months. As of December 31, 2022 and 2021, no derivatives were designated as fair value hedges or hedges of net investments in foreign operations. Additionally, the Company does not use derivatives for trading or speculative purposes and currently does not have any derivatives that are not designated hedges.

During the first quarter of 2021, the Company terminated two interest rate swaps with forward effective dates with an aggregate notional value of $100.0 million (Note 7) for cash proceeds of $3.4 million. As the hedged forecasted transaction is still expected, amounts deferred in Accumulated other comprehensive loss has been amortized into earnings as a reduction of interest expense over the original term of the swaps beginning in 2022.

Risk Management Objective of Using Derivatives

The Company is exposed to certain risks arising from both its business operations and economic conditions. The Company manages economic risks, including interest rate, liquidity, and credit risk, primarily by managing the amount, sources, and duration of its debt funding and, from time to time, through the use of derivative financial instruments. The Company enters into derivative financial instruments to manage exposures that result in the receipt or payment of future known and uncertain cash amounts, the values of which are determined by interest rates. The Company's derivative financial instruments are used to manage differences in the amount, timing and duration of the Company's known or expected cash receipts and its known or expected cash payments principally related to the Company's investments and borrowings.

The Company is exposed to credit risk in the event of non-performance by the counterparties to the swaps if the derivative position has a positive balance. The Company believes it mitigates its credit risk by entering into swaps with major financial institutions. The Company continually monitors and actively manages interest costs on its variable-rate debt portfolio and may enter into additional interest rate swap positions or other derivative interest rate instruments based on market conditions.

Credit Risk-Related Contingent Features

The Company has agreements with each of its swap counterparties that contain a provision whereby if the Company defaults on certain of its unsecured indebtedness, the Company could also be declared in default on its swaps, resulting in an acceleration of payment under the swaps.

Other Financial Instruments

The Company's other financial instruments had the following carrying values and fair values as of the dates shown (dollars in thousands, inclusive of amounts attributable to noncontrolling interests where applicable):

		December 31, 2022		December 31, 2021	
	Level	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value
Notes Receivable [a]	3	$ 123,903	$ 122,716	$ 153,886	$ 154,093
City Point Loan [a]	3	65,945	65,856	—	—
Mortgage and Other Notes Payable [a]	3	935,917	906,348	1,143,805	1,125,571
Investment in non-traded equity securities [b]	3	4,160	5,593	3,656	4,062
Unsecured notes payable and Unsecured line of credit [c]	2	869,497	868,399	675,933	680,171

a) The Company determined the estimated fair value of these financial instruments using a discounted cash flow model with rates that take into account the credit of the borrower or tenant, where applicable, and interest rate risk. The Company also considered the value of the underlying collateral, taking into account the quality of the collateral, the credit quality of the borrower, the time until maturity and the current market interest rate environment. Amounts exclude discounts and loan costs. The estimated market rates are between 5.27% to 13.92% for the Company's notes receivable and City Point Loan, and 6.27% to 10.82% for the Company's mortgage and other notes payable, depending on the attributes of the specific loans.

b) Represents the Operating Partnership's cost-method investment in Fifth Wall (Note 4).

c) The Company determined the estimated fair value of the unsecured notes payable and unsecured line of credit using quoted market prices in an open market with limited trading volume where available. In cases where there was no trading volume, the Company determined the estimated fair value using a discounted cash flow model using a rate that reflects the average yield of similar market participants.

The Company's cash and cash equivalents, restricted cash, rents receivable, accounts payable and certain financial instruments included in other assets and other liabilities had fair values that approximated their carrying values due to their short maturity profiles at December 31, 2022.

9. Commitments and Contingencies

The Company is involved in various matters of litigation arising out of, or incidental to, its business. While the Company is unable to predict with certainty the outcome of any particular matter, management does not expect, when such litigation is resolved, that the Company's resulting exposure to loss contingencies, if any, will have a material adverse effect on its consolidated financial position or results of operations.

Commitments and Guaranties

In conjunction with the development and expansion of various properties, the Company has entered into agreements with general contractors for the construction or development of properties aggregating approximately $39.1 million and $38.1 million as of December 31, 2022 and 2021, respectively.

At December 31, 2022 and 2021, the Company had Core and Fund letters of credit outstanding of $7.0 million and $19.7 million, respectively (Note 7). The Company has not recorded any obligation associated with these letters of credit. The majority of the letters of credit are collateral for existing indebtedness and other obligations of the Company.

10. Shareholders' Equity, Noncontrolling Interests and Other Comprehensive Loss

Common Shares and Units

In addition to the ATM Program activity discussed below, the Company completed the following transactions in its Common Shares during the year ended December 31, 2022:

- The Company withheld 3,235 restricted shares of its Common Shares ("Restricted Shares") to pay the employees' statutory minimum income taxes due on the value of the portion of their Restricted Shares that vested.
- The Company recognized Common Share and Common OP Unit-based compensation expense totaling $7.4 million in connection with Restricted Shares and Units (Note 13).

In addition to the ATM Program and share repurchase activity discussed below, the Company completed the following transactions in its Common Shares during the year ended December 31, 2021:

- The Company withheld 3,050 Restricted Shares to pay the employees' statutory minimum income taxes due on the value of the portion of their Restricted Shares that vested.
- The Company recognized Common Share and Common OP Unit-based compensation expense totaling $9.4 million in connection with Restricted Shares and Units (Note 13).

ATM Program

The Company has an at-the-market equity issuance program ("ATM Program") that provides the Company an efficient vehicle for raising public equity capital to fund its needs. The Company entered into its current $250.0 million ATM Program, which includes an optional "forward purchase" component, in the first quarter of 2022. The Company has not issued any shares on a forward basis during the year ended December 31, 2022 or 2021 and had approximately $222.3 million of availability under the ATM program. During the year ended December 31, 2022 the Company sold 5,525,419 Common Shares under its ATM Program for gross proceeds of $123.9 million, or $119.5 million net of issuance costs, at a weighted-average gross price per share of $22.43. During the year ended December 31, 2021, the Company sold 2,889,371 Common Shares under its ATM Program for gross proceeds of $64.9 million, or $63.9 million net of issuance costs, at a weighted-average gross price per share of $22.46. During the year ended December 31, 2020, the Company did not sell any Common Shares under its ATM Program.

Share Repurchase Program

During 2018, the Company's board of trustees (the "Board") approved a new share repurchase program, which authorizes management, at its discretion, to repurchase up to $200.0 million of its outstanding Common Shares. The program does not obligate the Company to repurchase any specific number of Common Shares and may be discontinued or extended at any time. The Company did not repurchase any shares during the year ended December 31, 2022 or 2021. Under the share repurchase program $122.5 million remains available at December 31, 2022.

Dividends and Distributions

The following table sets forth the distributions declared and/or paid during the periods presented:

Date Declared	Amount Per Share	Record Date	Payment Date
March 15, 2021	$ 0.15	March 31, 2021	April 15, 2021
May 5, 2021	$ 0.15	June 30, 2021	July 15, 2021
August 5, 2021	$ 0.15	September 30, 2021	October 15, 2021
November 3, 2021	$ 0.15	December 31, 2021	January 14, 2022
February 15, 2022	$ 0.18	March 31, 2022	April 14, 2022
May 4, 2022	$ 0.18	June 30, 2022	July 15, 2022
August 10, 2022	$ 0.18	September 30, 2022	October 14, 2022
November 9, 2022	$ 0.18	December 30, 2022	January 13, 2023

Accumulated Other Comprehensive Income (Loss)

The following tables set forth the activity in accumulated other comprehensive income (loss) for the years ended December 31, 2022, 2021 and 2020 (in thousands):

	Acadia's Share
Balance at January 1, 2022	**$ (36,214)**
Other comprehensive income before reclassifications - swap agreements	96,858
Reclassification of realized interest on swap agreements	8,232
Net current period other comprehensive income	105,090
Net current period other comprehensive loss attributable to redeemable noncontrolling interests	—
Net current period other comprehensive income attributable to noncontrolling interests	(22,059)
Balance at December 31, 2022	**$ 46,817**
Balance at January 1, 2021	**$ (74,891)**
Other comprehensive income before reclassifications - swap agreements	30,500
Reclassification of realized interest on swap agreements	21,407
Net current period other comprehensive income	51,907
Net current period other comprehensive income attributable to noncontrolling interests	(13,230)
Balance at December 31, 2021	**$ (36,214)**
Balance at January 1, 2020	**$ (31,474)**
Other comprehensive loss before reclassifications	(73,686)
Reclassification of realized interest on swap agreements	15,059
Net current period other comprehensive loss	(58,627)
Net current period other comprehensive income attributable to noncontrolling interests	15,210
Balance at December 31, 2020	**$ (74,891)**

Noncontrolling Interests

The following tables summarize the change in the noncontrolling interests for the years ended December 31, 2022, 2021 and 2020 (dollars in thousands):

	Noncontrolling Interests in Operating Partnership [a]	Noncontrolling Interests in Partially-Owned Affiliates [b]	Total	Redeemable Noncontrolling Interests [c]
Balance at January 1, 2022	**$ 94,120**	**$ 534,202**	**$ 628,322**	**$ —**
Distributions declared of $0.72 per Common OP Unit and distributions on Preferred OP Units	(5,094)	—	(5,094)	—
Net loss for the year ended December 31, 2022	(1,308)	(22,962)	(24,270)	(5,536)
Conversion of 234,473 Common OP Units to Common Shares by limited partners of the Operating Partnership	(3,945)	—	(3,945)	—
Other comprehensive income - unrealized gain on valuation of swap agreements	4,641	15,567	20,208	—
Reclassification of realized interest expense on swap agreements	58	1,793	1,851	—
Acquisition of noncontrolling interest [d]	—	(91,811)	(91,811)	—
City Point Loan	—	—	—	(65,391)
City Point Loan accrued interest	—	—	—	(3,923)
Noncontrolling interest contributions	—	109,428	109,428	65,945
Noncontrolling interest distributions	—	(79,838)	(79,838)	—
Employee Long-term Incentive Plan Unit Awards	10,000	—	10,000	—
Reclassification of redeemable noncontrolling interests[e]	—	(76,569)	(76,569)	76,569
Reallocation of noncontrolling interests [f]	1,082	—	1,082	—
Balance at December 31, 2022	**$ 99,554**	**$ 389,810**	**$ 489,364**	**$ 67,664**
Balance at January 1, 2021	**$ 89,431**	**$ 519,734**	**$ 609,165**	**$ —**
Distributions declared of $0.60 per Common OP Unit	(4,185)	—	(4,185)	—
Net income for the year ended December 31, 2021	2,075	407	2,482	—
Conversion of 89,765 Common OP Units to Common Shares by limited partners of the Operating Partnership	(1,431)	—	(1,431)	—
Cancellation of OP units[g]	(568)	—	(568)	—
Other comprehensive income - unrealized gain on valuation of swap agreements	2,072	3,918	5,990	—
Reclassification of realized interest expense on swap agreements	210	7,030	7,240	—
Noncontrolling interest contributions	—	30,164	30,164	—
Noncontrolling interest distributions	—	(27,051)	(27,051)	—
Employee Long-term Incentive Plan Unit Awards	11,284	—	11,284	—
Reallocation of noncontrolling interests [f]	(4,768)	—	(4,768)	—
Balance at December 31, 2021	**$ 94,120**	**$ 534,202**	**$ 628,322**	**$ —**

Balance at January 1, 2020	**$ 97,670**	**$ 548,769**	**$ 646,439**	**$ —**
Distributions declared of $0.29 per Common OP Unit	(2,218)	—	(2,218)	—
Net income (loss) for the year ended December 31, 2020	125	(56,867)	(56,742)	—
Conversion of 407,594 Common OP Units to Common Shares by limited partners of the Operating Partnership	(6,544)	—	(6,544)	—
Other comprehensive loss - unrealized loss on valuation of swap agreements	(2,709)	(17,995)	(20,704)	—
Reclassification of realized interest expense on swap agreements	174	5,320	5,494	—
Noncontrolling interest contributions	—	52,174	52,174	—
Noncontrolling interest distributions	—	(27,574)	(27,574)	—
Employee Long-term Incentive Plan Unit Awards	10,130	—	10,130	—
Rebalancing adjustment [(c)]	(7,197)	—	(7,197)	—
Acquisition of noncontrolling interest	—	15,918	15,918	—
Cumulative effect of change in accounting principle	—	(11)	(11)	—
Balance at December 31, 2020	**$ 89,431**	**$ 519,734**	**$ 609,165**	**$ —**

a) Noncontrolling interests in the Operating Partnership are comprised of (i) the limited partners' 3,062,108, 3,076,849, and 3,101,958 Common OP Units at December 31, 2022, 2021 and 2020, respectively; (ii) 188 Series A Preferred OP Units at December 31, 2022, 2021 and 2020; (iii) 126,384 Series C Preferred OP Units at December 31, 2022 and 126,593 at December 31, 2021 and 2020; and (iv) 3,512,414, 3,371,296, and 2,886,207 LTIP units at December 31, 2022, 2021 and 2020, respectively, as discussed in Share Incentive Plan (Note 13). Distributions declared for Preferred OP Units are reflected in net income (loss) in the table above.

b) Noncontrolling interests in partially-owned affiliates comprise third-party interests in Funds II, III, IV and V, and Mervyns II, and seven other subsidiaries.

c) Redeemable noncontrolling interests comprise third-party interest in Fund II as limited partners in this Fund have been granted put rights.

d) Represents the acquisition of the 11.67% noncontrolling interest in Fund II and Mervyns II acquired on June 27, 2022 for $18.5 million and 21.67% in Fund II on August 1, 2022 for $5.8 million (Note 1).

e) Represents the reclassification of redeemable noncontrolling interests related to the City Point Loan in the third quarter of 2022.

f) Adjustment reflects the difference between the fair value of the consideration received or paid and the book value of the Common Shares, Common OP Units, Preferred OP Units, and LTIP Units involving changes in ownership.

g) The Company exchanged 21,109 OP Units in settlement of a note receivable in the amount of $0.5 million on July 12, 2021 (Note 3).

Preferred OP Units

There were no issuances of Preferred OP Units during the year ended December 31, 2022 or 2021.

In 1999 the Operating Partnership issued 1,580 Series A Preferred OP Units in connection with the acquisition of a property, which have a stated value of $1,000 per unit, and are entitled to a preferred quarterly distribution of the greater of (i) $22.50 (9.00% annually) per Series A Preferred OP Unit or (ii) the quarterly distribution attributable to a Series A Preferred OP Unit if such unit was converted into a Common OP Unit. Through December 31, 2022, 1,392 Series A Preferred OP Units were converted into 185,600 Common OP Units and then into Common Shares. The 188 remaining Series A Preferred OP Units are currently convertible into Common OP Units based on the stated value divided by $7.50. Either the Company or the holders can currently call for the conversion of the Series A Preferred OP Units at the lesser of $7.50 or the market price of the Common Shares as of the conversion date.

During 2016, the Operating Partnership issued 442,478 Common OP Units and 141,593 Series C Preferred OP Units to a third party to acquire Gotham Plaza (Note 4). The Series C Preferred OP Units have a value of $100.00 per unit and are entitled to a preferred quarterly distribution of $0.9375 per unit and are convertible into Common OP Units at a rate based on the share price at the time of conversion. If the share price is below $28.80 on the conversion date, each Series C Preferred OP Unit will be convertible into 3.4722 Common OP Units. If the share price is between $28.80 and $35.20 on the conversion date, each Series C Preferred OP Unit will be convertible into a number of Common OP Units equal to $100.00 divided by the closing share price. If the share price is above $35.20 on the conversion date, each Series C Preferred OP Unit will be convertible into 2.8409 Common OP Units. The Series C Preferred OP Units have a mandatory conversion date of December 31, 2025, at which time all units that have not been converted will automatically be converted into Common OP Units based on the same calculations. Through December 31, 2022, 15,209 Series C Preferred OP Units were converted into 52,613 Common OP Units and then into Common Shares.

Redeemable Noncontrolling Interests

Williamsburg Portfolio

In connection with the Williamsburg Portfolio acquisition in February 2022 (Note 2), the Company evaluated the Williamsburg Noncontrolling Interest ("NCI"), which represents the venture partner's one-time right to put its 50.01% interest in the property to the Company for redemption at fair value at a future date. As it was unlikely as of the acquisition date that the venture partner would receive any consideration on redemption due to the Company’s preferential returns, the initial fair value of the Williamsburg NCI was determined to be zero. The Company is required to periodically evaluate the NCI and adjust it to redemption value. At December 31, 2022, the Company determined that the fair value of the Williamsburg NCI was zero.

City Point Loan

In August 2022, the Company provided a loan, through a separate lending subsidiary, to other Fund II investors in City Point, through a separate borrower subsidiary, to fund the investors' pro rata contribution necessary to complete the refinancing of the City Point debt (Note 7), of which $65.9 million was funded at closing ("City Point Loan"). The City Point Loan has a five-year term which matures on August 1, 2027 and is collateralized by the investors' equity in City Point ("City Point NCI"). Because the City Point Loan was granted in return for a capital contribution from the investors, and is collateralized by the City Point NCI, the City Point Loan, net of a $0.5 million allowance for credit loss, and accrued interest are presented as a reduction of the City Point NCI balance. The borrower subsidiary of the City Point Loan was determined to be a variable interest entity ("VIE") for which the Company is not the primary beneficiary. The maximum loss in the VIE is limited to the amount of the City Point Loan and any accrued interest.

In connection with the City Point Loan, each partner has a one-time right to put its City Point NCI to the Company for redemption in exchange for the settlement of its proportion of the City Point Loan amount plus either (i) a fixed cash amount or (ii) a cash amount equal to the value of fixed number of Common Shares of the Company on the trading day prior to the election, at a future point in time beginning in August 2023 ("redemption value"). As a result of granting these redemption rights, the City Point NCI, net of the City Point Loan, has been reclassified and presented as redeemable noncontrolling interests on the Company's consolidated balance sheets. Given the carrying value of the City Point NCI at the time of the transaction exceeded the maximum redemption value, the Company did not recognize any initial adjustment to accrete the City Point NCI to the redemption value. The Company is required to periodically evaluate the maximum redemption amount of the NCI interest and recognize an increase in the carrying value of the City Point NCI if the redemption value exceeds the then current carrying value. At December 31, 2022, the Company determined that the carrying value exceeded the maximum redemption value and no adjustment was required.

11. Leases

Operating Leases

As Lessor

The Company is engaged in the operation of shopping centers and other retail properties that are either owned or, with respect to certain shopping centers, operated under long-term ground leases (see below) that expire at various dates through June 20, 2066, with renewal options. Space in the shopping centers is leased to tenants pursuant to agreements that provide for terms ranging generally from one month to sixty years and generally provide for additional rents based on certain operating expenses as well as tenants' sales volumes. During the years ended December 31, 2022 and 2021, the Company earned $59.3 million and $58.3 million, respectively, in variable lease revenues, primarily for real estate taxes and common area maintenance charges, which are included in rental income in the consolidated statements of operations.

Reserve Analysis

The activity for the reserves related to billed rents and straight-line rents (including those under specific operating leases where the collection of rents is assessed not to be probable) is as follows:

	Year Ended December 31, 2022				
		Specific Allowance			
	Balance at Beginning of Period	Provision (Recovery), Net	Write-Offs	General Allowance	Balance at End of Period
Allowance for credit loss - billed rents	$ 23,586	$ (102)	$ (4,656)	$ -	$ 18,828
Straight-line rent reserves	14,885	(1,742)	(1,348)	1,450	13,245
Total - credit losses and reserves	$ 38,471	$ (1,844)	$ (6,004)	$ 1,450	$ 32,073

	Year Ended December 31, 2021				
		Specific Allowance			
	Balance at Beginning of Period	Provision (Recovery), Net	Write-Offs	General Allowance	Balance at End of Period
Allowance for credit loss - billed rents	$ 30,170	$ (2,796)	$ (3,788)	$ —	$ 23,586
Straight-line rent reserves	14,839	807	(2,636)	1,875	14,885
Total - credit losses and reserves	$ 45,009	$ (1,989)	$ (6,424)	$ 1,875	$ 38,471

Tenant Settlement

On September 24, 2021, the Company entered into a conditional settlement agreement with its former tenant ("Former Tenant") and lease guarantor at one of its Core properties for the payment by Former Tenant and guarantor of a minimum of $5.4 million in accordance with a payment schedule set forth and subject to the terms in the conditional settlement agreement. The payments relate to judgments entered in favor of the Company totaling $8.6 million, plus interest, for the Former Tenant's default under the lease and its subsequent termination by the Company. Given the inherent uncertainties involving collectability, the Company has deferred any amounts not received in its consolidated financial statements and such amounts will be recognized when realized. Through December 31, 2022 the Company had received a total of $2.7 million, of which $2.4 million was recognized as Other revenues on the statement of operations for the year ended December 31, 2022.

As Lessee

During the year ended December 31, 2022, there were no leasing transactions where the Company acted as lessee.

During the year ended December 31, 2021, the Company:

- modified its Rye, New York corporate office lease during the first quarter of 2021. As a result of the modification, the lease was remeasured, and the lease liability and right-of-use asset were each reduced by $0.4 million; and
- terminated its Fund IV lease at 110 University Place in New York City during the second quarter of 2021 (which was previously impaired in 2020) for $3.6 million, and de-recognized the related right-of-use asset of $31.4 million, lease liability of $46.0 million and building improvements and other assets totaling $10.3 million, resulting in a gain on lease termination of $0.7 million, or $0.2 million at the Company's share, which is reflected within Gain on disposition of properties in the consolidated statements of operations.

Additional disclosures regarding the Company's leases as lessee are as follows:

	Year Ended December 31,	
	2022	2021
Lease Cost		
Finance lease cost:		
Amortization of right-of-use assets	$ 903	$ 903
Interest on lease liabilities	410	388
Subtotal	1,313	1,291
Operating lease cost	5,338	7,184
Variable lease cost	80	84
Total lease cost	$ 6,731	$ 8,559
Other Information		
Weighted-average remaining lease term - finance leases (years)	31.9	32.6
Weighted-average remaining lease term - operating leases (years)	13.5	14.1
Weighted-average discount rate - finance leases	6.3%	6.3%
Weighted-average discount rate - operating leases	5.1%	5.1%

Right-of-use assets – finance leases are included in Operating real estate (Note 2) in the consolidated balance sheet. Lease liabilities – finance leases are included in Accounts payable and other liabilities in the consolidated balance sheet (Note 5). Operating lease cost comprises amortization of right-of-use assets for operating properties (related to ground rents) or amortization of right-of-use assets for office and corporate assets and is included in Property operating expense or General and administrative expense, respectively, in the consolidated statements of

operations. Finance lease cost comprises amortization of right-of-use assets for certain ground leases, which is included in Property operating expense, as well as interest on lease liabilities, which is included in Interest expense in the consolidated statements of operations.

Lease Obligations

The scheduled future minimum (i) rental revenues from rental properties under the terms of non-cancelable tenant leases greater than one year (assuming no new or renegotiated leases or option extensions for such premises) and (ii) rental payments under the terms of all non-cancelable operating and finance leases in which the Company is the lessee, principally for office space, land, and equipment, as of December 31, 2022, are summarized as follows (in thousands):

		Minimum Rental Payments	
Year Ending December 31,	**Minimum Rental Revenues [a]**	**Operating Leases [b]**	**Finance Leases [b]**
2023	$ 229,366	$ 5,389	$ —
2024	223,138	5,414	—
2025	193,277	5,329	—
2026	166,582	5,173	—
2027	143,435	4,373	—
Thereafter	608,168	20,065	12,549
	1,563,966	45,743	12,549
Interest	—	(10,472)	(5,527)
Total	$ 1,563,966	$ 35,271	$ 7,022

a) Amount represents contractual lease maturities at December 31, 2022 including any extension options that management determined were reasonably certain of exercise.
b) Minimum rental payments include $10.5 million of interest related to operating leases and $5.5 million related to finance leases and exclude options or renewals not reasonably certain of exercise.

During the years ended December 31, 2022, 2021 and 2020, no single tenant or property collectively comprised more than 10% of the Company's consolidated total revenues.

12. Segment Reporting

The Company has three reportable segments: Core Portfolio, Funds and Structured Financing. The Company's Core Portfolio consists primarily of high-quality retail properties located primarily in high-barrier-to-entry, densely populated metropolitan areas with a long-term investment horizon. The Company's Funds hold primarily retail real estate in which the Company co-invests with high-quality institutional investors. The Company's Structured Financing segment consists of earnings and expenses related to notes and mortgages receivable which are held within the Core Portfolio or the Funds (Note 3). Fees earned by the Company as the general partner or managing member of the Funds are eliminated in the Company's consolidated financial statements and are not presented in the Company's segments.

The following tables set forth certain segment information for the Company (in thousands):

	As of or for the Year Ended December 31, 2022				
	Core Portfolio	Funds	Structured Financing	Unallocated	Total
Revenues	$ 202,547	$ 123,743	$ —	$ —	$ 326,290
Depreciation and amortization	(75,614)	(60,303)	—	—	(135,917)
Property operating expenses, other operating and real estate taxes	(60,306)	(41,621)	—	—	(101,927)
General and administrative expenses	—	—	—	(44,066)	(44,066)
Impairment charges	—	(33,311)	—	—	(33,311)
Gain on disposition of properties	7,245	49,916	—	—	57,161
Operating income	73,872	38,424	—	(44,066)	68,230
Interest income	—	—	14,641	—	14,641
Equity in (losses) earnings of unconsolidated affiliates inclusive of gains on disposition of properties	(45,919)	13,012	—	—	(32,907)
Interest expense	(37,892)	(42,317)	—	—	(80,209)
Realized and unrealized holding gains (losses) on investments and other	1,163	(35,559)	(598)	—	(34,994)
Income tax provision	—	—	—	(12)	(12)
Net (loss) income	(8,776)	(26,440)	14,043	(44,078)	(65,251)
Net loss attributable to redeemable noncontrolling interests	—	5,536	—	—	5,536
Net loss attributable to noncontrolling interests	1,000	23,270	—	—	24,270
Net (loss) income attributable to Acadia	$ (7,776)	$ 2,366	$ 14,043	$ (44,078)	$ (35,445)
Real estate at cost [(a)]	$ 2,597,394	$ 1,655,616	$ —	$ —	$ 4,253,010
Total Assets [(a)]	$ 2,599,268	$ 1,579,411	$ 123,903	$ —	$ 4,302,582
Cash paid for acquisition of real estate	$ 242,633	$ —	$ —	$ —	$ 242,633
Cash paid for development and property improvement costs	$ 32,406	$ 18,640	$ —	$ —	$ 51,046

	As of or for the Year Ended December 31, 2021				
	Core Portfolio	Funds	Structured Financing	Unallocated	Total
Revenues	$ 181,332	$ 111,165	$ —	$ —	$ 292,497
Depreciation and amortization	(69,103)	(54,336)	—	—	(123,439)
Property operating expenses, other operating and real estate taxes	(56,957)	(41,916)	—	—	(98,873)
General and administrative expenses	—	—	—	(40,125)	(40,125)
Impairment charges	—	(9,925)	—	—	(9,925)
Gain on disposition of properties	4,612	5,909	—	—	10,521
Operating income (loss)	59,884	10,897	—	(40,125)	30,656
Interest income	—	—	9,065	—	9,065
Equity in income of unconsolidated affiliates inclusive of gains on disposition of properties	353	4,977	—	—	5,330
Interest expense	(29,454)	(38,594)	—	—	(68,048)
Realized and unrealized holding gains (losses) on investments and other	—	53,654	(4,534)	—	49,120
Income tax provision	—	—	—	(93)	(93)
Net income	30,783	30,934	4,531	(40,218)	26,030
Net (income) attributable to redeemable noncontrolling interests	—	—	—	—	—
Net (income) attributable to noncontrolling interests	(2,276)	(206)	—	—	(2,482)
Net income attributable to Acadia	$ 28,507	$ 30,728	$ 4,531	$ (40,218)	$ 23,548
Real estate at cost [(a)]	$ 2,356,645	$ 1,714,962	$ —	$ —	$ 4,071,607
Total Assets [(a)]	$ 2,212,877	$ 1,894,983	$ 153,886	$ —	$ 4,261,746
Cash paid for acquisition of real estate	$ 26,176	$ 135,670	$ —	$ —	$ 161,846
Cash paid for development and property improvement costs	$ 13,625	$ 27,046	$ —	$ —	$ 40,671

	As of or for the Year Ended December 31, 2020				
	Core Portfolio	Funds	Structured Financing	Unallocated	Total
Revenues	$ 160,262	$ 90,646	$ —	$ —	$ 250,908
Depreciation and amortization	(76,125)	(71,104)	—	—	(147,229)
Property operating expenses, other operating and real estate taxes	(57,246)	(40,782)	—	—	(98,028)
General and administrative expenses	—	—	—	(35,798)	(35,798)
Impairment charges	(419)	(85,179)	—	—	(85,598)
Gain on disposition of properties	174	509	—	—	683
Operating income (loss)	26,646	(105,910)	—	(35,798)	(115,062)
Interest income	—	—	8,979	—	8,979
Equity in losses of unconsolidated affiliates inclusive of gains on disposition of properties	(874)	(2,183)	—	—	(3,057)
Interest expense	(33,185)	(36,486)	—	—	(69,671)
Realized and unrealized holding gains (losses) on investments and other	18,564	95,366	(568)	—	113,362
Income tax provision	—	—	—	(269)	(269)
Net income (loss)	11,151	(49,213)	8,411	(36,067)	(65,718)
Net (income) loss attributable to redeemable noncontrolling interests	—	—	—	—	—
Net (income) loss attributable to noncontrolling interests	(5,837)	62,579	—	—	56,742
Net income (loss) attributable to Acadia	$ 5,314	$ 13,366	$ 8,411	$ (36,067)	$ (8,976)
Real estate at cost	$ 2,330,116	$ 1,681,210	$ —	$ —	$ 4,011,326
Total Assets	$ 2,254,680	$ 1,775,507	$ 100,882	$ —	$ 4,131,069
Cash paid for acquisition of real estate and leasehold interest	$ 19,963	$ 1,245	$ —	$ —	$ 21,208
Cash paid for development and property improvement costs	$ 11,170	$ 25,409	$ —	$ —	$ 36,579

a) Real estate at cost and total assets for the Funds segment include $663.4 million and $657.0 million, or $272.1 million and $190.9 million net of non-controlling interests, related to Fund II's City Point property at December 31, 2022 and 2021, respectively.

13. Share Incentive and Other Compensation

Share Incentive Plan

On March 23, 2020, the Board approved the 2020 Share Incentive Plan (the "2020 Plan"), which increased the aggregate number of Common Shares authorized for issuance by 2,650,000 shares. The 2020 Plan authorizes the Company to issue options, Restricted Shares, LTIP Units and other securities (collectively "Awards") to, among others, the Company's officers, trustees, and employees. At December 31, 2022 a total of 1,540,116 shares remained available to be issued under the 2020 Plan.

Restricted Shares and LTIP Units

During the year ended December 31, 2022, the Company issued 603,267 LTIP Units and 15,878 restricted share units ("Restricted Share Units") to employees of the Company pursuant to the 2020 Plan. Certain of these equity awards were granted in performance-based Restricted Share Units or LTIP Units with market conditions as described below ("2021 Performance Shares"). These awards were measured at their fair value on the grant date, incorporating the following factors:

- A portion of these annual equity awards is granted in performance-based Restricted Share Units or LTIP Units that may be earned based on the Company's attainment of specified relative total shareholder returns ("Relative TSR") hurdles.

- In the event the Relative TSR percentile falls between the 25th percentile and the 50th percentile, the Relative TSR vesting percentage is determined using a straight-line linear interpolation between 50% and 100% and in the event that the Relative TSR percentile falls between the 50th percentile and 75th percentile, the Relative TSR vesting percentage is determined using a straight-line linear interpolation between 100% and 200%.
- Two-thirds (2/3) of the performance-based LTIP Units will vest based on the Company's total shareholder return ("TSR") for the three -year forward-looking performance period relative to the constituents of the National Association of Real Estate Investment Trusts ("NAREIT") Shopping Center Property Subsector and one-third (1/3) on the Company's TSR for the three-year forward-looking performance period as compared to the constituents of the NAREIT Retail Property Sector (both on a non-weighted basis).
- If the Company's performance fails to achieve the aforementioned hurdles at the culmination of the three-year performance period, all performance-based shares will be forfeited. Any earned performance-based shares vest 60% at the end of the performance period, with the remaining 40% of shares vesting ratably over the next two years.

For valuation of the 2022 and 2021 Performance Shares, a Monte Carlo simulation was used to estimate the fair values based on probability of satisfying the market conditions and the projected share prices at the time of payments, discounted to the valuation dates over the three-year performance periods. The assumptions include volatility (49.0% and 48.0%) and risk-free interest rates of (1.7% and 0.2%) for 2022 and 2021, respectively. The total value of the 2022 and 2021 Performance Shares will be expensed over the vesting period regardless of the Company's performance.

The total value of the above Restricted Share Units and LTIP Units as of the grant date was $13.1 million. Total long-term incentive compensation expense, including the expense related to the 2020 Plan, was $7.4 million, $9.4 million, and $8.4 million for the years ended December 31, 2022, 2021, and 2020, respectively and is recorded in General and Administrative on the Consolidated Statements of Operations.

In addition, members of the Board have been issued shares and units under the 2020 Plan. During 2022, the Company issued 36,471 LTIP Units and 29,935 Restricted Shares to Trustees of the Company in connection with Trustee fees. A portion of LTIP Units and Restricted Shares vest over three years with 33% vesting May 9, 2023 and the remaining amount vesting ratably on May 9, 2024 and May 9, 2025. The remaining awards vest on May 9, 2023. The Restricted Shares do not carry voting rights or other rights of Common Shares until vesting and may not be transferred, assigned, or pledged until the recipients have a vested non-forfeitable right to such shares. Dividends are not paid currently on unvested Restricted Shares but are paid cumulatively from the issuance date through the applicable vesting date of such Restricted Shares. Total trustee fee expense, including the expense related to the 2020 Plan, was $1.7 million for the year ended December 31, 2022, $1.6 million for the year ended December 31, 2021 and $1.4 million for 2020, respectively, and is recorded in General and Administrative on the Consolidated Statements of Operations.

In 2009, the Company adopted the Long-Term Investment Alignment Program (the "Program") pursuant to which the Company may grant awards to employees, entitling them to receive up to 25% of any potential future payments of Promote to the Operating Partnership from Funds III, IV and V. As of December 31, 2022, the Company has granted such awards to employees representing 25% of the potential Promote payments from Fund III to the Operating Partnership and 23.1% of the potential Promote payments from Fund IV to the Operating Partnership and 10.7% of the potential Promote payments from Fund V to the Operating Partnership. Payments to senior executives under the Program require further Board approval at the time any potential payments are due pursuant to these grants. Compensation relating to these awards will be recognized in each reporting period in which Board approval is granted.

As payments to other employees are not subject to further Board approval, compensation relating to these awards will be recorded based on the estimated fair value at each reporting period in accordance with ASC Topic 718, *Compensation – Stock Compensation.* The awards in connection with Fund IV were determined to have no intrinsic value as of December 31, 2022.

The Company recognized $0.4 million and $0.1 million compensation expense for Funds III and V, respectively for the year ended December 31, 2022 in connection with the resignation of an employee. No compensation expense was recognized for the years ended 2021, and 2020, related to the Program in connection with Fund III, Fund IV, or Fund V.

A summary of the status of the Company's unvested Restricted Shares and LTIP Units is presented below:

Unvested Restricted Shares and LTIP Units	Common Restricted Shares	Weighted Grant-Date Fair Value	LTIP Units	Weighted Grant-Date Fair Value
Unvested at January 1, 2020	**42,390**	**$ 23.73**	**936,180**	**$ 28.24**
Granted	66,824	13.70	440,829	19.64
Vested	(19,264)	27.72	(250,241)	30.44
Forfeited	(39)	24.77	(3,879)	24.67
Unvested at December 31, 2020	**89,911**	**$ 15.42**	**1,122,889**	**$ 24.38**
Granted	43,078	19.94	666,967	19.48
Vested	(43,084)	16.85	(283,024)	26.66
Forfeited	(159)	36.22	(91,637)	36.22
Unvested at December 31, 2021	**89,746**	**16.87**	**1,415,195**	**20.85**
Granted	45,813	20.98	637,818	21.04
Vested	(40,894)	19.75	(309,283)	22.86
Forfeited	(1,930)	31.82	(278,332)	31.16
Unvested at December 31, 2022	**92,735**	**$ 17.31**	**1,465,398**	**$ 18.59**

The weighted-average grant date fair value for Restricted Shares and LTIP Units granted for the years ended December 31, 2022 and 2021 were $21.04 and $19.51, respectively. As of December 31, 2022, there was $15.7 million of total unrecognized compensation cost related to unvested share-based compensation arrangements granted under the 2020 Plan. That cost is expected to be recognized over a weighted-average period of 1.5 years. The total fair value of Restricted Shares that vested for each of the years ended December 31, 2022 and 2021, was $0.8 million. The total fair value of LTIP Units that vested (LTIP units vest primarily in the first quarter) during the years ended December 31, 2022 and 2021, was $7.1 million and $7.5 million, respectively.

Other Plans

On a combined basis, the Company incurred a total of $0.4 million, $0.4 million, and $0.3 million of compensation expense related to the following employee benefit plans for the years ended December 31, 2022, 2021 and 2020, respectively:

Employee Share Purchase Plan

The Acadia Realty Trust Employee Share Purchase Plan (the "Purchase Plan") allows eligible employees of the Company to purchase Common Shares through payroll deductions. The Purchase Plan provides for employees to purchase Common Shares on a quarterly basis at a 15% discount to the closing price of the Company's Common Shares on either the first day or the last day of the quarter, whichever is lower. A participant may not purchase more than $25,000 in Common Shares per year. Compensation expense will be recognized by the Company to the extent of the above discount to the closing price of the Common Shares with respect to the applicable quarter. On March 23, 2021, the Board adopted, which was subsequently approved by the Company's shareholders at the 2021 annual meeting of shareholders, the Acadia Realty Trust 2021 Employee Share Purchase Plan which allows for a maximum aggregate issuance of 200,000 Common Shares. A total of 9,747 and 7,721 Common Shares were purchased by employees under the Purchase Plan for the years ended December 31, 2022 and 2021, respectively.

Deferred Share Plan

The Company maintains a Trustee Deferral and Distribution Election program, under which the participating Trustees earn deferred compensation.

Employee 401(k) Plan

The Company maintains a 401(k) plan for employees under which the Company currently matches 50% of a plan participant's contribution up to 6% of the employee's annual salary. A plan participant may contribute up to a maximum of 15% of their compensation, up to $20,500, for the year ended December 31, 2022.

14. Federal Income Taxes

The Company has elected to qualify as a REIT in accordance with Sections 856 through 860 of the Code and intends at all times to qualify as a REIT under the Code. To qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its annual REIT taxable income to its shareholders. As a REIT, the Company generally will not be subject to corporate Federal income tax, provided that distributions to its shareholders equal at least the amount of its REIT taxable income as defined under the Code. As the Company distributed sufficient taxable income for the years ended December 31, 2022, 2021 and 2020, no U.S. Federal income or excise taxes were incurred. If the Company fails to qualify as a REIT in any taxable year, it will be subject to Federal income taxes at the regular corporate rates (including any applicable alternative minimum tax) and may not be able to qualify as a REIT for the four subsequent taxable years. Even though the Company qualifies for taxation as a REIT, the Company is subject to certain state and local taxes on its income and property and Federal income and excise taxes on any undistributed taxable income. In addition, taxable income from non-REIT activities managed through the Company's TRS's is subject to Federal, state and local income taxes. No more than 20% of the value of our total assets may consist of the securities of one or more TRS.

In the normal course of business, the Company or one or more of its subsidiaries is subject to examination by Federal, state and local jurisdictions, in which it operates, where applicable. The Company expects to recognize interest and penalties related to uncertain tax positions, if any, as income tax expense. For the three years ended December 31, 2022, the Company recognized no material adjustments regarding its tax accounting treatment for uncertain tax provisions. As of December 31, 2022, the tax years that remain subject to examination by the major tax jurisdictions under applicable statutes of limitations are generally the year 2019 and forward.

Reconciliation of Net Income to Taxable Income

Reconciliation of GAAP net income attributable to Acadia to taxable income (loss) is as follows:

(in thousands)	Year Ended December 31, 2022	2021	2020
Net (loss) income attributable to Acadia	$ (35,445)	$ 23,548	$ (8,976)
Deferred rental and other (loss) income [(a)]	(1,854)	3,209	(2,498)
Book/tax difference - depreciation and amortization [(a)]	28,337	24,756	27,052
Straight-line rent and above- and below-market rent adjustments [(a)]	(11,917)	(8,588)	8,630
Book/tax differences - equity-based compensation	5,952	7,663	6,825
Joint venture equity in earnings (losses), net and other investments [(a)]	22,493	3,962	(163)
Impairment charges and reserves	54,822	2,657	18,734
Acquisition costs [(a)]	2,048	22	14
(Loss) gain on disposition of properties	(14,960)	(2,170)	4,936
Book/tax differences - miscellaneous	5,638	(1,203)	(36)
Taxable income	$ 55,114	$ 53,856	$ 54,518
Distributions declared [(b)]	$ 68,312	$ 52,872	$ 24,937

a) Adjustments from certain subsidiaries and affiliates, which are consolidated for financial reporting but not for tax reporting, are included in the reconciliation item "Joint venture equity in earnings, net."

b) The entire fourth quarter 2022 dividend of $17.1 million (paid in January 2023) was attributed to 2023 (Note 10). Any additional distributions required for REIT qualification may be made through October 15, 2023. The entire fourth quarter 2021 dividend of $14.4 million (paid in January 2022) was attributed to 2021. The entire fourth quarter 2019 dividend of $25.2 million (paid in January 2020) was attributed to 2020.

Characterization of Distributions

The Company has determined that the cash distributed to the shareholders for the periods presented is characterized as follows for Federal income tax purposes:

	Year Ended December 31,					
	2022		2021		2020	
	Per Share	%	Per Share	%	Per Share	%
Ordinary income - Section 199A	$ 0.650	90%	$ 0.550	92%	$ 0.520	90%
Qualified dividend	0.010	1%	0.010	1%	—	—%
Capital gain	0.060	9%	0.040	7%	0.060	10%
Total [(a)]	$ 0.720	100%	$ 0.600	100%	$ 0.580	100%

a) The fourth quarter 2022 regular dividend was $0.18 per Common Share, all of which is allocable to 2023. The fourth quarter 2021 regular dividend was $0.15 per Common Share, all of which is allocable to 2021.The fourth quarter 2019 regular dividend was $0.29 per Common Share, all of which is allocable to 2020.

Taxable REIT Subsidiaries

Income taxes have been provided for using the liability method as required by ASC Topic 740, "Income Taxes." The Company's TRS income (loss) and provision for income taxes associated with the TRS for the periods presented are summarized as follows (in thousands):

	Year Ended December 31,		
	2022	2021	2020
TRS loss before income taxes	$ (3,178)	$ (4,240)	$ (3,856)
(Provision) benefit for income taxes:			
Federal	—	—	376
State and local	—	—	(268)
TRS net loss before noncontrolling interests	(3,178)	(4,240)	(3,748)
Noncontrolling interests	—	9	746
TRS net loss	$ (3,178)	$ (4,231)	$ (3,002)

The income tax provision for the Company differs from the amount computed by applying the statutory Federal income tax rate to income (loss) before income taxes as follows. Amounts are not adjusted for temporary book/tax differences (in thousands):

	Year Ended December 31,		
	2022	2021	2020
Federal tax benefit at statutory tax rate	$ (667)	$ (890)	$ (810)
TRS state and local taxes, net of Federal benefit	(201)	(268)	(244)
Tax effect of:			
Permanent differences, net	194	252	227
Adjustment to deferred tax reserve	691	1,061	851
Other	(16)	(156)	(132)
REIT state and local income and franchise taxes	11	94	377
Total provision for income taxes	$ 12	$ 93	$ 269

As of December 31, 2022, and 2021, the Company's deferred tax assets were $0.0 and $0.0 million net of applicable reserves of $4.3 million and $3.7 million, respectively and were comprised of capital loss carryovers of $0.1 and $0.1 million and net operating loss carryovers of $4.2 million and $3.6 million, respectively.

Under GAAP a reduction of the carrying amounts of deferred tax assets by a valuation allowance is required, if, based on the evidence available, it is more likely than not (a likelihood of more than 50 percent) that some portion or all of the deferred tax assets will not be realized. The valuation allowance should be sufficient to reduce the deferred tax asset to the amount that is more likely than not to be realized. For the years ended December 31, 2022, 2021, and 2020, the Company determined that the realization of its deferred tax assets was not likely and as such, the Company recorded a valuation allowance against its deferred tax assets of $0.7 million, $1.1 million, and $0.9 million, respectively.

15. Earnings (Loss) Per Common Share

Basic earnings (loss) per Common Share is computed by dividing net income (loss) attributable to Common Shareholders by the weighted average Common Shares outstanding (Note 10). During the periods presented, the Company had unvested LTIP Units which provide for non-forfeitable rights to dividend equivalent payments. Accordingly, these unvested LTIP Units are considered participating securities and are included in the computation of basic earnings per Common Share pursuant to the two-class method.

Diluted earnings per Common Share reflects the potential dilution of the conversion of obligations and the assumed exercises of securities including the effects of Restricted Share Units issued under the Company's Share Incentive Plans (Note 13). The effect of such shares is excluded from the calculation of earnings per share when anti-dilutive as indicated in the table below.

The effect of the conversion of Common OP Units is not reflected in the computation of basic and diluted earnings per share, as they are exchangeable for Common Shares on a one-for-one basis. The income allocable to such units is allocated on this same basis and reflected as noncontrolling interests in the accompanying consolidated financial statements. As such, the assumed conversion of these units would have no net impact on the determination of diluted earnings per share.

	Year Ended December 31,		
(dollars in thousands)	**2022**	**2021**	**2020**
Numerator:			
Net (loss) income attributable to Acadia	$ (35,445)	$ 23,548	$ (8,976)
Less: net income attributable to participating securities	(805)	(624)	(233)
(Loss) income from continuing operations net of income attributable to participating securities for basic (loss) earnings per share	(36,250)	22,924	(9,209)
Impact of City Point Loan share conversion option [a]	(1,804)	—	—
(Loss) income from continuing operations net of income attributable to participating securities for diluted (loss) earnings per share	$ (38,054)	$ 22,924	$ (9,209)
Denominator:			
Weighted average shares for basic earnings (loss) per share	94,575,251	87,653,818	86,441,922
Effect of dilutive securities:			
Series A Preferred OP Units	—	—	—
Employee unvested restricted shares	—	—	—
City Point Loan common stock conversion option (Note 10) [a]	68,215	—	—
Denominator for diluted earnings per share	94,643,466	87,653,818	86,441,922
Basic (loss) earnings per Common Share from continuing operations attributable to Acadia	$ (0.38)	$ 0.26	$ (0.11)
Diluted (loss) earnings per Common Share from continuing operations attributable to Acadia	$ (0.40)	$ 0.26	$ (0.11)
Anti-Dilutive Shares Excluded from Denominator:			
Series A Preferred OP Units	188	188	188
Series A Preferred OP Units - Common share equivalent	25,067	25,067	25,067
Series C Preferred OP Units	126,384	126,593	126,593
Series C Preferred OP Units - Common share equivalent	438,831	439,556	439,556
Restricted shares	68,832	70,827	76,394

a) The adjustment represents the impact of assumed conversion of dilutive convertible securities issued in connection with the City Point Loan in August 2022 that enabled the holder to convert its interest into the Company's common shares. The instrument was subsequently modified in the third quarter of 2022 to provide for a cash-only settlement option (Note 10).

16. Variable Interest Entities

Pursuant to GAAP consolidation guidance, the Company consolidates certain VIEs for which the Company is the primary beneficiary. The Operating Partnership is considered a VIE in which the Company is the primary beneficiary because the limited partners do not have substantive kick-out or participating rights. As of December 31, 2022 and December 31, 2021, the Operating Partnership held interests in the Funds and two consolidated entities owning properties that were determined to be VIEs in which the Company is the primary beneficiary as it has (i) the power to direct the activities of the entity that most significantly impact the entity's economic performance, and (ii) the obligation to absorb the entity's losses or receive benefits from the entity that could potentially be significant to the entity.

The majority of the operations of these VIEs are funded with fees earned from investment opportunities or cash flows generated from the properties. The Company has not provided financial support to any of these VIEs that it was not previously contractually required to provide, which consists primarily of funding any capital commitments and capital expenditures, which are deemed necessary to continue to operate the entity and any operating cash shortfalls the entity may experience.

Since the Company conducts its business through and substantially all of its interests are held by the Operating Partnership, the assets and liabilities on the consolidated balance sheets represent the assets and liabilities of the Operating Partnership. As of December 31, 2022 and December 31, 2021, the consolidated balance sheets include the following assets and liabilities of the consolidated VIEs of the Operating Partnership:

(dollars in thousands)	December 31, 2022	December 31, 2021
VIE ASSETS		
Operating real estate, net	$ 1,466,381	$ 1,482,636
Real estate under development	129,888	161,485
Notes receivable, net	—	725
Investments in and advances to unconsolidated affiliates	210,922	200,827
Other assets, net	98,675	94,303
Right-of-use assets - operating leases, net	2,535	2,935
Cash and cash equivalents	13,330	9,761
Restricted cash	14,995	9,757
Rents receivable, net	17,915	16,126
Total VIE assets [(a)]	$ 1,954,641	$ 1,978,555
VIE LIABILITIES		
Mortgage and other notes payable, net	$ 761,166	$ 948,045
Unsecured notes payable, net	51,202	162,828
Accounts payable and other liabilities	95,385	96,212
Lease liability - operating leases, net	2,657	3,077
Total VIE liabilities [(a)]	$ 910,410	$ 1,210,162

(a) At December 31, 2022 and December 31, 2021, includes total VIE assets of $678.1 million and $694.3 million, respectively, and total VIE liabilities of $200.4 million and $393.9 million, respectively, related to third-party mortgages that are collateralized by the real estate assets of City Point, a Fund II property, and 27 East 61st Street, 801 Madison Avenue, and 1035 Third Avenue, Fund IV properties, of which $72.5 million is guaranteed by the Operating Partnership (Note 7). The remaining VIE assets are generally encumbered by third-party non-recourse mortgage debt and are collateral under the respective mortgages and are therefore restricted and can only be used to settle the corresponding liabilities of the VIE. The remaining VIE assets may only be used to settle obligations of these consolidated VIEs and the remaining VIE liabilities are only the obligations of these consolidated VIEs and they do not have recourse to the Operating Partnership or the Company.

The Company also holds variable interest in certain VIEs which are not consolidated as it is determined that the Company is not the primary beneficiary (Note 4). The Company's involvement with such entities is in the form of direct and indirect equity interests and fee arrangements. The maximum exposure to loss is limited to the amount of the Company's equity investment in these VIEs, except with regard to the Company's remaining $5.3 million construction commitment related to its investment in 1238 Wisconsin. The Company's aggregate investment in the unconsolidated VIEs assets was $41.5 million and $32.2 million at December 31, 2022 and 2021, respectively. The Company's aggregate investment in unconsolidated VIE liabilities was $49.2 million and $41.9 million at December 31, 2022 and 2021, respectively.

17. Subsequent Events

Albertsons

On January 17, 2023, Albertsons announced that the State of Washington's Supreme Court denied a motion by the Attorney General of the State of Washington to hear an appeal from the trial court's denial of its request to enjoin Albertsons from paying its previously announced $6.85 per common share special dividend (the "Special Dividend"), originally scheduled to be paid November 7, 2022. Albertsons further announced that the temporary restraining order preventing the payment of the Special Divided was lifted as a result of the decision. Albertsons paid the Special Dividend on January 20, 2023 to record holders as of October 24, 2022. On January 20, 2023 the Company received its share of the Special Dividend of $11.3 million which will be recognized in January 2023.

Acquisitions

On January 27, 2023, Fund V acquired a 90% interest in an unconsolidated venture. The venture purchased a shopping center referred to as Mohawk Commons in Schenectady, New York, for $62.1 million, inclusive of transaction costs.

ACADIA REALTY TRUST
SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS

	Balance at Beginning of Year	Charged to Expenses	Adjustments to Valuation Accounts	Deductions	Balance at End of Year
Year Ended December 31, 2022:					
Allowance for deferred tax asset	$ 3,660	$ —	$ 691	$ —	$ 4,351
Allowance for uncollectible accounts	38,471	(394)	(6,004)	—	32,073
Allowance for notes receivable	5,752	(272)	(4,582)	—	898
Year Ended December 31, 2021:					
Allowance for deferred tax asset	$ 2,599	$ —	$ 1,061	$ —	$ 3,660
Allowance for uncollectible accounts	45,009	(114)	(6,424)	—	38,471
Allowance for notes receivable	1,218	4,534	—	—	5,752
Year Ended December 31, 2020:					
Allowance for deferred tax asset	$ 1,748	$ —	$ 851	—	$ 2,599
Allowance for uncollectible accounts	11,408	46,440	(12,839)	—	45,009
Allowance for notes receivable	400	818	—	—	1,218

ACADIA REALTY TRUST
SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

December 31, 2022

Description and Location	Encumbrances	Initial Cost to Company		Increase (Decrease) in Net Investments	Amount at Which Carried at December 31, 2022			Accumulated Depreciation	Date of Acquisition (a) Construction (c)	Life on which Depreciation in Latest Statement of Operations is Compared
		Land	Buildings & Improvements		Land	Buildings & Improvements	Total			
Core Portfolio:										
Crescent Plaza Brockton, MA	—	1,147	7,425	3,504	1,147	10,929	12,076	9,405	1993 (a)	40 years
New Loudon Center Latham, NY	—	505	4,161	16,346	505	20,507	21,012	17,230	1993 (a)	40 years
Mark Plaza Edwardsville, PA	—	—	3,396	—	—	3,396	3,396	3,153	1993 (c)	40 years
Plaza 422 Lebanon, PA	—	190	3,004	2,809	190	5,813	6,003	5,370	1993 (c)	40 years
Route 6 Mall Honesdale, PA	—	1,664	—	12,897	1,664	12,897	14,561	11,509	1994 (c)	40 years
Abington Towne Center Abington, PA	—	799	3,197	4,227	799	7,424	8,223	4,898	1998 (a)	40 years
Bloomfield Town Square Bloomfield Hills, MI	—	3,207	13,774	29,476	3,207	43,250	46,457	28,386	1998 (a)	40 years
Elmwood Park Shopping Center Elmwood Park, NJ	—	3,248	12,992	21,246	3,798	33,688	37,486	22,446	1998 (a)	40 years
Merrillville Plaza Hobart, IN	—	4,288	17,152	10,646	4,288	27,798	32,086	16,271	1998 (a)	40 years
Marketplace of Absecon Absecon, NJ	—	2,573	10,294	5,796	2,577	16,086	18,663	10,495	1998 (a)	40 years
239 Greenwich Avenue Greenwich, CT	26,000	1,817	15,846	2,892	1,817	18,738	20,555	10,158	1998 (a)	40 years
Hobson West Plaza Naperville, IL	—	1,793	7,172	5,637	1,793	12,809	14,602	7,448	1998 (a)	40 years
Village Commons Shopping Center Smithtown, NY	—	3,229	12,917	5,628	3,229	18,545	21,774	12,175	1998 (a)	40 years
Town Line Plaza Rocky Hill, CT	—	878	3,510	8,286	907	11,767	12,674	9,872	1998 (a)	40 years
Branch Shopping Center Smithtown, NY	—	3,156	12,545	17,445	3,401	29,745	33,146	19,135	1998 (a)	40 years
Methuen Shopping Center Methuen, MA	—	956	3,826	1,856	961	5,677	6,638	3,453	1998 (a)	40 years
The Gateway Shopping Center South Burlington, VT	—	1,273	5,091	12,889	1,273	17,980	19,253	12,394	1999 (a)	40 years
Mad River Station Dayton, OH	—	2,350	9,404	2,352	2,350	11,756	14,106	7,460	1999 (a)	40 years
Brandywine Holdings Wilmington, DE	—	5,063	15,252	2,815	5,201	17,929	23,130	8,819	2003 (a)	40 years
Bartow Avenue Bronx, NY	—	1,691	5,803	1,489	1,691	7,292	8,983	3,999	2005 (c)	40 years
Amboy Road Staten Island, NY	—	—	11,909	3,279	—	15,188	15,188	10,563	2005 (a)	40 years
Chestnut Hill Philadelphia, PA	—	8,289	5,691	4,802	8,289	10,493	18,782	6,201	2006 (a)	40 years
2914 Third Avenue Bronx, NY	—	11,108	8,038	5,586	11,855	12,877	24,732	4,530	2006 (a)	40 years
West 54th Street Manhattan, NY	—	16,699	18,704	1,515	16,699	20,219	36,918	8,471	2007 (a)	40 years
5-7 East 17th Street Manhattan, NY	—	3,048	7,281	6,301	3,048	13,582	16,630	8,877	2008 (a)	40 years
651-671 W Diversey Chicago, IL	—	8,576	17,256	233	8,576	17,489	26,065	5,005	2011 (a)	40 years
15 Mercer Street Manhattan, NY	—	1,887	2,483	6	1,887	2,489	4,376	714	2011 (a)	40 years
4401 White Plains Bronx, NY	—	1,581	5,054	—	1,581	5,054	6,635	1,432	2011 (a)	40 years
56 E. Walton Chicago, IL	—	994	6,126	3,016	994	9,142	10,136	1,162	2011 (a)	40 years
841 W. Armitage Chicago, IL	—	728	1,989	422	728	2,411	3,139	907	2011 (a)	40 years
2731 N. Clark Chicago, IL	—	557	1,839	32	557	1,871	2,428	550	2011 (a)	40 years
2140 N. Clybourn Chicago, IL	—	306	788	54	306	842	1,148	235	2011 (a)	40 years
853 W. Armitage Chicago, IL	—	557	1,946	508	557	2,454	3,011	954	2011 (a)	40 years
2299 N. Clybourn Avenue Chicago, IL	—	177	484	—	177	484	661	138	2011 (a)	40 years
843-45 W. Armitage Chicago, IL	—	731	2,730	294	731	3,024	3,755	871	2012 (a)	40 years
1525 W. Belmont Avenue Chicago, IL	—	1,480	3,338	887	1,480	4,225	5,705	1,307	2012 (a)	40 years
2206-08 N. Halsted Chicago, IL	—	1,183	3,540	359	1,183	3,899	5,082	1,302	2012 (a)	40 years
2633 N. Halsted Chicago, IL	—	960	4,096	359	998	4,417	5,415	1,209	2012 (a)	40 years
50-54 E. Walton Chicago, IL	—	2,848	12,694	642	2,848	13,336	16,184	3,732	2012 (a)	40 years
662 W. Diversey Chicago, IL	—	1,713	1,603	10	1,713	1,613	3,326	406	2012 (a)	40 years

ACADIA REALTY TRUST
SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

Description and Location	Encumbrances	Initial Cost to Company		Increase (Decrease) in Net Investments	Amount at Which Carried at December 31, 2022			Accumulated Depreciation	Date of Acquisition (a) Construction (c)	Life on which Depreciation in Latest Statement of Operations is Compared
		Land	Buildings & Improvements		Land	Buildings & Improvements	Total			
837 W. Armitage Chicago, IL	—	780	1,758	151	780	1,909	2,689	585	2012 (a)	40 years
823 W. Armitage Chicago, IL	—	717	1,149	95	717	1,244	1,961	329	2012 (a)	40 years
851 W. Armitage Chicago, IL	—	545	209	139	545	348	893	165	2012 (a)	40 years
1240 W. Belmont Avenue Chicago, IL	—	2,137	1,589	1,357	2,137	2,946	5,083	866	2012 (a)	40 years
21 E. Chestnut Chicago, IL	—	1,318	8,468	44	1,318	8,512	9,830	2,146	2012 (a)	40 years
819 W. Armitage Chicago, IL	—	790	1,266	594	790	1,860	2,650	463	2012 (a)	40 years
1520 Milwaukee Avenue Chicago, IL	—	2,110	1,306	290	2,110	1,596	3,706	489	2012 (a)	40 years
Rhode Island Place Shopping Center Washington, D.C.	—	7,458	15,968	2,542	7,458	18,510	25,968	5,969	2012 (a)	40 years
930 Rush Street Chicago, IL	—	4,933	14,587	—	4,933	14,587	19,520	3,920	2012 (a)	40 years
28 Jericho Turnpike Westbury, NY	—	6,220	24,416	46	6,220	24,462	30,682	6,780	2012 (a)	40 years
181 Main Street Westport, CT	—	1,908	12,158	719	1,908	12,877	14,785	3,376	2012 (a)	40 years
83 Spring Street Manhattan, NY	—	1,754	9,200	33	1,754	9,233	10,987	2,415	2012 (a)	40 years
179-53 & 1801-03 Connecticut Avenue Washington, D.C.	—	11,690	10,135	1,874	11,690	12,009	23,699	3,269	2012 (a)	40 years
639 West Diversey Chicago, IL	—	4,429	6,102	1,089	4,429	7,191	11,620	2,199	2012 (a)	40 years
664 North Michigan Chicago, IL	—	15,240	65,331	319	15,240	65,650	80,890	16,139	2013 (a)	40 years
8-12 E. Walton Chicago, IL	—	5,398	15,601	977	5,398	16,578	21,976	4,455	2013 (a)	40 years
3200-3204 M Street Washington, DC	—	6,899	4,249	168	6,899	4,417	11,316	1,177	2013 (a)	40 years
868 Broadway Manhattan, NY	—	3,519	9,247	5	3,519	9,252	12,771	2,100	2013 (a)	40 years
313-315 Bowery Manhattan, NY	—	—	5,516	—	—	5,516	5,516	2,009	2013 (a)	40 years
120 West Broadway Manhattan, NY	—	—	32,819	2,097	—	34,916	34,916	5,277	2013 (a)	40 years
11 E. Walton Chicago, IL	—	16,744	28,346	1,444	16,744	29,790	46,534	6,868	2014 (a)	40 years
61 Main Street Westport, CT	—	4,578	2,645	1,838	4,578	4,483	9,061	1,025	2014 (a)	40 years
865 W. North Avenue Chicago, IL	—	1,893	11,594	233	1,893	11,827	13,720	2,573	2014 (a)	40 years
152-154 Spring St. Manhattan, NY	—	8,544	27,001	347	8,544	27,348	35,892	5,985	2014 (a)	40 years
2520 Flatbush Ave Brooklyn, NY	—	6,613	10,419	313	6,613	10,732	17,345	2,413	2014 (a)	40 years
252-256 Greenwich Avenue Greenwich, CT	—	10,175	12,641	1,172	10,175	13,813	23,988	3,295	2014 (a)	40 years
Bedford Green Bedford Hills, NY	—	12,425	32,730	4,690	13,765	36,080	49,845	8,479	2014 (a)	40 years
131-135 Prince Street Manhattan, NY	—	—	57,536	1,126	—	58,662	58,662	23,530	2014 (a)	40 years
Shops at Grand Ave Queens, NY	—	20,264	33,131	1,966	20,264	35,097	55,361	7,502	2014 (a)	40 years
201 Needham Street Newton, MA	—	4,550	4,459	110	4,550	4,569	9,119	1,000	2014 (a)	40 years
City Center San Francisco, CA	—	36,063	109,098	5,956	26,386	124,731	151,117	24,771	2015 (a)	40 years
163 Highland Avenue Needham, MA	7,689	12,679	11,213	(107)	12,529	11,256	23,785	2,355	2015 (a)	40 years
Roosevelt Galleria Chicago, IL	—	4,838	14,574	559	4,838	15,133	19,971	2,717	2015 (a)	40 years
Route 202 Shopping Center Wilmington, DE	—	—	6,346	705	—	7,051	7,051	1,811	2015 (a)	40 years
991 Madison Avenue Manhattan, NY	—	—	76,965	(75,370)	—	1,595	1,595	631	2016 (a)	40 years
165 Newbury Street Boston, MA	—	1,918	3,980	—	1,918	3,980	5,898	663	2016 (a)	40 years
Concord & Milwaukee Chicago, IL	2,394	2,739	2,746	486	2,739	3,232	5,971	636	2016 (a)	40 years
State & Washington Chicago, IL	22,051	3,907	70,943	6,225	3,907	77,168	81,075	13,094	2016 (a)	40 years
151 N. State Street Chicago, IL	12,570	1,941	25,529	—	1,941	25,529	27,470	4,095	2016 (a)	40 years
North & Kingsbury Chicago, IL	10,891	18,731	16,292	3,066	18,731	19,358	38,089	3,068	2016 (a)	40 years
Sullivan Center Chicago, IL	50,000	13,443	137,327	1,590	13,443	138,917	152,360	22,243	2016 (a)	40 years
California & Armitage Chicago, IL	2,243	6,770	2,292	98	6,770	2,390	9,160	405	2016 (a)	40 years

ACADIA REALTY TRUST
SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

Description and Location	Encumbrances	Initial Cost to Company		Increase (Decrease) in Net Investments	Amount at Which Carried at December 31, 2022			Accumulated Depreciation	Date of Acquisition (a) Construction (c)	Life on which Depreciation in Latest Statement of Operations is Compared
		Land	Buildings & Improvements		Land	Buildings & Improvements	Total			
555 9th Street San Francisco, CA	60,000	75,591	73,268	869	75,591	74,137	149,728	11,468	2016 (a)	40 years
Market Square Wilmington, DE	—	8,100	31,221	626	8,100	31,847	39,947	4,445	2017 (a)	40 years
613-623 W. Diversey Chicago, IL	—	10,061	2,773	11,717	10,061	14,490	24,551	4,303	2018 (c)	40 years
51 Greene Street Manhattan, NY	—	4,488	8,992	100	4,488	9,092	13,580	870	2019 (a)	40 years
53 Greene Street Manhattan, NY	—	3,605	12,177	2	3,605	12,179	15,784	1,142	2019 (a)	40 years
41 Greene Street Manhattan, NY	—	6,276	9,582	—	6,276	9,582	15,858	858	2019 (a)	40 years
47 Greene Street Manhattan, NY	—	6,265	16,758	6	6,265	16,764	23,029	1,432	2019 (a)	40 years
849 W Armitage Chicago, IL	—	837	2,731	—	837	2,731	3,568	239	2019 (a)	40 years
912 W Armitage Chicago, IL	—	982	2,868	183	982	3,051	4,033	267	2019 (a)	40 years
Melrose Place Collection Los Angeles, CA	—	20,490	26,788	—	20,490	26,788	47,278	2,128	2019 (a)	40 years
45 Greene Street Manhattan, NY	—	2,903	8,487	288	2,903	8,775	11,678	713	2019 (a)	40 years
565 Broadway Manhattan, NY	—	—	22,491	1,123	—	23,614	23,614	1,747	2019 (a)	40 years
907 W Armitage Chicago, IL	—	700	2,081	—	700	2,081	2,781	175	2019 (a)	40 years
37 Greene Street Manhattan, NY	—	6,721	9,119	—	6,721	9,119	15,840	684	2020 (a)	40 years
917 W Armitage Chicago, IL	—	901	2,368	—	901	2,368	3,269	187	2020 (a)	40 years
Brandywine Town Center Wilmington, DE	—	15,632	101,861	7,855	15,632	109,716	125,348	8,421	2020 (a)	40 years
1324 14th Street Washington, D.C.	—	728	3,044	—	728	3,044	3,772	76	2021 (a)	40 years
1526 14th Street Washington, D.C.	—	1,377	6,964	—	1,377	6,964	8,341	174	2021 (a)	40 years
1529 14th Street Washington, D.C.	—	1,485	10,411	—	1,485	10,411	11,896	260	2021 (a)	40 years
121 Spring St Manhattan, NY	—	5,380	31,707	—	5,380	31,707	37,087	793	2022 (a)	40 years
8833 Beverly Blvd West Hollywood, CA	—	14,423	8,314	—	14,423	8,314	22,737	174	2022 (a)	40 years
Williamsburg Portfolio Brooklyn, NY	—	31,500	60,720	1,856	31,500	62,576	94,076	1,280	2022 (a)	40 years
Henderson Portfolio Dallas, TX	—	27,086	41,823	255	27,086	42,078	69,164	918	2022 (a)	40 years
Fund II:										
City Point Brooklyn, NY	133,655	—	100,316	529,026	—	629,342	629,342	115,052	2007 (c)	40 years
Fund III:										
640 Broadway Manhattan, NY	35,970	27,831	27,291	572	27,831	27,863	55,694	639	2012 (a)	40 years
Fund IV:										
210 Bowery Manhattan, NY	—	1,875	5,625	(6,490)	518	492	1,010	192	2012 (c)	40 years
27 E. 61st Street Manhattan, NY	15,002	4,813	14,438	1,658	3,523	17,386	20,909	2,707	2014 (c)	40 years
17 E. 71st Street Manhattan, NY	-	7,391	20,176	338	7,391	20,514	27,905	4,356	2014 (a)	40 years
1035 Third Avenue Manhattan, NY	7,473	12,759	37,431	5,842	14,100	41,932	56,032	9,494	2015 (a)	40 years
801 Madison Avenue Manhattan, NY	16,725	4,178	28,470	(4,885)	2,922	24,841	27,763	3,842	2015 (c)	40 years
2208-2216 Fillmore Street San Francisco, CA	5,397	3,027	6,376	205	3,027	6,581	9,608	1,192	2015 (a)	40 years
2207 Fillmore Street San Francisco, CA	1,120	1,498	1,735	125	1,498	1,860	3,358	355	2015 (a)	40 years
146 Geary St. San Francisco, CA	19,338	9,500	28,500	(12,896)	5,243	19,861	25,104	1,608	2015 (a)	40 years
1964 Union Street San Francisco, CA	1,381	563	1,688	2,071	563	3,759	4,322	499	2016 (c)	40 years
Restaurants at Fort Point Boston, MA	5,855	1,041	10,905	182	1,041	11,087	12,128	1,967	2016 (a)	40 years
717 N. Michigan Chicago, IL	5,796	8,675	4,235	(2,744)	6,847	3,319	10,166	104	2016 (a)	40 years
18 E. Broughton St. Savannah, GA	1,515	609	1,513	57	609	1,570	2,179	168	2018 (a)	40 years
20 E. Broughton St. Savannah, GA	989	588	937	12	588	949	1,537	102	2018 (a)	40 years
25 E. Broughton St. Savannah, GA	3,117	1,324	2,459	364	1,324	2,823	4,147	392	2018 (a)	40 years
109 W. Broughton St. Savannah, GA	6,341	2,343	6,560	351	2,343	6,911	9,254	752	2018 (a)	40 years
204-206 W. Broughton St. Savannah, GA	892	547	439	47	547	486	1,033	61	2018 (a)	40 years

ACADIA REALTY TRUST
SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

Description and Location	Encumbrances	Initial Cost to Company		Increase (Decrease) in Net Investments	Amount at Which Carried at December 31, 2022			Accumulated Depreciation	Date of Acquisition (a) Construction (c)	Life on which Depreciation in Latest Statement of Operations is Compared
		Land	Buildings & Improvements		Land	Buildings & Improvements	Total			
216-218 W. Broughton St. Savannah, GA	2,612	1,160	2,736	2,031	1,160	4,767	5,927	631	2018 (a)	40 years
220 W. Broughton St. Savannah, GA	1,827	619	1,799	985	619	2,784	3,403	387	2018 (a)	40 years
223 W. Broughton St. Savannah, GA	892	465	688	33	465	721	1,186	77	2018 (a)	40 years
226-228 W. Broughton St. Savannah, GA	-	660	1,900	34	660	1,934	2,594	210	2018 (a)	40 years
309/311 W. Broughton St. Savannah, GA	2,300	1,160	2,695	30	1,160	2,725	3,885	287	2018 (a)	40 years
230-240 W. Broughton St. Savannah, GA	4,955	2,185	9,597	6	2,185	9,603	11,788	621	2020 (a)	40 years
102 E. Broughton St. Savannah, GA	—	—	514	—	—	514	514	33	2020 (a)	40 years
Fund V:										
Plaza Santa Fe Santa Fe, NM	22,893	—	28,214	1,402	—	29,616	29,616	4,657	2017 (a)	40 years
Hickory Ridge Hickory, NC	28,351	7,852	29,998	4,877	7,852	34,875	42,727	5,746	2017 (a)	40 years
New Towne Plaza Canton, MI	14,716	5,040	17,391	587	4,719	18,299	23,018	2,910	2017 (a)	40 years
Fairlane Green Allen Park, MI	32,877	18,121	37,143	3,174	18,121	40,317	58,438	5,424	2017 (a)	40 years
Trussville Promenade Birmingham, AL	28,831	7,587	34,285	50	7,587	34,335	41,922	4,518	2018 (a)	40 years
Elk Grove Commons Elk Grove, CA	40,990	6,204	48,008	1,766	6,204	49,774	55,978	5,790	2018 (a)	40 years
Hiram Pavilion Hiram, GA	28,341	13,029	25,446	557	13,029	26,003	39,032	3,537	2018 (a)	40 years
Palm Coast Landing Palm Coast, FL	26,409	7,066	27,299	433	7,066	27,732	34,798	3,134	2019 (a)	40 years
Lincoln Commons Lincoln, RI	38,722	14,429	34,417	4,876	14,429	39,293	53,722	3,994	2019 (a)	40 years
Landstown Commons Virginia Beach, VA	60,743	10,222	69,005	4,116	10,222	73,121	83,343	6,647	2019 (a)	40 years
Canton Marketplace Canton, GA	31,801	11,883	34,902	1,187	11,883	36,089	47,972	1,350	2021 (a)	40 years
Monroe Marketplace Selinsgrove, PA	29,150	8,755	35,452	406	8,755	35,858	44,613	1,482	2021 (a)	40 years
Midstate Mall East Brunswick, NJ	42,400	13,062	43,290	463	13,062	43,753	56,815	1,543	2021 (a)	40 years
Real Estate Under Development	42,703	95,588	31,205	57,809	95,588	89,014	184,602	—		
Debt of Assets Held for Sale	—	—	—	—	—	—	—	—		
Unamortized Loan Costs	(7,621)	—	—	—	—	—	—	—		
Unamortized Premium	343	—	—	—	—	—	—	—		
Total	$ 928,639	$ 929,089	$ 2,534,857	$ 789,064	$ 913,390	$ 3,339,620	$ 4,253,010	$ 725,143		

Notes:

1. Depreciation on buildings and improvements reflected in the consolidated statements of operations is calculated over the estimated useful life of the assets as follows: Buildings at 40 years and improvements at the shorter of lease term or useful life.
2. The aggregate gross cost of property included above for Federal income tax purposes was approximately $4.4 billion as of December 31, 2022.

The following table reconciles the activity for real estate properties from January 1, 2020 to December 31, 2022 (in thousands):

	Year Ended December 31,		
	2022	2021	2020
Balance at beginning of year	$ 4,071,607	$ 4,011,326	$ 3,960,411
Improvements and other	50,696	32,070	71,409
Property acquisitions	234,557	172,558	19,109
Property dispositions or held for sale assets	(125,933)	(134,422)	(19,659)
Right-of-use assets - finance leases obtained and reclassified	—	—	(76,965)
Capital lease reclassified as Right-of-use assets - finance lease	—	—	—
Consolidation of previously unconsolidated investments	55,394	—	129,863
Impairment charges	(33,311)	(9,925)	(72,842)
Balance at end of year	$ 4,253,010	$ 4,071,607	$ 4,011,326

ACADIA REALTY TRUST
SCHEDULE III - REAL ESTATE AND ACCUMULATED DEPRECIATION

The following table reconciles accumulated depreciation from January 1, 2020 to December 31, 2022 (in thousands):

	Year Ended December 31,		
	2022	**2021**	**2020**
Balance at beginning of year	$ 648,461	$ 573,364	$ 478,991
Depreciation related to real estate	98,414	90,456	101,849
Property dispositions or held for sale assets	(21,732)	(15,359)	(939)
Right-of-use assets - finance leases reclassified	—	—	(6,537)
Balance at end of year	$ 725,143	$ 648,461	$ 573,364

ACADIA REALTY TRUST
SCHEDULE IV - MORTGAGE LOANS ON REAL ESTATE

December 31, 2022

(in thousands)

Description	Effective Interest Rate	Final Maturity Date	Face Amount of Notes Receivable	Net Carrying Amount of Notes Receivable as of December 31, 2022
First Mortgage Loan	6.00%	4/1/2020	$ 17,810	$ 17,801
Mezzanine Loan	9.25%	1/9/2024	54,000	54,000
First Mortgage Loan	6.56%	9/17/2024	43,000	42,000
Other	4.65%	4/12/2026	6,000	6,000
Mezzanine Loan	8.00%	12/11/2027	5,000	5,000
Total			$ 125,810	124,801
Allowance for credit loss				(898)
Net carrying amount of notes receivable				$ 123,903

The Company monitors the credit quality of its notes receivable on an ongoing basis and considers indicators of credit quality such as loan payment activity, the estimated fair value of the underlying collateral, the seniority of the Company's loan in relation to other debt secured by the collateral, the personal guarantees of the borrower and the prospects of the borrower.

The following table reconciles the activity for loans on real estate from January 1, 2020 to December 31, 2022 (in thousands):

	Reconciliation of Loans on Real Estate		
	Year Ended December 31,		
	2022	2021	2020
Balance at beginning of year	$ 159,638	$ 102,100	$ 114,943
Additions	—	58,000	59,585
Repayments	(29,531)	—	—
Conversion of OP Units	—	(462)	—
Conversion to real estate through receipt of deed or through foreclosure	(5,306)	—	(72,428)
Total	$ 124,801	$ 159,638	$ 102,100
Allowance for credit loss	(898)	(5,752)	(1,218)
Balance at end of year	$ 123,903	$ 153,886	$ 100,882

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES.

None.

ITEM 9A. CONTROLS AND PROCEDURES.

Disclosure Controls and Procedures

We conducted an evaluation, under the supervision and with the participation of management including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2022 to provide reasonable assurance that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Management's Report on Internal Control Over Financial Reporting

Management of Acadia Realty Trust is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in the Securities Exchange Act of 1934 Rule 13(a)-15(f). Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an assessment of the effectiveness of our internal control over financial reporting as of December 31, 2022 as required by the Securities Exchange Act of 1934 Rule 13(a)-15(c). In making this assessment, we used the criteria set forth in the framework in Internal Control–Integrated Framework (2013 Framework) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). Based on our evaluation under the COSO criteria, our management concluded that our internal control over financial reporting was effective as of December 31, 2022 to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles.

BDO USA, LLP, an independent registered public accounting firm that audited our Financial Statements included in this Annual Report, has issued an attestation report on our internal control over financial reporting as of December 31, 2022, which also appears in this Item 9A.

Acadia Realty Trust
Rye, New York
March 1, 2023

Remediation Efforts of Prior Year Material Weakness

We disclosed a material weakness in our internal control over financial reporting in our Form 10-K for the year ended December 31, 2021. During 2022, we implemented new and enhanced existing internal controls, related to evaluating the accounting treatment of less-than-wholly-owned investments to remediate the material weakness.

As a result of the remediation efforts, we have concluded that the material weakness has been remediated as of December 31, 2022.

Changes in Internal Control Over Financial Reporting

During the three months ended December 31, 2022, other than the remediation of the material weakness described above, there were no changes in the Company's internal control over financial reporting that materially affected or are reasonably likely to materially affect the Company's internal control over financial reporting.

Report of Independent Registered Public Accounting Firm

Shareholders and Board of Trustees
Acadia Realty Trust
Rye, New York

Opinion on Internal Control over Financial Reporting

We have audited Acadia Realty Trust's (the "Company's") internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets of the Company as of December 31, 2022 and 2021, the related consolidated statements of operations, comprehensive income (loss), changes in shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2022, and the related notes and financial statement schedules, and our report dated March 1, 2023 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Item 9A, Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit of internal control over financial reporting in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ BDO USA, LLP

New York, New York
March 1, 2023

ITEM 9B. OTHER INFORMATION.

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS.

None.

PART III

In accordance with the rules of the SEC, certain information required by Part III is omitted and is incorporated by reference into this Report from our definitive proxy statement relating to our 2023 annual meeting of shareholders (our "2023 Proxy Statement") that we intend to file with the SEC no later than April 30, 2023.

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

The information under the following headings in the 2023 Proxy Statement is incorporated herein by reference:

- "PROPOSAL 1 — ELECTION OF TRUSTEES"
- "MANAGEMENT"
- "DELINQUENT SECTION 16(a) REPORTS"

ITEM 11. EXECUTIVE COMPENSATION.

The information under the following headings in the 2023 Proxy Statement is incorporated herein by reference:

- "ACADIA REALTY TRUST COMPENSATION COMMITTEE REPORT"
- "COMPENSATION DISCUSSION AND ANALYSIS"
- "BOARD OF TRUSTEES COMPENSATION"
- "COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION"

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.

The information under the heading "SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT" in the 2023 Proxy Statement is incorporated herein by reference.

The information under Item 5. of this Report under the heading "(c) Securities authorized for issuance under equity compensation plans" is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE.

The information under the following headings in the 2023 Proxy Statement is incorporated herein by reference:

- "CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS"
- "PROPOSAL 1 — ELECTION OF TRUSTEES—Trustee Independence"

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.

The information under the heading "AUDIT COMMITTEE INFORMATION" in the 2023 Proxy Statement is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

1. Financial Statements: See "Index to Financial Statements" at Item 8.

2. Financial Statement Schedule: See "Schedule II—Valuation and Qualifying Accounts" at Item 8.

3. Financial Statement Schedule: See "Schedule III—Real Estate and Accumulated Depreciation" at Item 8.

4. Financial Statement Schedule: See "Schedule IV—Mortgage Loans on Real Estate" at Item 8.

5. For the year ended December 31, 2022, 840 N. Michigan Avenue is considered a significant subsidiary of the Company based upon reaching certain income thresholds per the SEC Regulation S-X Rule 3-09. As such, the Company has included audited financial statements of 840 N. Michigan Avenue as Exhibit 99.3 to this annual report on Form 10-K. Additionally, the Company's Equity in earnings of unconsolidated affiliates from 840 N. Michigan Avenue for the year ended December 31, 2022, exceeded 10% of the Company's income from continuing operations per the SEC Regulation S-X Rule 4-08(g). As the Company has included separate audited financial statements for the investee in its annual report, it has not separately disclosed the summarized financial information of the investee.

6. Exhibits: See index of exhibits below and incorporated herein by reference.

The following is an index to all exhibits including (i) those filed with this Report and (ii) those incorporated by reference herein:

Exhibit No.	Description	Method of Filing
3.1	Declaration of Trust of the Company	Incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
3.2	First Amendment to Declaration of Trust of the Company	Incorporated by reference to Exhibit 3.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
3.3	Second Amendment to Declaration of Trust of the Company	Incorporated by reference to Exhibit 3.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
3.4	Third Amendment to Declaration of Trust of the Company	Incorporated by reference to Exhibit 3.4 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
3.5	Fourth Amendment to Declaration of Trust	Incorporated by reference to Exhibit 3.1 (a) to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1998.
3.6	Fifth Amendment to Declaration of Trust	Incorporated by reference to Exhibit 3.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2009.
3.7	Sixth Amendment to Declaration of Trust	Incorporated by reference to Exhibit 3.01 to the Company's Current Report on Form 8-K filing on July 28, 2017.
3.8	Articles Supplementary	Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on November 9, 2017.
3.9	Amended and Restated Bylaws of the Company	Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on April 28, 2022.
4.1	Description of Acadia Realty Trust Securities Registered Under Section 12 of the Securities Exchange Act of 1934, as amended	Filed herewith
10.1*	Acadia Realty Trust 2020 Share Incentive Plan	Incorporated by reference to page 63 of the Company's 2020 Definitive Proxy Statement filed with the SEC on March 24, 2020.

10.2*	Description of Long-Term Investment Alignment Program	Incorporated by reference to page 20 to the Company's 2009 Annual Proxy Statement filed with the SEC April 9, 2009.
10.3*	Amended and Restated Employment Agreement between the Company and Kenneth F. Bernstein	Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 1, 2014.

Exhibit No.	Description	Method of Filing
10.4*	Form of Second Amended and Restated Severance Agreement, effective as of February 26, 2018, with each of: John Gottfried, Executive Vice President and Chief Financial Officer; Jason Blacksberg, Executive Vice President, Chief Legal Officer and Secretary; and Joseph M. Napolitano, Senior Vice President and Chief Administrative Officer	Incorporated by reference to Exhibit 10.7 to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.
10.5*	Form of 2018 Long-Term Incentive Plan Award Agreement (time- and performance-based)	Incorporated by reference to Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2018.
10.6*	Form of Assignments and Assumptions of Carried Interest with respect to the Company's Long-Term Incentive Alignment Program	Incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2015.
10.7*	Form of Omnibus Amendment to the Series of Assignments and Assumptions of Carried Interest with respect to the Company's Long-Term Incentive Alignment Program	Incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2015.
10.8*	Form of 2018 Long-Term Incentive Plan Award Agreement (Time-Based Only)	Incorporated by reference to Exhibit 10.13 to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.
10.9	Form of Long-Term Incentive Plan Award Agreement (Time-Based Only) (Chief Executive Officer)	Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2020.
10.10	Form of Long-Term Incentive Plan Award Agreement (Time and Performance Based) (Chief Executive Officer)	Incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2020.
10.11	Form of Long-Term Incentive Plan Award Agreement (Time and Performance Based) (SVP/EVP)	Filed herewith
10.12	Form of Long-Term Incentive Plan Award Agreement (Time and Performance Based) (Chief Executive Officer)	Filed herewith
10.13	Second Amended and Restated Credit Agreement dated as of June 29, 2021, by and among Acadia Realty Limited Partnership, as borrower, Acadia Realty Trust and certain subsidiaries of Acadia Realty Limited Partnership from time to time party thereto, as guarantors, Bank of America, N.A., as administrative agent, Wells Fargo Bank, National Association, Truist Bank, and PNC Bank, National Association, as syndication agents, BofA Securities, Inc. and Wells Fargo Securities, LLC, as joint bookrunners, and BofA Securities, Inc., Wells Fargo Securities, LLC, Truist Bank and PNC Capital Markets LLC, as joint lead arrangers and the lenders party thereto	Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 2, 2021.
10.14	First Amendment to the Second Amended and Restated Credit Agreement dated as of March 3, 2022, by and among Acadia Realty Limited Partnership, as borrower, Acadia Realty Trust and certain subsidiaries of Acadia Realty Limited Partnership from time to time party thereto, as guarantors, the Lenders and L/C Issuers from time to time party thereto, and Bank of America, N.A., as administrative agent	Filed herewith
10.15	Second Amendment to the Second Amended and Restated Credit Agreement dated as of December 21, 2022, by and among Acadia Realty Limited Partnership, as borrower, Acadia Realty Trust and certain subsidiaries of Acadia Realty Limited Partnership from time to time party thereto, as guarantors, the Lenders and L/C Issuers from time to time	Filed herewith

	party thereto, and Bank of America, N.A., as administrative agent	
10.16	Credit Agreement dated as of April 6, 2022, by and among Acadia Realty Trust, Acadia Realty Limited Partnership, Bank of America, N.A., as administrative agent, BofA Securities, Inc., as sole lead arranger and sole bookrunner and the lenders party thereto	Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 11, 2022.

Exhibit No.	Description	Method of Filing
21	List of Subsidiaries of Acadia Realty Trust	Filed herewith
23.1	Consent of Registered Public Accounting Firm	Filed herewith
23.2	Consent of Registered Public Accounting Firm - 840 North Michigan Avenue, Tenant-in-Common Interests	Filed herewith
31.1	Certification of Chief Executive Officer pursuant to rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith
31.2	Certification of Chief Financial Officer pursuant to rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished herewith
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished herewith
99.1	Amended and Restated Agreement of Limited Partnership Agreement dated July 23, 2019	Incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2019.
99.2	Certificate of Designation of Series A Preferred Operating Partnership Units of Limited Partnership Interest of Acadia Realty Limited Partnership	Incorporated by reference to Exhibit 10.1(C) to the Company's Annual Report on Form 10-K filed for the year ended December 31, 1999.
99.3	840 North Michigan Avenue, Tenant-in-Common Interests Combined Financial Statements for the Years Ended December 31, 2022 and 2021 and Independent Auditor's Report	Filed herewith
101.INS	XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document	Filed herewith
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Filed herewith
101.CAL	Inline XBRL Taxonomy Extension Calculation Document	Filed herewith
101.DEF	Inline XBRL Taxonomy Extension Definitions Document	Filed herewith
101.LAB	Inline XBRL Taxonomy Extension Labels Document	Filed herewith
101.PRE	Inline XBRL Taxonomy Extension Presentation Document	Filed herewith
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)	Filed herewith

. The referenced exhibit is a management contract or compensation plan or arrangement.

ITEM 16. Form 10-K SUMMARY.

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereto duly authorized.

ACADIA REALTY TRUST
(Registrant)

By: /s/ Kenneth F. Bernstein
Kenneth F. Bernstein
Chief Executive Officer,
President and Trustee

By: /s/ John Gottfried
John Gottfried
Executive Vice President and
Chief Financial Officer

By: /s/ Richard Hartmann
Richard Hartmann
Senior Vice President and
Chief Accounting Officer

Dated: March 1, 2023

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Kenneth F. Bernstein (Kenneth F. Bernstein)	Chief Executive Officer, President and Trustee (Principal Executive Officer)	March 1, 2023
/s/ John Gottfried (John Gottfried)	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	March 1, 2023
/s/ Richard Hartmann (Richard Hartmann)	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 1, 2023
/s/ Douglas Crocker II (Douglas Crocker II)	Trustee	March 1, 2023
/s/ Mark A. Denien (Mark A. Denien)	Trustee	March 1, 2023
/s/ Lorrence T. Kellar (Lorrence T. Kellar)	Trustee	March 1, 2023
/s/ Kenneth A. McIntyre (Kenneth A. McIntyre)	Trustee	March 1, 2023
/s/ William T. Spitz (William T. Spitz)	Trustee	March 1, 2023
/s/ Lynn Thurber (Lynn Thurber)	Trustee	March 1, 2023
/s/ Lee S. Wielansky (Lee S. Wielansky)	Trustee	March 1, 2023

/s/ Hope B. Woodhouse (Hope B. Woodhouse)	Trustee	March 1, 2023
/s/ C. David Zoba (C. David Zoba)	Trustee	March 1, 2023

EXHIBIT 4.1

DESCRIPTION OF SECURITIES

REGISTERED UNDER SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

The following is a summary of the material terms of the common shares of beneficial interest, par value $0.001 per share (the "Common Shares"), of Acadia Realty Trust, a Maryland real estate investment trust (the "Company," "our," "we," or "us"), as well as certain relevant provisions of the declaration of trust of the Company, as amended (the "Declaration of Trust"), and amended and restated bylaws of the Company (the "Bylaws"), the Maryland General Corporation Law (the "MGCL") and the Maryland REIT Law (the "MRL"). A more complete description is available by referring to the full text of the Declaration of Trust, the Bylaws, the MGCL and the MRL.

General

Under our Declaration of Trust, we may issue 200,000,000 shares of beneficial interest, which may consist of Common Shares or such other types or classes of securities of the Company as the board of trustees of the Company (the "Board") may create and authorize from time to time. The Common Shares have equal dividend, liquidation and other rights, have no preference or exchange rights, and generally have no appraisal rights. Holders of Common Shares have no conversion, sinking fund or redemption rights, or preemptive rights to subscribe for any of our securities.

Transfer Agent and Registrar

The transfer agent and registrar for the Common Shares is American Stock Transfer & Trust Company, which has an address at 40 Wall Street, New York, New York 10005.

Listing

The Common Shares are listed on the New York Stock Exchange under the symbol "AKR".

Distributions

Holders of Common Shares are entitled to receive distributions out of assets that we can legally use to pay distributions, when and if they are authorized by our Board and declared by us, and to share ratably in our assets that are legally available for distribution to our shareholders in the event we are liquidated, dissolved or our affairs are wound up.

Voting Rights

Holders of Common Shares have the right to vote on all matters presented to our shareholders, including the election of trustees, except as otherwise provided by Maryland law. Maryland law and our Declaration of Trust prohibit us from merging with or consolidating into another entity where we are not the surviving entity, or selling all or substantially all of our assets, without the approval of the holders of not less than two-thirds of the outstanding shares that are entitled to vote on such matters. Holders of Common Shares are entitled to one vote per share on all matters upon which shareholders are entitled to vote.

There is no cumulative voting in the election of our trustees, which means that holders of more than 50% of the Common Shares voting for the election of trustees can elect all of the trustees if they choose to do so and the holders of the remaining shares cannot elect any trustees.

Restrictions on Ownership and Transfer

To qualify as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended (the "Code"), we must satisfy certain ownership requirements that may limit the ownership and transferability of the Common Shares. Specifically, not more than 50% in value of our outstanding Common Shares may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of a taxable year, and the Common Shares must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of twelve months or during a proportionate part of a shorter taxable year.

In order to ensure that we continue to qualify as a REIT under the Code, our Declaration of Trust contains provisions intended to assist us in satisfying the requirements described above. In regard to the ownership requirements, the Declaration of Trust prohibits any person from owning, directly or indirectly, by virtue of (i) the attribution rules of the Code or (ii) being a beneficial owner as defined in Rule 13d-3 promulgated under the Securities Exchange Act or 1934, as amended (the "Exchange Act"), more than 9.8% in value or number of the issued and outstanding shares of any class or series of our shares of beneficial interest, subject to certain exceptions. The trustees may waive this limitation if such ownership will not jeopardize our status as a REIT. As a condition of such waiver, the trustees may require opinions of counsel satisfactory to them and/or an undertaking from the applicant with respect to preserving our REIT status under the Code.

Our Declaration of Trust also provides that any purported transfer or issuance of any class or series of our shares of beneficial interest or our securities convertible into such shares that would (i) violate the 9.8% limitation described above, (ii) result in shares being owned by fewer than 100 persons for purposes of the REIT provisions of the Code, (iii) result in our being "closely held" within the meaning of Section 856(h) of the Code, or (iv) otherwise jeopardize our REIT status under the Code will be null and void and the proposed transferee will not acquire any rights in the shares, and will be deemed to have never had an interest therein.

Moreover, shares of beneficial interest transferred, or proposed to be transferred, in contravention of the 9.8% limitation described above or in a manner that would otherwise jeopardize our status as a REIT will be subject to purchase by us at a price equal to the fair market value of such shares (determined in accordance with the rules set forth in our Declaration of Trust). From and after the date fixed for purchase, and so long as payment of the purchase price for the shares to be redeemed has been made or duly provided for, the holder of any shares in violation of the 9.8% limitation described above so called for purchase will cease to be entitled to dividends, distributions, voting rights and other benefits with respect to such shares, excepting only the right to payment of the purchase price. Any dividend or distribution paid to a proposed transferee on such shares prior to the discovery by the Company that such shares have been transferred in violation of the limitations described above shall be repaid to us upon demand.

Any certificates evidencing the Common Shares bear a legend referring to the restrictions described above.

The ownership limitations described above could have the effect of delaying, deferring or preventing a takeover or other transaction in which holders of some, or a majority, of Common Shares might receive a premium for their shares over the then prevailing market price or which such holders might believe to be otherwise in their best interest.

Certain Provisions of Our Declaration of Trust and Bylaws

Number of Trustees; Election of Trustees, Removal of Trustees and Filling of Vacancies

Our Declaration of Trust provides that the Board will consist of not less than two nor more than fifteen persons, and that the number of trustees will be set by the trustees then in office. Our Board currently consists of ten trustees, each of whom serves until the next annual meeting of shareholders and until his or her successor is duly elected and qualifies. Each trustee is elected by the vote of the majority of the votes cast by the holders of Common Shares at a meeting duly called at which a quorum is present; provided that if the number of nominees exceeds the number of trustees to be elected, the trustees will be elected by a plurality of the votes cast by the holders of Common Shares at a meeting duly called at which a quorum is established. A majority of the votes cast means that the number of shares voted "for" a nominee must exceed 50% of the sum of the votes cast "for" plus the votes cast "against" or "withheld" with respect to that nominee. If a nominee that is already serving as a trustee is not elected, such trustee shall offer to tender his or her resignation to the Board. The nominating and corporate governance committee of the Board will make a recommendation to the Board on whether to accept or reject the resignation, or whether other action should be taken.

Our Declaration of Trust provides that the shareholders may, at any time, remove any trustee, with or without cause, by the affirmative vote of not less than two-thirds of all the votes entitled to be cast generally in the election of trustees. Any vacancy (including a vacancy created by an increase in the number of trustees) may be filled, at any regular meeting or at any special meeting called for that purpose, by a majority of the trustees remaining in office, even if the remaining trustees do not constitute a quorum. Any trustee elected to fill a vacancy will serve for the remainder of the full term of the trusteeship in which the vacancy occurred and until his or her successor is duly elected and qualifies.

Limitation of Liability and Indemnification of Trustees and Officers

Our Declaration of Trust authorizes and our Bylaws obligate us, to the maximum extent permitted under Maryland law, to indemnify our trustees and officers in their capacity as such. Section 8-301(15) of the MRL permits a Maryland REIT to indemnify or advance expenses to trustees and officers to the same extent as is permitted for directors and officers of a Maryland corporation under the MGCL. The MGCL requires a Maryland corporation (unless its charter provides otherwise, which our Declaration of Trust does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of his or her service in that capacity. The MGCL permits a Maryland corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to or in which they may be made, or threatened to be made, a party or witness by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received, unless, in either case, a court orders indemnification, and then only for expenses. In addition, the MGCL permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (i) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (ii) a written undertaking by such director or officer or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Our Declaration of Trust authorizes us, and our Bylaws require us, to the maximum extent permitted by Maryland law, to indemnify (i) any present or former trustee or officer or (ii) any individual who, while serving as our trustee or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner, member, manager, or trustee, from and against any claim or liability to which such person may become subject or which such person may incur by reason of his or her service in such capacity or capacities, and to pay or reimburse his or her reasonable expenses in advance of final disposition of such a proceeding.

Our Bylaws also permit us, subject to the approval of our Board, to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any employee or agent of our Company or a predecessor of our Company.

In addition to the above, we have purchased and maintain insurance on behalf of all of our trustees and executive officers against liability asserted against or incurred by them in their official capacities with us, whether or not we are required or have the power to indemnify them against the same liability.

Advance Notice of Trustee Nominations and New Business

Our Bylaws provide that (a) with respect to an annual meeting of shareholders, nominations of individuals for election to our Board and the proposal of other business to be considered by shareholders may be made only (i) pursuant to our Company's notice of the meeting, (ii) by or at the direction of the Board or (iii) by a shareholder who is a shareholder of record both at the time of giving of notice by the shareholder and at the time of the meeting, who is entitled to vote at the meeting in the election of the individual so nominated or such other business and has complied with the advance notice procedures set forth in the Bylaws and (b) with respect to special meetings of shareholders, only the business specified in our Company's notice of meeting may be brought before the meeting of shareholders and nominations of individuals for election to the Board may be made only (i) by or at the direction of the Board or (ii) provided that the meeting has been called for the purpose of electing trustees by a shareholder who is a shareholder of record both at the time of giving of notice by the shareholder and at the time of the meeting, who is entitled to vote at the meeting in the election of each individual so nominated and has complied with the advance notice provisions set forth in the Bylaws.

Amendments to our Declaration of Trust and Bylaws

In general, our Declaration of Trust may be amended by the affirmative vote of the holders of not less than a majority of the Common Shares then outstanding and entitled to vote thereon. However, amendments with respect to certain provisions relating to the ownership requirements, reorganizations and certain mergers or consolidations or the sale of substantially all of our assets, require the affirmative vote of the holders of not less than two-thirds of the Common Shares then outstanding and entitled to vote thereon. Our trustees, by a two-thirds vote, may amend the provisions of the Declaration of Trust from time to time to effect any change deemed necessary by our trustees to allow us to qualify and continue to qualify as a REIT. Our Bylaws provide that our Board has the power to adopt, alter or repeal any provision of our Bylaws and to make new Bylaws. In addition, shareholders may alter or repeal any provision of the Bylaws and adopt new Bylaws with the approval of a majority of all votes entitled to be cast on the matter.

Termination of Operations or our REIT Status

Our Declaration of Trust permits the termination and the discontinuation of our operations by the affirmative vote of the holders of not less than two-thirds of the outstanding shares entitled to vote at a

meeting of shareholders called for that purpose. In addition, the Declaration of Trust permits the trustees to terminate our REIT status at any time without a vote of shareholders.

Anti-Takeover Effect of Certain Provisions of the Declaration of Trust

The limitation on ownership and transfer of shares of beneficial interest set forth in our Declaration of Trust could have the effect of discouraging offers to acquire us or of hampering the consummation of a contemplated acquisition. Similarly, the Board, without shareholder approval, could authorize the Company to issue additional classes or series of Common Shares or other shares of beneficial interest. Any such shares could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change of control of the Company, even if such transaction or change of control involved a premium price for the shareholders of the Company or shareholders believe that such transaction or change of control may be in their best interests.

Forum Selection Clause

Our Bylaws provide that, unless we consent in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of any duty owed by us or by any of our trustees or officers or other employees to us or to our shareholders, (iii) any action asserting a claim against us or any of our trustees or officers or other employees arising pursuant to any provision of the MRL, the MGCL or our Declaration of Trust or Bylaws or (iv) any action asserting a claim against us or any of our trustees or officers or other employees that is governed by the internal affairs doctrine shall be, in each case, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Baltimore Division.

Certain Provisions of Maryland Law

Control Share Acquisitions

The MGCL, as applicable to Maryland REITs, provides that a holder of "control shares" of a Maryland REIT acquired in a "control share acquisition" has no voting rights except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of beneficial interest owned by the acquiror, by officers or by trustees who are employees of the REIT. "Control shares" are voting shares of beneficial interest which, if aggregated with all other such shares of beneficial interest previously acquired by the acquiror, or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing trustees within one of the following ranges of voting power: (i) one-tenth or more but less than one-third, (ii) one-third or more but less than a majority, or (iii) a majority or more of all voting power. Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained shareholder approval. A "control share acquisition" means the acquisition of control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses of the meeting), may compel the board of trustees of the REIT to call a special meeting of shareholders to be held within 50 days of demand to consider the voting rights of the shares. If no request for a meeting is made, the REIT may itself present the question at any shareholders meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then, subject to certain conditions and limitations, the REIT

may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or, if a meeting of shareholders is held at which the voting rights of such shares are considered and not approved, as of the date of such meeting. If voting rights for control shares are approved at a shareholders meeting and the acquiror becomes entitled to vote a majority of the shares entitled to vote, all other shareholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition.

The control share acquisition statute does not apply (i) to shares acquired in a merger, consolidation or share exchange if the REIT is a party to the transaction or (ii) to acquisitions approved or exempted by the declaration of trust or bylaws of the REIT.

Our Bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of our Company's shares of beneficial interest. There can be no assurance that this provision will not be amended or eliminated at any time in the future, and may be amended or eliminated with retroactive effect.

Business Combinations

Under the MGCL, as applicable to Maryland REITs, certain "business combinations" (including a merger, consolidation, share exchange or, in certain circumstances, an asset transfer or issuance or reclassification of equity securities) between a Maryland REIT and any person who beneficially owns ten percent or more of the voting power of the REIT's outstanding voting shares of beneficial interest or an affiliate or associate of the REIT who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of ten percent or more of the voting power of the then-outstanding voting shares of beneficial interest of the REIT (an "Interested Shareholder") or an affiliate thereof are prohibited for five years after the most recent date on which the Interested Shareholder becomes an Interested Shareholder. Thereafter, any such business combination must generally be recommended by the board of trustees of such REIT and approved by the affirmative vote of at least (a) 80% of the votes entitled to be cast by holders of outstanding voting shares of beneficial interest of the REIT and (b) two-thirds of the votes entitled to be cast by holders of voting shares of the REIT other than shares held by the Interested Shareholder with whom (or with whose affiliate) the business combination is to be effected, unless, among other conditions, the REIT's common shareholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the Interested Shareholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by the board of trustees of the REIT prior to the time that the Interested Shareholder becomes an Interested Shareholder. A person is not an Interested Shareholder under the statute if the board of trustees approved in advance the transaction by which he otherwise would have become an Interested Shareholder. The board of trustees may provide that its approval is subject to compliance with any terms and conditions determined by the board.

We have not elected to opt-out of the business combination statute. The business combination statute may have the effect of inhibiting a third party from making an acquisition proposal for us or of delaying, deferring or preventing a change of control of us under circumstances that otherwise could provide our shareholders with the opportunity to realize a premium over the then-current market price or that our shareholders may otherwise believe is in their best interests.

Subtitle 8

Subtitle 8 of Title 3 of the MGCL permits a Maryland REIT with a class of equity securities registered under the Exchange Act and at least three independent trustees to elect to be subject, by provision in its declaration of trust or bylaws or a resolution of its board of trustees and notwithstanding any contrary provision in the declaration of trust or bylaws, to any or all of five provisions of the MGCL, which provide for:

- a classified board;
- a two-thirds vote requirement for removing a trustee;
- a requirement that the number of trustees be fixed only by vote of the trustees;
- a requirement that a vacancy on the board be filled only by the remaining trustees and for the remainder of the full term of the class of trustees in which the vacancy occurred; and
- a majority requirement for the calling of a special meeting of shareholders.

Through provisions in our Declaration of Trust and Bylaws unrelated to Subtitle 8, we already (i) require the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of trustees to remove a trustee from our Board, (ii) vest in our Board the exclusive power to fix the number of trustees, (iii) vest in our Board the exclusive power to fill vacancies and (iv) require, unless called by our chairman of our Board, our chief executive officer, our president or our Board, the written request of shareholders entitled to cast not less than 40% of all the votes entitled to be cast at such a meeting to call a special meeting. We have opted out of the provision of Subtitle 8 that would have permitted our Board, without shareholder approval, to elect to classify our Board into three classes with staggered three-year terms (also referred to as a classified board), and we are prohibited from electing to be subject to such provision of the MGCL unless such election is first approved by our shareholders by the affirmative vote of a majority of the votes cast on the matter by shareholders entitled to vote generally in the election of trustees.

[Form of Long-Term Incentive Plan Award Agreement (Time and Performance Based)]

ACADIA REALTY TRUST
[___] LONG-TERM INCENTIVE PLAN
AWARD AGREEMENT

[___] LONG-TERM INCENTIVE PLAN AWARD AGREEMENT made as of the date set forth on Schedule A hereto between Acadia Realty Trust, a Maryland real estate investment trust (the "Company"), its subsidiary Acadia Realty Limited Partnership, a Delaware limited partnership and the entity through which the Company conducts substantially all of its operations (the "Partnership"), and the party listed on Schedule A (the "Grantee").

RECITALS

1. The Grantee is a key employee of the Company or one of its Subsidiaries or affiliates and provides services to the Partnership.

2. The Company has adopted the **[___]** Long-Term Incentive Plan (the "LTIP") pursuant to the Acadia Realty Trust 2020 Share Incentive Plan (the "Plan"), to provide certain key employees of the Company or its Subsidiaries and affiliates, including the Grantee, in connection with their employment with the long-term incentive compensation described in this Award Agreement (this "Agreement" or "Award Agreement"), and thereby provide additional incentive for them to promote the progress and success of the business of the Company and its Subsidiaries and affiliates, including the Partnership, while increasing the total return to the Company's shareholders. The LTIP Units (as defined herein) may, under certain circumstances, become exchangeable for shares of beneficial ownership of the Company reserved for issuance under the Plan, or any successor equity plan. This Agreement evidences an award to the Grantee under the LTIP (this "Award"), which is subject to the terms and conditions set forth herein.

3. The Grantee was selected to receive this Award as an employee who, through the effective execution of his or her assigned duties and responsibilities, is in a position to have a direct and measurable impact on the Company's long-term financial results. Effective as of the grant date specified in Schedule A hereto (the "Grant Date"), the Grantee was issued the number of LTIP Units (as defined herein) set forth in Schedule A.

NOW, THEREFORE, the Company, the Partnership and the Grantee agree as follows:

Section 1.Administration. The LTIP and all awards thereunder, including this Award, shall be administered by the Compensation Committee of the Board of Trustees of the Company (the "Committee"), which in the administration of the LTIP shall have all the powers and authority it has in the administration of the Plan, as set forth in the Plan. The Committee may from time to time adopt any rules or procedures it deems necessary or desirable for the proper and efficient administration of the LTIP, consistent with the terms hereof and of the Plan. The Committee's determinations and interpretations with respect to the LTIP and this Agreement shall be final and binding on all parties.

Section 2.Definitions. Capitalized terms used herein without definitions shall have the meanings given to those terms in the Plan. In addition, as used herein:

"Award LTIP Units" has the meaning set forth in Section 3.

"Cause" means the Grantee has: (A) deliberately made a misrepresentation in connection with, or willfully failed to cooperate with, a bona fide internal investigation or an investigation by regulatory or law enforcement authorities, after being instructed by the Company to cooperate, or willfully destroyed or failed to preserve documents or other materials known to be relevant to such investigation, or willfully induced others to fail to cooperate or to produce documents or other materials; (B) materially breached (other than as a result of the Grantee's incapacity due to physical or mental illness or death) his/her material duties hereunder, which breach is demonstrably willful and deliberate on the Grantee's part, is committed in bad faith or without reasonable belief that such breach is in the best interests of the Company and such breach is not cured within a reasonable period of time after written notice from the Company specifying such Breach (but in any event, no less than ninety (90) days thereafter) in which Grantee is diligently pursuing cure; (C) engaged in conduct constituting a material act of willful misconduct in connection with the performance of his/her duties, including, without limitation, misappropriation of funds or property of the Company other than the occasional customary and de minimis use of Company property for personal purposes; (D) materially violated a material Company policy, including but not limited to a policy set forth in the Company's employee handbook; (E) disparaged the Company, its officers, trustees, employees or partners; (F) committed a felony or misdemeanor involving moral turpitude, deceit, dishonesty or fraud.

"Change of Control" means that any of the following events has occurred: (A) any Person or "group" of Persons, as such terms are used in Sections 13 and 14 of the Exchange Act, other than any employee benefit plan sponsored by the Company, becomes the "beneficial owner," as such term is used in Section 13 of the Exchange Act (irrespective of any vesting or waiting periods) of (i) the Company's Common Shares in an amount equal to thirty percent (30%) or more of the sum total of the Common Shares issued and outstanding immediately prior to such acquisition as if they were a single class and disregarding any equity raise in connection with the financing of such transaction; provided, however, that in determining whether a Change of Control has occurred, Common Shares which are acquired in an acquisition by (i) the Company or any of its subsidiaries or (ii) an employee benefit plan (or a trust forming a part thereof) maintained by the Company or any of its subsidiaries shall not constitute an acquisition which can cause a Change of Control; or (B) the approval of the dissolution or liquidation of the Company by the Board of Trustees of the Company (the "Board"); or (C) the approval of the sale or other disposition of all or substantially all of its assets in one or more transactions (including, without limitation, the approval of a transaction or series of transactions to sell or dispose of all or substantially all of the assets in the Company's core business line to any Person or "group" of Persons, as such terms are used in Sections 13 and 14 of the Exchange Act); or (D) a turnover, during any two-year

period, of the majority of the members of the Board, without the consent of the majority of the members of the Board as to the appointment of the new Board members.

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Shares" means shares of beneficial ownership of the Company, par value $0.001 per share, either currently existing or authorized hereafter.

"Disability" means (i) if the Grantee is a party to a Service Agreement (as defined in Section 5(b) below), and "Disability" is defined therein, such definition, or (ii) if the Grantee is not party to a Service Agreement that defines "Disability," a reasonable determination by the Company that the Grantee has become physically or mentally incapable of performing his duties to the Company and/or Partnership and such disability has disabled the Grantee for a cumulative period of one hundred eighty (180) days within a twelve (12) month period.

"Effective Date" means **[___]**.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, as of a particular date, the "Fair Market Value" (as defined in the Plan) of one Common Share; provided, however, if such date is the date of a Public Announcement with respect to a Change of Control, then the fair market value shall be, as determined by the Board, the total consideration payable for one Common Share in the transaction that ultimately results in a Change of Control.

"Good Reason" means the Grantee shall have the right to terminate his/her employment within the 90-day period following the Company's failure to cure any of the following events that shall constitute "Good Reason" if not cured within the 30-day period following written notice of such default to the Company by the Grantee (the "Good Reason Cure Period"): (A) upon the occurrence of any material breach of this Agreement by the Company; (B) without the Grantee's consent, a material, adverse alteration in the nature of the Grantee's duties, responsibilities or authority, or in the 18-month period following a Change of Control only, upon the determination by the Grantee (which determination will be conclusive and binding upon the parties hereto provided it has been made in good faith and in all events will be presumed to have been made in good faith unless otherwise shown clear and convincing evidence) that a material negative change in circumstances has occurred following a Change of Control; (C) without the Grantee's consent, upon a reduction in the Grantee's base salary or a reduction of ten percent (10%) or greater in Grantee's other compensation and employee benefits (which includes a ten percent (10%) or greater reduction in target cash and equity bonus, or a ten percent (10%) or greater reduction in total bonus opportunity, but in all cases excludes any grants made under the Long-Term Incentive Alignment Program); or (D) if the Company relocates the Grantee's office requiring the Grantee to increase

his/her commuting time by more than one hour, or in the 18-month period following a Change of Control only, upon the Company requiring the Grantee to travel away from the Grantee's office in the course of discharging the Grantee's responsibilities or duties hereunder at least twenty percent (20%) more than was required of the Grantee in any of the three (3) full years immediately prior to the Change of Control, without, in either case, the Grantee's prior written consent. Any notice hereunder by the Grantee must be made within ninety (90) days after the Grantee first knows or has reason to know about the occurrence of the event alleged to be Good Reason.

"LTIP Units" means units of limited partnership interest of the Partnership designated as "LTIP Units" in the Partnership Agreement awarded under the LTIP, having the rights, voting powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption set forth in the Partnership Agreement.

"Partnership Agreement" means the Second Amended and Restated Limited Partnership Agreement of the Partnership, effective as of December 31, 2018, among the Company, as general partner, and the limited partners who are parties thereto, as amended from time to time.

"Performance Period" means the period beginning on the Effective Date and ending on the Valuation Date.

"Person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, other entity or "group" (as defined in the Exchange Act).

"Public Announcement" means, with respect to a Change of Control, the earliest press release, filing with the Securities and Exchange Commission, or other publicly available or widely disseminated communication issued by the Company or another Person who is a party to such transaction which discloses the consideration payable in connection with and other material terms of the transaction that ultimately results in the Change of Control; provided, however, that if such consideration is subsequently increased or decreased, then the term "Public Announcement" shall be deemed to refer to the most recent such press release, filing or communication disclosing a change in the consideration whereby the final consideration and material terms of the transaction that ultimately results in the Change of Control are announced.

"Securities Act" means the Securities Act of 1933, as amended.

"Special LTIP Units" means LTIP Units as defined in the Partnership Agreement and designated as Special LTIP Units pursuant to Section 8 of this Agreement.

"Units" means OP Units (as defined in the Partnership Agreement) that are outstanding or are issuable upon the conversion, exercise, exchange or redemption

of any securities of any kind convertible, exercisable, exchangeable or redeemable for OP Units.

"Valuation Date" means **[___]**.

Section 3.Award of LTIP Units; Effectiveness of Award.

(a) Award of LTIP Units. On the terms and conditions set forth in this Agreement, as well as the terms and conditions of the Plan, the Grantee is hereby granted this Award consisting of the number of LTIP Units set forth on Schedule A hereto, which is incorporated herein by reference (the "Award LTIP Units"). Award LTIP Units shall have the rights, voting powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption and conversion set forth herein and in the Partnership Agreement and shall constitute and be treated as the property of the Grantee, subject to the terms of this Agreement and the Partnership Agreement. In connection with each subsequent issuance of Award LTIP Units, if any, the Grantee shall execute and deliver to the Company and the Partnership such documents, comparable to the documents executed and delivered in connection with this Agreement, as the Company and/or the Partnership reasonably request in order to comply with all applicable legal requirements, including, without limitation, federal and state securities laws. Award LTIP Units will be subject to vesting as provided in Section 4 hereof, subject to the terms and conditions of Sections 5 and 6.

(b) Effectiveness of Award. As of the Grant Date, the Grantee shall be admitted as a partner of the Partnership with beneficial ownership of the number of Award LTIP Units issued to the Grantee as of such date by: (A) signing and delivering to the Partnership a copy of this Agreement; and (B) signing, as a Limited Partner, and delivering to the Partnership a counterpart signature page to the Partnership Agreement (attached hereto as Exhibit B). The Partnership Agreement shall be amended from time to time as applicable to reflect the issuance to the Grantee of Award LTIP Units, whereupon the Grantee shall have all the rights of a Limited Partner of the Partnership with respect to the number of LTIP Units then held by the Grantee, as set forth in the Partnership Agreement, subject, however, to the restrictions and conditions specified herein and in the Partnership Agreement.

Section 4.Vesting of Award LTIP Units. The Award LTIP Units are subject to time-based vesting and performance-based vesting, as follows.

(a) Time-Based LTIP Units. With respect to the Award LTIP Units listed on Schedule A as Time-Based LTIP Units (the "Time-Based LTIP Units"), vesting shall occur in substantially equal installments commencing on **[___]**, and on each of the first, second, third and fourth anniversaries thereof (each a "Vesting Date"), subject to the Grantee's continuous employment with the Company through each applicable Vesting Date.

(b) Performance-Based LTIP Units. With respect to the Award LTIP Units listed on Schedule A as Performance-Based Special LTIP Units (the "Performance-Based LTIP Units"), such Performance-Based LTIP Units shall be earned and thereafter vest if and only to the extent the performance criteria set forth on Exhibit A attached hereto for the Performance Period are achieved, subject to the Grantee's continuous employment with the Company through the end of the Performance Period. Promptly following the conclusion of the Performance Period, but in no

event later than forty-five (45) days thereafter, the Company shall determine (and the Committee shall certify) whether and to what extent such performance criteria were achieved and determine the Performance Percentage (as defined on Exhibit A attached hereto) and the number of Performance-Based LTIP Units subject to this Award, if any, that are earned. For the avoidance of doubt, the Grantee shall have no rights to the Performance-Based LTIP Units pursuant to this Section 4(b) until the Committee has determined that such Performance-Based LTIP Units have been earned.

(i) If the number of earned Performance-Based LTIP Units is smaller than the number of Performance-Based LTIP Units previously issued to the Grantee, then the Grantee, as of the Valuation Date, shall forfeit a number of Performance-Based LTIP Units equal to the difference without payment of any consideration by the Partnership; thereafter, the term "Performance-Based LTIP Units" will only refer to the Performance-Based LTIP Units that were not so forfeited, and neither the Grantee nor any of his/her successors, heirs, assigns or personal representatives will thereafter have any future rights or interests in the LTIP Units that were so forfeited. If the number of earned Performance-Based LTIP Units is the same as the number of Performance-Based LTIP Units previously issued to the Grantee, then there will be no change to the number of Performance-Based LTIP Units under this Award pursuant to this Section 4.

(ii) If any of the Performance-Based LTIP Units have been earned based on performance as provided in Section 4(b), subject to Sections 5 and 6 hereof, the Performance-Based LTIP Units shall become vested in the following amounts and at the following times, subject to the Grantee's continuous employment with the Company through and on the applicable vesting date, or the accelerated vesting date provided in Sections 5 and 6 hereof, as applicable:

(A) Sixty percent (60%) of the earned Performance-Based LTIP Units shall become vested on **[___]**; and

(B) Forty percent (40%) of the earned Performance-Based LTIP Units shall become vested in substantially equal installments on each of **[___]** and **[___]**.

(iii) Any Performance-Based LTIP Units that do not become vested pursuant to Section 4(b)(iii), or Sections 5 and 6 hereof, as applicable, shall, without payment of any consideration by the Company or the Partnership, automatically and without notice be forfeited and be and become null and void, and neither the Grantee nor any of his or her successors, heirs, assigns, or personal representatives will thereafter have any further rights or interests in such unvested Performance-Based LTIP Units.

Section 5.Termination of Grantee's Employment.

(a) Termination Generally. Except as otherwise provided in this Section 5, (i) if the Grantee's employment with the Company is voluntarily or involuntarily terminated for any reason prior to the final Vesting Date with respect to the Time-Based LTIP Units, all such Time-Based LTIP Units which have not yet vested shall immediately and automatically be forfeited and returned to the Company; and (ii) if the Grantee's employment with the Company is voluntarily or involuntarily terminated for any reason prior to the end of the Performance Period with respect

to the Performance-Based LTIP Units, such Performance-Based LTIP Units which have not yet been earned shall immediately and automatically be forfeited and returned to the Company.

(b) Qualifying Termination. Notwithstanding the foregoing, and notwithstanding the terms of any employment, consulting or similar service agreement(s) then in effect between the Grantee, on the one hand, and the Company and/or the Partnership on the other hand (a "Service Agreement"), the Award LTIPs shall be treated as follows in the event of certain terminations of employment:

(i) Time-Based LTIP Units. If, prior to the final Vesting Date (or, if sooner, the date of a Change of Control), the Grantee's employment or service relationship with the Company (i) is terminated by the Company without Cause, (ii) is terminated by the Grantee for Good Reason or (iii) terminates due to the Grantee's death or Disability (each of (i), (ii) and (iii), a "Qualifying Termination"), then all unvested Time-Based LTIP Units outstanding as of the date of such Qualifying Termination shall accelerate and become vested in full.

(ii) Performance-Based LTIP Units. If, prior to the end of the Performance Period (or, if sooner, the date of a Change of Control), the Grantee experiences a Qualifying Termination, then the Performance-Based LTIP Units shall remain outstanding following such Qualifying Termination and will be subject to the same conditions as are otherwise set forth herein, and the vesting of such Performance-Based LTIP Units will be determined pursuant to the performance criteria set forth in Exhibit A attached hereto in the same manner as they would have been in the absence of a Qualifying Termination. In addition, the service requirements pursuant to Section 4(b)(iii) hereof shall be deemed satisfied.

Section 6.Change of Control. Notwithstanding the foregoing and further notwithstanding any provision of the Grantee's Service Agreement, if applicable, to the contrary, the Award LTIP Units shall be treated as follows upon the occurrence of a Change of Control.

(a) Time-Based LTIP Units. If a Change of Control occurs prior to the final Vesting Date, then all unvested Time-Based LTIP Units shall accelerate and become vested in full upon the consummation of such Change of Control.

(b) Performance-Based LTIP Units. If a Change of Control occurs prior to the end of the Performance Period, then the Grantee will be deemed to have earned the number of Performance-Based LTIP Units based on the performance criteria set forth in Exhibit A attached hereto, calculated from the Effective Date through the measurement date set forth in Exhibit A. In addition, the service requirements pursuant to Section 4(b)(iii) hereof shall be deemed satisfied, subject to the Grantee's continuous employment with the Company through the consummation of the Change of Control, or, if earlier, the date the Grantee experiences a Qualifying Termination.

Section 7.Payments by Award Recipients. A capital contribution in the amount of $0.01 per Award LTIP Unit shall be payable to the Company or the Partnership by the Grantee in respect of this Award, with such amount being netted against cash compensation otherwise payable to the Grantee.

Section 8.Distributions. To the extent provided for in the Partnership Agreement, the Grantee shall be entitled to receive distributions with respect to the Award LTIP Units. The

Performance-Based LTIP Units shall be designated as "Special LTIP Units" under the Partnership Agreement. In the event of any discrepancy or inconsistency between this Section 8 and the Partnership Agreement, the terms and conditions of the Partnership Agreement shall control. For purposes of this Section 8, all capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Partnership Agreement.

(a) Time-Based LTIP Units. The Time-Based LTIP Units shall be treated as "LTIP Units" under the Partnership Agreement and shall not be designated as "Special LTIP Units." As of the Grant Date, the Time-Based LTIP Units shall be entitled to the full distribution payable on Units outstanding as of the record date for the quarterly distribution period during which the Time-Based LTIP Units are issued, even though it will not have been outstanding for the whole period, and to subsequent distributions. All distributions paid with respect to the Time-Based LTIP Units shall be fully vested and non-forfeitable when paid whether the underlying Time-Based LTIP Units are vested or unvested.

(b) Performance-Based LTIP Units. The Performance-Based LTIP Units shall be designated as "Special LTIP Units" under the Partnership Agreement. With respect to the Performance-Based LTIP Units and to the extent provided for in the Partnership Agreement, the Special LTIP Unit Full Distribution Participation Date shall be the Valuation Date; provided that prior to such date, Performance-Based LTIP Units shall be entitled to receive the Special LTIP Unit Sharing Percentage (i.e., ten percent (10%)) of the distributions payable on Units outstanding as of the record date for the quarterly distribution periods occurring during the Performance Period. For the avoidance of doubt, after the Valuation Date, Performance-Based LTIP Units, both vested and (until and unless forfeited pursuant to Section 4(b)(iv) or Section 5(a)) unvested, shall be entitled to receive the same distributions payable with respect to Units if the payment date for such distributions is after the Valuation Date, even though the Partnership Record Date for such distributions is before the Valuation Date. All distributions paid with respect to Performance-Based LTIP Units, both before and after the Valuation Date, shall be fully vested and non-forfeitable when paid, whether or not the underlying LTIP Units have been earned based on performance or have become vested based on the passage of time as provided in Section 4 hereof. Subsequent to the Special LTIP Unit Full Distribution Participation Date, vested Performance-Based LTIP Units may be entitled to receive the Interim Distribution Amount to the extent provided for in the Partnership Agreement.

Section 9.Restrictions on Transfer. None of the Award LTIP Units shall be sold, assigned, transferred, pledged, hypothecated or otherwise disposed of or encumbered (whether voluntarily or involuntarily or by judgment, levy, attachment, garnishment or other legal or equitable proceeding) (each such action a "Transfer"), or redeemed in accordance with the Partnership Agreement (a) prior to vesting, (b) for a period of two (2) years beginning on the Grant Date other than in connection with a Change of Control, and (c) unless such Transfer is in compliance with all applicable securities laws (including, without limitation, the Securities Act, and such Transfer is in accordance with the applicable terms and conditions of the Partnership Agreement; provided that, upon the approval of, and subject to the terms and conditions specified by, the Committee, unvested Award LTIP Units that have been held for a period of at least two (2) years may be Transferred to (i) the spouse, children or grandchildren of the Grantee ("Immediate Family Members"), (ii) a trust or trusts for the exclusive benefit of the Grantee and such Immediate Family Members, (iii) a partnership in which the Grantee and such Immediate Family Members

are the only partners, or (iv) one or more entities in which the Grantee has a ten percent (10%) or greater equity interest, provided that the Transferee agrees in writing with the Company and the Partnership to be bound by all the terms and conditions of this Agreement and that subsequent transfers of unvested Award LTIP Units shall be prohibited except those in accordance with this Section 9. In connection with any Transfer of Award LTIP Units, the Partnership may require the Grantee to provide an opinion of counsel, satisfactory to the Partnership, that such Transfer is in compliance with all federal and state securities laws (including, without limitation, the Securities Act). Any attempted Transfer of Award LTIP Units not in accordance with the terms and conditions of this Section 9 shall be null and void, and the Partnership shall not reflect on its records any change in record ownership of any LTIP Units as a result of any such Transfer, shall otherwise refuse to recognize any such Transfer and shall not in any way give effect to any such Transfer of any LTIP Units. This Agreement is personal to the Grantee, is non-assignable and is not transferable in any manner, by operation of law or otherwise, other than by will or the laws of descent and distribution.

Section 10.Changes in Capital Structure. Without duplication with the provisions of the Plan, if (a) the outstanding Common Shares are changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of any recapitalization, reclassification, share split, share dividend, combination or subdivision, merger, consolidation, or other similar transaction or (b) any other event shall occur that in each case in the good faith judgment of the Committee necessitates action by way of appropriate equitable adjustment in the terms of this Award, the LTIP or the LTIP Units, then the Committee shall take such action as it deems necessary to maintain the Grantee's rights hereunder so that they are substantially proportionate to the rights existing under this Award, the LTIP and the terms of the LTIP Units prior to such event, including, without limitation: (i) adjustments in the Award LTIP Units and (ii) substitution of other awards under the Plan or otherwise. The Grantee shall have the right to vote the Award LTIP Units if and when voting is allowed under the Partnership Agreement, regardless of whether vesting has occurred.

Section 11.Miscellaneous.

(a) Amendments; Modifications. This Agreement may be amended or modified only with the consent of the Company and the Partnership acting through the Committee; provided that any such amendment or modification materially and adversely affecting the rights of the Grantee hereunder must be consented to by the Grantee to be effective as against him; and provided, further, that the Grantee acknowledges that the Plan may be amended or discontinued in accordance with its terms and that this Agreement may be amended or canceled by the Committee, on behalf of the Company and the Partnership, for the purpose of satisfying changes in law or for any other lawful purpose, so long as no such action shall impair the Grantee's rights under this Agreement without the Grantee's written consent. Notwithstanding the foregoing, this Agreement may be amended in writing signed only by the Company to correct any errors or ambiguities in this Agreement and/or to make such changes that do not materially adversely affect the Grantee's rights hereunder. No promises, assurances, commitments, agreements, undertakings or representations, whether oral, written, electronic or otherwise, and whether express or implied, with respect to the subject matter hereof, have been made by the parties which are not set forth expressly in this Agreement. This grant shall in no way affect the Grantee's participation or benefits under any other plan or benefit program maintained or provided by the Company.

(b) Incorporation of Plan; Committee Determinations. The provisions of the Plan are hereby incorporated by reference as if set forth herein. In the event of a conflict between this Agreement and the Plan, this Agreement shall be controlling and determinative. The Committee will make the determinations and certifications required by this Award as promptly as reasonably practicable following the occurrence of the event or events necessitating such determinations or certifications.

(c) Status of LTIP Units under the Plan. Insofar as the LTIP has been established as an incentive program of the Company and the Partnership, the Award LTIP Units are both issued as equity securities of the Partnership and granted as awards under the Plan. The Company will have the right at its option, as set forth in the Partnership Agreement, to issue Common Shares in exchange for Units into which Award LTIP Units may have been converted pursuant to the Partnership Agreement, subject to certain limitations set forth in the Partnership Agreement, and such Common Shares, if issued, will be issued under the Plan. The Grantee must be eligible to receive the Award LTIP Units in compliance with applicable federal and state securities laws and to that effect is required to complete, execute and deliver certain covenants, representations and warranties (attached as Exhibit C). The Grantee acknowledges that the Grantee will have no right to approve or disapprove such eligibility determination by the Committee.

(d) Legend. If certificates are issued evidencing the Award LTIP Units, the records of the Partnership shall bear an appropriate legend, as determined by the Partnership in its sole discretion, to the effect that such Award LTIP Units are subject to restrictions as set forth herein, in the Plan and in the Partnership Agreement.

(e) Compliance with Securities Laws. The Partnership and the Grantee will make reasonable efforts to comply with all applicable securities laws. In addition, notwithstanding any provision of this Agreement to the contrary, no Award LTIP Units will become vested or be issued at a time that such vesting or issuance would result in a violation of any such laws.

(f) Investment Representations; Registration. The Grantee hereby makes the covenants, representations and warranties and set forth on Exhibit C attached hereto. All of such covenants, warranties and representations shall survive the execution and delivery of this Agreement by the Grantee. The Partnership will have no obligation to register under the Securities Act any LTIP Units or any other securities issued pursuant to this Agreement or upon conversion or exchange of LTIP Units. In addition, any resale shall be made in compliance with the registration requirements of the Securities Act or an applicable exemption therefrom, including, without limitation, the exemption provided by Rule 144 promulgated thereunder (or any successor rule).

(g) Policy for Recoupment of Incentive Compensation. "Covered Officer" means any officer of the Company who (i) is subject to the reporting requirements of Section 16 of the Exchange Act. The Company will endeavor to inform the Grantee if the Grantee is designated as a "Covered Officer," it being understood, however, that failure to notify the Grantee will have no effect on the rights of the Company under the policy. If the Grantee is a Covered Officer, the Grantee hereby agrees that this Award and all compensation consisting of annual cash bonus and long-term incentive compensation in any form (including stock options, restricted stock and LTIP Units, whether time-based or performance-based) ("Incentive Compensation") awarded to the Grantee prior to the date hereof is subject to recoupment under the Company's Corporate

Governance Guidelines, as in effect from time to time. For the avoidance of doubt, the purpose and effect of the foregoing agreement by the Grantee is to make such policy effective both prospectively and retroactively. As an example, in addition to this Award, Incentive Compensation previously awarded in the past, prior to this policy being in effect, is subject to such policy and is applicable to the Grantee if he or she was a Covered Officers during any relevant period even if he or she is no longer an employee of the Company at the time the determination to recoup Incentive Compensation is made.

(h) Severability. If, for any reason, any provision of this Agreement is held invalid, such invalidity shall not affect any other provision of this Agreement not so held invalid, and each such other provision shall to the full extent consistent with law continue in full force and effect. If any provision of this Agreement shall be held invalid in part, such invalidity shall in no way affect the rest of such provision not held so invalid, and the rest of such provision, together with all other provisions of this Agreement, shall to the full extent consistent with law continue in full force and effect.

(i) Governing Law. This Agreement is made under, and will be construed in accordance with, the laws of State of Delaware, without giving effect to the principles of conflict of laws of such state.

(j) No Obligation to Continue Position as an Employee, Consultant or Advisor. Neither the Company nor any affiliate is obligated by or as a result of this Agreement to continue to have the Grantee as an employee, consultant or advisor, and this Agreement shall not interfere in any way with the right of the Company or any affiliate to terminate the Grantee's service relationship at any time.

(k) Notices. Any notice to be given to the Company shall be addressed to the Secretary of the Company at its principal place of business and any notice to be given the Grantee shall be addressed to the Grantee at the Grantee's address as it appears on the employment records of the Company, or at such other address as the Company or the Grantee may hereafter designate in writing to the other.

(l) Withholding and Taxes. No later than the date as of which an amount first becomes includible in the gross income of the Grantee for income tax purposes or subject to the Federal Insurance Contributions Act withholding with respect to this Award, the Grantee will pay to the Company or, if appropriate, any of its affiliates, or make arrangements satisfactory to the Committee regarding the payment of, any United States federal, state or local or foreign taxes of any kind required by law to be withheld with respect to such amount. The obligations of the Company under this Agreement will be conditional on such payment or arrangements, and the Company and its affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to the Grantee.

(m) Headings. The headings of paragraphs hereof are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

(n) Counterparts. This Agreement may be executed in multiple counterparts with the same effect as if each of the signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

(o) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and any successors to the Company and the Partnership, on the one hand, and any successors to the Grantee, on the other hand, by will or the laws of descent and distribution, but this Agreement shall not otherwise be assignable or otherwise subject to hypothecation by the Grantee.

(p) Complete Agreement. This Agreement (together with those agreements and documents expressly referred to herein, for the purposes referred to herein) embody the complete and entire agreement and understanding between the parties with respect to the subject matter hereof, and supersede any and all prior promises, assurances, commitments, agreements, undertakings or representations, whether oral, written, electronic or otherwise, and whether express or implied, which may relate to the subject matter hereof in any way.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Award Agreement to be executed as of **[___]**.

ACADIA REALTY TRUST

By:_____
[_____]

411 Theodore Fremd Avenue
Suite 300
Rye, NY 10580

ACADIA REALTY LIMITED PARTNERSHIP

By: Acadia Realty Trust, its general partner

By:_____
[_____]

411 Theodore Fremd Avenue
Suite 300
Rye, NY 10580

GRANTEE

_____
[Name]

[Form of Long-Term Incentive Plan Award Agreement (Time and Performance Based) – (Chief Executive Officer)]

ACADIA REALTY TRUST
[___] LONG-TERM INCENTIVE PLAN
AWARD AGREEMENT

[___] LONG-TERM INCENTIVE PLAN AWARD AGREEMENT made as of the date set forth on Schedule A hereto between Acadia Realty Trust, a Maryland real estate investment trust (the "Company"), its subsidiary Acadia Realty Limited Partnership, a Delaware limited partnership and the entity through which the Company conducts substantially all of its operations (the "Partnership"), and the party listed on Schedule A (the "Grantee").

RECITALS

1. The Grantee is a key employee of the Company or one of its Subsidiaries or affiliates and provides services to the Partnership.

2. The Company has adopted the **[___]** Long-Term Incentive Plan (the "LTIP"") pursuant to the Acadia Realty Trust 2020 Share Incentive Plan (the "Plan"), to provide certain key employees of the Company or its Subsidiaries and affiliates, including the Grantee, in connection with their employment with the long-term incentive compensation described in this Award Agreement (this "Agreement" or "Award Agreement"), and thereby provide additional incentive for them to promote the progress and success of the business of the Company and its Subsidiaries and affiliates, including the Partnership, while increasing the total return to the Company's shareholders. The LTIP Units (as defined herein) may, under certain circumstances, become exchangeable for shares of beneficial ownership of the Company reserved for issuance under the Plan, or any successor equity plan. This Agreement evidences an award to the Grantee under the LTIP (this "Award"), which is subject to the terms and conditions set forth herein.

3. The Grantee was selected to receive this Award as an employee who, through the effective execution of his or her assigned duties and responsibilities, is in a position to have a direct and measurable impact on the Company's long-term financial results. Effective as of the grant date specified in Schedule A hereto (the "Grant Date"), the Grantee was issued the number of LTIP Units (as defined herein) set forth in Schedule A.

NOW, THEREFORE, the Company, the Partnership and the Grantee agree as follows:

Section 1.Administration. The LTIP and all awards thereunder, including this Award, shall be administered by the Compensation Committee of the Board of Trustees of the Company (the "Committee"), which in the administration of the LTIP shall have all the powers and authority it has in the administration of the Plan, as set forth in the Plan. The Committee may from time to time adopt any rules or procedures it deems necessary or desirable for the proper and efficient administration of the LTIP, consistent with the terms hereof and of the Plan. The Committee's determinations and interpretations with respect to the LTIP and this Agreement shall be final and binding on all parties.

Section 2.Definitions. Capitalized terms used herein without definitions shall have the meanings given to those terms in the Plan. In addition, as used herein:

"Award LTIP Units" has the meaning set forth in Section 3.

"Cause" means the Grantee has: (A) deliberately made a misrepresentation in connection with, or willfully failed to cooperate with, a bona fide internal investigation or an investigation by regulatory or law enforcement authorities, after being instructed by the Company to cooperate, or willfully destroyed or failed to preserve documents or other materials known to be relevant to such investigation, or willfully induced others to fail to cooperate or to produce documents or other materials; (B) materially breached (other than as a result of the Grantee's incapacity due to physical or mental illness or death) his/her material duties hereunder, which breach is demonstrably willful and deliberate on the Grantee's part, is committed in bad faith or without reasonable belief that such breach is in the best interests of the Company and such breach is not cured within a reasonable period of time after written notice from the Company specifying such Breach (but in any event, no less than ninety (90) days thereafter) in which Grantee is diligently pursuing cure; (C) engaged in conduct constituting a material act of willful misconduct in connection with the performance of his/her duties, including, without limitation, misappropriation of funds or property of the Company other than the occasional customary and de minimis use of Company property for personal purposes; (D) materially violated a material Company policy, including but not limited to a policy set forth in the Company's employee handbook; (E) disparaged the Company, its officers, trustees, employees or partners; (F) committed a felony or misdemeanor involving moral turpitude, deceit, dishonesty or fraud.

"Change of Control" means that any of the following events has occurred: (A) any Person or "group" of Persons, as such terms are used in Sections 13 and 14 of the Exchange Act, other than any employee benefit plan sponsored by the Company, becomes the "beneficial owner," as such term is used in Section 13 of the Exchange Act (irrespective of any vesting or waiting periods) of (i) the Company's Common Shares in an amount equal to thirty percent (30%) or more of the sum total of the Common Shares issued and outstanding immediately prior to such acquisition as if they were a single class and disregarding any equity raise in connection with the financing of such transaction; provided, however, that in determining whether a Change of Control has occurred, Common Shares which are acquired in an acquisition by (i) the Company or any of its subsidiaries or (ii) an employee benefit plan (or a trust forming a part thereof) maintained by the Company or any of its subsidiaries shall not constitute an acquisition which can cause a Change of Control; or (B) the approval of the dissolution or liquidation of the Company by the Board of Trustees of the Company (the "Board"); or (C) the approval of the sale or other disposition of all or substantially all of its assets in one or more transactions (including, without limitation, the approval of a transaction or series of transactions to sell or dispose of all or substantially all of the assets in the Company's core business line to any Person or "group" of Persons, as such terms are used in Sections 13 and 14 of the Exchange Act); or (D) a turnover, during any two-year

period, of the majority of the members of the Board, without the consent of the majority of the members of the Board as to the appointment of the new Board members.

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Shares" means shares of beneficial ownership of the Company, par value $0.001 per share, either currently existing or authorized hereafter.

"Disability" means (i) if the Grantee is a party to a Service Agreement (as defined in Section 5(b) below), and "Disability" is defined therein, such definition, or (ii) if the Grantee is not party to a Service Agreement that defines "Disability," a reasonable determination by the Company that the Grantee has become physically or mentally incapable of performing his duties to the Company and/or Partnership and such disability has disabled the Grantee for a cumulative period of one hundred eighty (180) days within a twelve (12) month period.

"Effective Date" means **[___]**.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, as of a particular date, the "Fair Market Value" (as defined in the Plan) of one Common Share; provided, however, if such date is the date of a Public Announcement with respect to a Change of Control, then the fair market value shall be, as determined by the Board, the total consideration payable for one Common Share in the transaction that ultimately results in a Change of Control.

"Good Reason" means the Grantee shall have the right to terminate his/her employment within the 90-day period following the Company's failure to cure any of the following events that shall constitute "Good Reason" if not cured within the 30-day period following written notice of such default to the Company by the Grantee (the "Good Reason Cure Period"): (A) upon the occurrence of any material breach of this Agreement by the Company; (B) without the Grantee's consent, a material, adverse alteration in the nature of the Grantee's duties, responsibilities or authority, or in the 18-month period following a Change of Control only, upon the determination by the Grantee (which determination will be conclusive and binding upon the parties hereto provided it has been made in good faith and in all events will be presumed to have been made in good faith unless otherwise shown clear and convincing evidence) that a material negative change in circumstances has occurred following a Change of Control; (C) without the Grantee's consent, upon a reduction in the Grantee's base salary or a reduction of ten percent (10%) or greater in Grantee's other compensation and employee benefits (which includes a ten percent (10%) or greater reduction in target cash and equity bonus, or a ten percent (10%) or greater reduction in total bonus opportunity, but in all cases excludes any grants made under the Long-Term Incentive Alignment Program); or (D) if the Company relocates the Grantee's office requiring the Grantee to increase

his/her commuting time by more than one hour, or in the 18-month period following a Change of Control only, upon the Company requiring the Grantee to travel away from the Grantee's office in the course of discharging the Grantee's responsibilities or duties hereunder at least twenty percent (20%) more than was required of the Grantee in any of the three (3) full years immediately prior to the Change of Control, without, in either case, the Grantee's prior written consent. Any notice hereunder by the Grantee must be made within ninety (90) days after the Grantee first knows or has reason to know about the occurrence of the event alleged to be Good Reason.

"LTIP Units" means units of limited partnership interest of the Partnership designated as "LTIP Units" in the Partnership Agreement awarded under the LTIP, having the rights, voting powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption set forth in the Partnership Agreement.

"Partnership Agreement" means the Second Amended and Restated Limited Partnership Agreement of the Partnership, effective as of December 31, 2018, among the Company, as general partner, and the limited partners who are parties thereto, as amended from time to time.

"Performance Period" means the period beginning on the Effective Date and ending on the Valuation Date.

"Person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, other entity or "group" (as defined in the Exchange Act).

"Public Announcement" means, with respect to a Change of Control, the earliest press release, filing with the Securities and Exchange Commission, or other publicly available or widely disseminated communication issued by the Company or another Person who is a party to such transaction which discloses the consideration payable in connection with and other material terms of the transaction that ultimately results in the Change of Control; provided, however, that if such consideration is subsequently increased or decreased, then the term "Public Announcement" shall be deemed to refer to the most recent such press release, filing or communication disclosing a change in the consideration whereby the final consideration and material terms of the transaction that ultimately results in the Change of Control are announced.

"Securities Act" means the Securities Act of 1933, as amended.

"Special LTIP Units" means LTIP Units as defined in the Partnership Agreement and designated as Special LTIP Units pursuant to Section 8 of this Agreement.

"Units" means OP Units (as defined in the Partnership Agreement) that are outstanding or are issuable upon the conversion, exercise, exchange or redemption

of any securities of any kind convertible, exercisable, exchangeable or redeemable for OP Units.

"Valuation Date" means **[___]**.

Section 3.Award of LTIP Units; Effectiveness of Award.

(a) Award of LTIP Units. On the terms and conditions set forth in this Agreement, as well as the terms and conditions of the Plan, the Grantee is hereby granted this Award consisting of the number of LTIP Units set forth on Schedule A hereto, which is incorporated herein by reference (the "Award LTIP Units"). Award LTIP Units shall have the rights, voting powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption and conversion set forth herein and in the Partnership Agreement and shall constitute and be treated as the property of the Grantee, subject to the terms of this Agreement and the Partnership Agreement. In connection with each subsequent issuance of Award LTIP Units, if any, the Grantee shall execute and deliver to the Company and the Partnership such documents, comparable to the documents executed and delivered in connection with this Agreement, as the Company and/or the Partnership reasonably request in order to comply with all applicable legal requirements, including, without limitation, federal and state securities laws. Award LTIP Units will be subject to vesting as provided in Section 4 hereof, subject to the terms and conditions of Sections 5 and 6.

(b) Effectiveness of Award. As of the Grant Date, the Grantee shall be admitted as a partner of the Partnership with beneficial ownership of the number of Award LTIP Units issued to the Grantee as of such date by: (A) signing and delivering to the Partnership a copy of this Agreement; and (B) signing, as a Limited Partner, and delivering to the Partnership a counterpart signature page to the Partnership Agreement (attached hereto as Exhibit B). The Partnership Agreement shall be amended from time to time as applicable to reflect the issuance to the Grantee of Award LTIP Units, whereupon the Grantee shall have all the rights of a Limited Partner of the Partnership with respect to the number of LTIP Units then held by the Grantee, as set forth in the Partnership Agreement, subject, however, to the restrictions and conditions specified herein and in the Partnership Agreement.

Section 4.Vesting of Award LTIP Units. The Award LTIP Units are subject to time-based vesting and performance-based vesting, as follows.

(a) Time-Based LTIP Units. With respect to the Award LTIP Units listed on Schedule A as Time-Based LTIP Units (the "Time-Based LTIP Units"), vesting shall occur in substantially equal installments commencing on **[___]**, and on each of the first, second, third and fourth anniversaries thereof (each a "Vesting Date"), subject to the Grantee's continuous employment with the Company through each applicable Vesting Date.

(b) Performance-Based LTIP Units. With respect to the Award LTIP Units listed on Schedule A as Performance-Based Special LTIP Units (the "Performance-Based LTIP Units"), such Performance-Based LTIP Units shall be earned and thereafter vest if and only to the extent the performance criteria set forth on Exhibit A attached hereto for the Performance Period are achieved, subject to the Grantee's continuous employment with the Company through the end of the Performance Period. Promptly following the conclusion of the Performance Period, but in no

event later than forty-five (45) days thereafter, the Company shall determine (and the Committee shall certify) whether and to what extent such performance criteria were achieved and determine the Performance Percentage (as defined on Exhibit A attached hereto) and the number of Performance-Based LTIP Units subject to this Award, if any, that are earned. For the avoidance of doubt, the Grantee shall have no rights to the Performance-Based LTIP Units pursuant to this Section 4(b) until the Committee has determined that such Performance-Based LTIP Units have been earned.

(i) If the number of earned Performance-Based LTIP Units is smaller than the number of Performance-Based LTIP Units previously issued to the Grantee, then the Grantee, as of the Valuation Date, shall forfeit a number of Performance-Based LTIP Units equal to the difference without payment of any consideration by the Partnership; thereafter, the term "Performance-Based LTIP Units" will only refer to the Performance-Based LTIP Units that were not so forfeited, and neither the Grantee nor any of his/her successors, heirs, assigns or personal representatives will thereafter have any future rights or interests in the LTIP Units that were so forfeited. If the number of earned Performance-Based LTIP Units is the same as the number of Performance-Based LTIP Units previously issued to the Grantee, then there will be no change to the number of Performance-Based LTIP Units under this Award pursuant to this Section 4.

(ii) If any of the Performance-Based LTIP Units have been earned based on performance as provided in Section 4(b), subject to Sections 5 and 6 hereof, the Performance-Based LTIP Units shall become vested in the following amounts and at the following times, subject to the Grantee's continuous employment with the Company through and on the applicable vesting date, or the accelerated vesting date provided in Sections 5 and 6 hereof, as applicable:

(A) Sixty percent (60%) of the earned Performance-Based LTIP Units shall become vested on **[___]**; and

(B) Forty percent (40%) of the earned Performance-Based LTIP Units shall become vested in substantially equal installments on each of **[___]** and **[___]**.

(iii) Any Performance-Based LTIP Units that do not become vested pursuant to Section 4(b)(iii), or Sections 5 and 6 hereof, as applicable, shall, without payment of any consideration by the Company or the Partnership, automatically and without notice be forfeited and be and become null and void, and neither the Grantee nor any of his or her successors, heirs, assigns, or personal representatives will thereafter have any further rights or interests in such unvested Performance-Based LTIP Units.

(c) Except as otherwise provided in the Plan and subject to Section 5 and 6, the Award LTIP Units shall not be transferable unless and until (and solely to the extent) the Grantee satisfies the vesting requirements contained in Section 4. In addition, notwithstanding anything herein or in the Plan to the contrary (and without limiting the transfer restrictions in Section 9), the Grantee shall not, without the consent of the Committee (which may be withheld in its sole discretion), Transfer any vested Award LTIP Units prior to the earlier to occur of (a) the second (2nd) anniversary of the date on which such Award LTIP Units become vested under Section 4, 5 or 6 and (b) the occurrence of a Change of Control (collectively, the "Additional Transfer Restrictions"); provided, however, that the Additional Transfer Restrictions shall not apply to (i)

any Transfer of shares to the Company, (ii) any Transfer of shares in satisfaction of any withholding obligations with respect to the Award LTIP Units, or (iii) any Transfer following the termination of the Grantee's employment with the Company and its Affiliates, including without limitation by will or pursuant to the laws of descent and distribution. Any Transfer of the Award LTIP Units which is not made in compliance with the Plan and this Agreement shall be null and void and of no effect.

Section 5.Termination of Grantee's Employment.

(a) Termination Generally. Except as otherwise provided in this Section 5, (i) if the Grantee's employment with the Company is voluntarily or involuntarily terminated for any reason prior to the final Vesting Date with respect to the Time-Based LTIP Units, all such Time-Based LTIP Units which have not yet vested shall immediately and automatically be forfeited and returned to the Company; and (ii) if the Grantee's employment with the Company is voluntarily or involuntarily terminated for any reason prior to the end of the Performance Period with respect to the Performance-Based LTIP Units, such Performance-Based LTIP Units which have not yet been earned shall immediately and automatically be forfeited and returned to the Company.

(b) Qualifying Termination. Notwithstanding the foregoing, and notwithstanding the terms of any employment, consulting or similar service agreement(s) then in effect between the Grantee, on the one hand, and the Company and/or the Partnership on the other hand (a "Service Agreement"), the Award LTIPs shall be treated as follows in the event of certain terminations of employment:

(i) Time-Based LTIP Units. If, prior to the final Vesting Date (or, if sooner, the date of a Change of Control), the Grantee's employment or service relationship with the Company (i) is terminated by the Company without Cause, (ii) is terminated by the Grantee for Good Reason or (iii) terminates due to the Grantee's death or Disability (each of (i), (ii) and (iii), a "Qualifying Termination"), then all unvested Time-Based LTIP Units outstanding as of the date of such Qualifying Termination shall accelerate and become vested in full.

(ii) Performance-Based LTIP Units. If, prior to the end of the Performance Period (or, if sooner, the date of a Change of Control), the Grantee experiences a Qualifying Termination, then the Performance-Based LTIP Units shall remain outstanding following such Qualifying Termination and will be subject to the same conditions as are otherwise set forth herein, and the vesting of such Performance-Based LTIP Units will be determined pursuant to the performance criteria set forth in Exhibit A attached hereto in the same manner as they would have been in the absence of a Qualifying Termination. In addition, the service requirements pursuant to Section 4(b)(iii) hereof shall be deemed satisfied.

Section 6.Change of Control. Notwithstanding the foregoing and further notwithstanding any provision of the Grantee's Service Agreement, if applicable, to the contrary, the Award LTIP Units shall be treated as follows upon the occurrence of a Change of Control.

(a) Time-Based LTIP Units. If a Change of Control occurs prior to the final Vesting Date, then all unvested Time-Based LTIP Units shall accelerate and become vested in full upon the consummation of such Change of Control.

(b) Performance-Based LTIP Units. If a Change of Control occurs prior to the end of the Performance Period, then the Grantee will be deemed to have earned the number of Performance-Based LTIP Units based on the performance criteria set forth in Exhibit A attached hereto, calculated from the Effective Date through the measurement date set forth in Exhibit A. In addition, the service requirements pursuant to Section 4(b)(iii) hereof shall be deemed satisfied, subject to the Grantee's continuous employment with the Company through the consummation of the Change of Control, or, if earlier, the date the Grantee experiences a Qualifying Termination.

Section 7.Payments by Award Recipients. A capital contribution in the amount of $0.01 per Award LTIP Unit shall be payable to the Company or the Partnership by the Grantee in respect of this Award, with such amount being netted against cash compensation otherwise payable to the Grantee.

Section 8.Distributions. To the extent provided for in the Partnership Agreement, the Grantee shall be entitled to receive distributions with respect to the Award LTIP Units. The Performance-Based LTIP Units shall be designated as "Special LTIP Units" under the Partnership Agreement. In the event of any discrepancy or inconsistency between this Section 8 and the Partnership Agreement, the terms and conditions of the Partnership Agreement shall control. For purposes of this Section 8, all capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Partnership Agreement.

(a) Time-Based LTIP Units. The Time-Based LTIP Units shall be treated as "LTIP Units" under the Partnership Agreement and shall not be designated as "Special LTIP Units." As of the Grant Date, the Time-Based LTIP Units shall be entitled to the full distribution payable on Units outstanding as of the record date for the quarterly distribution period during which the Time-Based LTIP Units are issued, even though it will not have been outstanding for the whole period, and to subsequent distributions. All distributions paid with respect to the Time-Based LTIP Units shall be fully vested and non-forfeitable when paid whether the underlying Time-Based LTIP Units are vested or unvested.

(b) Performance-Based LTIP Units. The Performance-Based LTIP Units shall be designated as "Special LTIP Units" under the Partnership Agreement. With respect to the Performance-Based LTIP Units and to the extent provided for in the Partnership Agreement, the Special LTIP Unit Full Distribution Participation Date shall be the Valuation Date; provided that prior to such date, Performance-Based LTIP Units shall be entitled to receive the Special LTIP Unit Sharing Percentage (i.e., ten percent (10%)) of the distributions payable on Units outstanding as of the record date for the quarterly distribution periods occurring during the Performance Period. For the avoidance of doubt, after the Valuation Date, Performance-Based LTIP Units, both vested and (until and unless forfeited pursuant to Section 4(b)(iv) or Section 5(a)) unvested, shall be entitled to receive the same distributions payable with respect to Units if the payment date for such distributions is after the Valuation Date, even though the Partnership Record Date for such distributions is before the Valuation Date. All distributions paid with respect to Performance-Based LTIP Units, both before and after the Valuation Date, shall be fully vested and non-forfeitable when paid, whether or not the underlying LTIP Units have been earned based on performance or have become vested based on the passage of time as provided in Section 4 hereof. Subsequent to the Special LTIP Unit Full Distribution Participation Date, vested

Performance-Based LTIP Units may be entitled to receive the Interim Distribution Amount to the extent provided for in the Partnership Agreement.

Section 9.Restrictions on Transfer. None of the Award LTIP Units shall be sold, assigned, transferred, pledged, hypothecated or otherwise disposed of or encumbered (whether voluntarily or involuntarily or by judgment, levy, attachment, garnishment or other legal or equitable proceeding) (each such action a "Transfer"), or redeemed in accordance with the Partnership Agreement (a) prior to vesting, (b) for a period of two (2) years beginning on the Grant Date other than in connection with a Change of Control, and (c) unless such Transfer is in compliance with all applicable securities laws (including, without limitation, the Securities Act, and such Transfer is in accordance with the applicable terms and conditions of the Partnership Agreement; provided that, upon the approval of, and subject to the terms and conditions specified by, the Committee, unvested Award LTIP Units that have been held for a period of at least two (2) years may be Transferred to (i) the spouse, children or grandchildren of the Grantee ("Immediate Family Members"), (ii) a trust or trusts for the exclusive benefit of the Grantee and such Immediate Family Members, (iii) a partnership in which the Grantee and such Immediate Family Members are the only partners, or (iv) one or more entities in which the Grantee has a ten percent (10%) or greater equity interest, provided that the Transferee agrees in writing with the Company and the Partnership to be bound by all the terms and conditions of this Agreement and that subsequent transfers of unvested Award LTIP Units shall be prohibited except those in accordance with this Section 9. In connection with any Transfer of Award LTIP Units, the Partnership may require the Grantee to provide an opinion of counsel, satisfactory to the Partnership, that such Transfer is in compliance with all federal and state securities laws (including, without limitation, the Securities Act). Any attempted Transfer of Award LTIP Units not in accordance with the terms and conditions of this Section 9 shall be null and void, and the Partnership shall not reflect on its records any change in record ownership of any LTIP Units as a result of any such Transfer, shall otherwise refuse to recognize any such Transfer and shall not in any way give effect to any such Transfer of any LTIP Units. This Agreement is personal to the Grantee, is non-assignable and is not transferable in any manner, by operation of law or otherwise, other than by will or the laws of descent and distribution.

Section 10.Changes in Capital Structure. Without duplication with the provisions of the Plan, if (a) the outstanding Common Shares are changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of any recapitalization, reclassification, share split, share dividend, combination or subdivision, merger, consolidation, or other similar transaction or (b) any other event shall occur that in each case in the good faith judgment of the Committee necessitates action by way of appropriate equitable adjustment in the terms of this Award, the LTIP or the LTIP Units, then the Committee shall take such action as it deems necessary to maintain the Grantee's rights hereunder so that they are substantially proportionate to the rights existing under this Award, the LTIP and the terms of the LTIP Units prior to such event, including, without limitation: (i) adjustments in the Award LTIP Units and (ii) substitution of other awards under the Plan or otherwise. The Grantee shall have the right to vote the Award LTIP Units if and when voting is allowed under the Partnership Agreement, regardless of whether vesting has occurred.

Section 11.Miscellaneous.

(a) Amendments; Modifications. This Agreement may be amended or modified only with the consent of the Company and the Partnership acting through the Committee; provided that any such amendment or modification materially and adversely affecting the rights of the Grantee hereunder must be consented to by the Grantee to be effective as against him; and provided, further, that the Grantee acknowledges that the Plan may be amended or discontinued in accordance with its terms and that this Agreement may be amended or canceled by the Committee, on behalf of the Company and the Partnership, for the purpose of satisfying changes in law or for any other lawful purpose, so long as no such action shall impair the Grantee's rights under this Agreement without the Grantee's written consent. Notwithstanding the foregoing, this Agreement may be amended in writing signed only by the Company to correct any errors or ambiguities in this Agreement and/or to make such changes that do not materially adversely affect the Grantee's rights hereunder. No promises, assurances, commitments, agreements, undertakings or representations, whether oral, written, electronic or otherwise, and whether express or implied, with respect to the subject matter hereof, have been made by the parties which are not set forth expressly in this Agreement. This grant shall in no way affect the Grantee's participation or benefits under any other plan or benefit program maintained or provided by the Company.

(b) Incorporation of Plan; Committee Determinations. The provisions of the Plan are hereby incorporated by reference as if set forth herein. In the event of a conflict between this Agreement and the Plan, this Agreement shall be controlling and determinative. The Committee will make the determinations and certifications required by this Award as promptly as reasonably practicable following the occurrence of the event or events necessitating such determinations or certifications.

(c) Status of LTIP Units under the Plan. Insofar as the LTIP has been established as an incentive program of the Company and the Partnership, the Award LTIP Units are both issued as equity securities of the Partnership and granted as awards under the Plan. The Company will have the right at its option, as set forth in the Partnership Agreement, to issue Common Shares in exchange for Units into which Award LTIP Units may have been converted pursuant to the Partnership Agreement, subject to certain limitations set forth in the Partnership Agreement, and such Common Shares, if issued, will be issued under the Plan. The Grantee must be eligible to receive the Award LTIP Units in compliance with applicable federal and state securities laws and to that effect is required to complete, execute and deliver certain covenants, representations and warranties (attached as Exhibit C). The Grantee acknowledges that the Grantee will have no right to approve or disapprove such eligibility determination by the Committee.

(d) Legend. If certificates are issued evidencing the Award LTIP Units, the records of the Partnership shall bear an appropriate legend, as determined by the Partnership in its sole discretion, to the effect that such Award LTIP Units are subject to restrictions as set forth herein, in the Plan and in the Partnership Agreement.

(e) Compliance with Securities Laws. The Partnership and the Grantee will make reasonable efforts to comply with all applicable securities laws. In addition, notwithstanding any provision of this Agreement to the contrary, no Award LTIP Units will become vested or be issued at a time that such vesting or issuance would result in a violation of any such laws.

(f) Investment Representations; Registration. The Grantee hereby makes the covenants, representations and warranties and set forth on Exhibit C attached hereto. All of such covenants, warranties and representations shall survive the execution and delivery of this Agreement by the Grantee. The Partnership will have no obligation to register under the Securities Act any LTIP Units or any other securities issued pursuant to this Agreement or upon conversion or exchange of LTIP Units. In addition, any resale shall be made in compliance with the registration requirements of the Securities Act or an applicable exemption therefrom, including, without limitation, the exemption provided by Rule 144 promulgated thereunder (or any successor rule).

(g) Policy for Recoupment of Incentive Compensation. "Covered Officer" means any officer of the Company who (i) is subject to the reporting requirements of Section 16 of the Exchange Act. The Company will endeavor to inform the Grantee if the Grantee is designated as a "Covered Officer," it being understood, however, that failure to notify the Grantee will have no effect on the rights of the Company under the policy. If the Grantee is a Covered Officer, the Grantee hereby agrees that this Award and all compensation consisting of annual cash bonus and long-term incentive compensation in any form (including stock options, restricted stock and LTIP Units, whether time-based or performance-based) ("Incentive Compensation") awarded to the Grantee prior to the date hereof is subject to recoupment under the Company's Corporate Governance Guidelines, as in effect from time to time. For the avoidance of doubt, the purpose and effect of the foregoing agreement by the Grantee is to make such policy effective both prospectively and retroactively. As an example, in addition to this Award, Incentive Compensation previously awarded in the past, prior to this policy being in effect, is subject to such policy and is applicable to the Grantee if he or she was a Covered Officers during any relevant period even if he or she is no longer an employee of the Company at the time the determination to recoup Incentive Compensation is made.

(h) Severability. If, for any reason, any provision of this Agreement is held invalid, such invalidity shall not affect any other provision of this Agreement not so held invalid, and each such other provision shall to the full extent consistent with law continue in full force and effect. If any provision of this Agreement shall be held invalid in part, such invalidity shall in no way affect the rest of such provision not held so invalid, and the rest of such provision, together with all other provisions of this Agreement, shall to the full extent consistent with law continue in full force and effect.

(i) Governing Law. This Agreement is made under, and will be construed in accordance with, the laws of State of Delaware, without giving effect to the principles of conflict of laws of such state.

(j) No Obligation to Continue Position as an Employee, Consultant or Advisor. Neither the Company nor any affiliate is obligated by or as a result of this Agreement to continue to have the Grantee as an employee, consultant or advisor, and this Agreement shall not interfere in any way with the right of the Company or any affiliate to terminate the Grantee's service relationship at any time.

(k) Notices. Any notice to be given to the Company shall be addressed to the Secretary of the Company at its principal place of business and any notice to be given the Grantee shall be addressed to the Grantee at the Grantee's address as it appears on the employment records of the

Company, or at such other address as the Company or the Grantee may hereafter designate in writing to the other.

(l) Withholding and Taxes. No later than the date as of which an amount first becomes includible in the gross income of the Grantee for income tax purposes or subject to the Federal Insurance Contributions Act withholding with respect to this Award, the Grantee will pay to the Company or, if appropriate, any of its affiliates, or make arrangements satisfactory to the Committee regarding the payment of, any United States federal, state or local or foreign taxes of any kind required by law to be withheld with respect to such amount. The obligations of the Company under this Agreement will be conditional on such payment or arrangements, and the Company and its affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to the Grantee.

(m) Headings. The headings of paragraphs hereof are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

(n) Counterparts. This Agreement may be executed in multiple counterparts with the same effect as if each of the signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

(o) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and any successors to the Company and the Partnership, on the one hand, and any successors to the Grantee, on the other hand, by will or the laws of descent and distribution, but this Agreement shall not otherwise be assignable or otherwise subject to hypothecation by the Grantee.

(p) Complete Agreement. This Agreement (together with those agreements and documents expressly referred to herein, for the purposes referred to herein) embody the complete and entire agreement and understanding between the parties with respect to the subject matter hereof, and supersede any and all prior promises, assurances, commitments, agreements, undertakings or representations, whether oral, written, electronic or otherwise, and whether express or implied, which may relate to the subject matter hereof in any way.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Award Agreement to be executed as of **[___]**.

ACADIA REALTY TRUST

By:_____
[_____]

411 Theodore Fremd Avenue
Suite 300
Rye, NY 10580

ACADIA REALTY LIMITED PARTNERSHIP

By: Acadia Realty Trust, its general partner

By:_____
[_____]

411 Theodore Fremd Avenue
Suite 300
Rye, NY 10580

GRANTEE

_____
Kenneth F. Bernstein

FIRST AMENDMENT
TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT

FIRST AMENDMENT, dated as of March 3, 2022 (this "Amendment"), to the Second Amended and Restated Credit Agreement, dated as of June 29, 2021, by and among Acadia Realty Limited Partnership, a Delaware limited partnership (the "Borrower"), Acadia Realty Trust, a Maryland real estate investment trust (the "REIT") and certain subsidiaries of the Borrower from time to time party thereto, as guarantors, the Lenders and L/C Issuers from time to time party thereto, and Bank of America, N.A., as Administrative Agent (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"). Any term used herein and not otherwise defined herein shall have the meaning assigned to such term in the Credit Agreement (as amended by this Amendment).

WHEREAS, the Borrower and the Lenders party hereto have agreed to modify the Credit Agreement as herein set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Amendments to Credit Agreement. Subject to the satisfaction of the conditions precedent set forth in Section 2 of this Amendment, the parties hereto hereby agree that (a) the Credit Agreement (other than, except as described in clause (b), the schedules and exhibits thereto) is amended to incorporate the changes marked on the copy of the Credit Agreement attached as Annex I hereto and (b) Schedule 1.01(A) of the Credit Agreement is deleted.

SECTION 2. Conditions of Effectiveness. This Amendment shall become effective on the date on which the Administrative Agent shall have received counterparts of this Amendment duly executed by each of the Loan Parties, the Administrative Agent and Lenders constituting Required Lenders.

SECTION 3. Representations and Warranties of Loan Parties. After giving effect to this Amendment, the Borrower reaffirms and restates the representations and warranties set forth in the Credit Agreement and in the other Loan Documents and all such representations and warranties shall be true and correct in all material respects on the date hereof with the same force and effect as if made on such date, except to the extent that (1) such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, (2) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such date after giving effect to such qualification and (3) the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01 of the Credit Agreement. Each of the Loan Parties represents and warrants (which representations and warranties shall survive the execution and delivery hereof) to the Administrative Agent and the Lenders that:

(a) it has the requisite power and authority to execute, deliver and perform its obligations under this Amendment and has taken or caused to be taken all necessary company action to authorize the execution, delivery and performance of this Amendment;

(b) no consent of any Person (including, without limitation, any of its equity holders or creditors), and no action of, or filing with, any governmental or public body or authority is necessary or required in connection with, the execution, delivery and performance of this Amendment;

(c) this Amendment has been duly executed and delivered on its behalf by a duly authorized officer, and constitutes its legal, valid and binding obligation enforceable in accordance with its terms, subject to bankruptcy, reorganization, insolvency, moratorium and other similar laws affecting the enforcement of creditors' rights generally and the exercise of judicial discretion in accordance with general principles of equity;

(d) no Default or Event of Default has occurred and is continuing; and

(e) the execution, delivery and performance of this Amendment will not violate any Law, or any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject, or conflict with, or result in the breach of, or constitute a default under, any Contractual Obligation of any Loan Party or any of its Subsidiaries.

SECTION 4. **Affirmation of Guarantors**. Each Guarantor hereby approves and consents to this Amendment and the transactions contemplated by this Amendment and agrees and affirms that its guarantee of the Obligations continues to be in full force and effect and is hereby ratified and confirmed in all respects and shall apply to the Credit Agreement, as amended hereby, and all of the other Loan Documents, as such are amended, restated, supplemented or otherwise modified from time to time in accordance with their terms.

SECTION 5. **Ratification**.

(a) Except as herein agreed, the Credit Agreement and the other Loan Documents remain in full force and effect and are hereby ratified and affirmed by the Loan Parties.

(b) This Amendment shall be limited precisely as written and, except as expressly provided herein, shall not be deemed (i) to be a consent granted pursuant to, or a waiver, modification or forbearance of, any term or condition of the Credit Agreement or any of the instruments or agreements referred to therein or a waiver of any Default or Event of Default under the Credit Agreement, whether or not known to the Administrative Agent, any of the L/C Issuers or any of the Lenders, or (ii) to prejudice any right or remedy which the Administrative Agent, any of the L/C Issuers or any of the Lenders may now have or have in the future against any Person under or in connection with the Credit Agreement, any of the instruments or agreements referred to therein or any of the transactions contemplated thereby.

SECTION 6. **Modifications**. Neither this Amendment, nor any provision hereof, may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the parties hereto.

SECTION 7. **References**. The Loan Parties acknowledge and agree that this Amendment constitutes a Loan Document. Each reference in the Credit Agreement to "this Amendment," "hereunder," "hereof," "herein," or words of like import, and each reference in each other Loan Document (and the other documents and instruments delivered pursuant to or in connection therewith) to the "Credit Agreement", "thereunder", "thereof" or words of like import, shall mean and be a reference to the Credit Agreement as modified hereby and as the Credit Agreement may in the future be amended, restated, supplemented or modified from time to time.

SECTION 8. **Counterparts; Execution**. Section 11.17 of the Credit Agreement is incorporated herein, *mutatis mutandis*, as if a part hereof.

SECTION 9. **Successors and Assigns**. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10. **Severability**. If any provision of this Amendment shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or enforceability without in any manner affecting the validity or enforceability of such provision in any other jurisdiction or the remaining provisions of this Amendment in any jurisdiction.

SECTION 11. **Governing Law**. THIS AMENDMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AMENDMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 12. **Headings**. Section headings in this Amendment are included for convenience of reference only and are not to affect the construction of, or to be taken into consideration in interpreting, this Amendment.

SECTION 13. **Loan Document**. This Amendment is a Loan Document.

SECTION 14. **Entire Agreement**. This Amendment constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Without limitation of the foregoing:

THIS AMENDMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[The remainder of this page left blank intentionally]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the date hereof.

BORROWER:

ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA REALTY TRUST, its General Partner

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President

GUARANTORS:

Each of the Guarantors is hereby executing this Amendment for the purposes of acknowledging its agreement to the representations and warranties made by such Guarantor under Section 3 of this Amendment, the affirmations made by such Guarantor under Section 4 of this Amendment and the ratifications, affirmations, confirmations and agreements made under Section 5 of this Amendment.

ACADIA REALTY TRUST, a Maryland real estate investment trust

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President

ACADIA 1520 MILWAUKEE AVENUE LLC, a Delaware limited liability company

ACADIA 2914 THIRD AVENUE LLC, a Delaware limited liability company

ACADIA 5-7 EAST 17TH STREET LLC, a Delaware limited liability company

ACADIA 83 SPRING STREET LLC, a Delaware limited liability company

ACADIA BARTOW AVENUE LLC, a Delaware limited liability company

ACADIA CHESTNUT LLC, a Delaware limited liability company

ACADIA GOLD COAST LLC, a Delaware limited liability company

ACADIA MAD RIVER PROPERTY LLC, a Delaware limited liability company

ACADIA MERCER STREET LLC, a Delaware limited liability company

ACADIA RUSH WALTON LLC, a Delaware limited liability company

ACADIA TOWN LINE, LLC, a Connecticut limited liability company

ACADIA WEST 54TH STREET LLC, a Delaware limited liability company

ACADIA WEST SHORE EXPRESSWAY LLC, a Delaware limited liability company

MARK PLAZA FIFTY L.P., a Pennsylvania limited partnership

By: ACADIA MARK PLAZA LLC, its General Partner

ACADIA MARK PLAZA LLC, a Delaware limited liability company

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD ABSECON ASSOCIATES, L.P, a Delaware limited partnership

By: ACADIA ABSECON LLC, its General Partner

ACADIA ABSECON LLC, a Delaware limited liability company

RD BLOOMFIELD ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD HOBSON ASSOCIATES, L.P., a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

MARK TWELVE ASSOCIATES, LP, a Pennsylvania limited partnership

By: ACADIA HOBSON LLC, its General Partner

ACADIA HOBSON LLC, a Delaware limited liability company

RD METHUEN ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

ACADIA PROPERTY HOLDINGS, LLC, a Delaware limited liability company

ACADIA 181 MAIN STREET LLC, a Delaware limited liability company

ACADIA CHICAGO LLC, a Delaware limited liability company

ACADIA CONNECTICUT AVENUE LLC, a Delaware limited liability company

8-12 EAST WALTON LLC, a Delaware limited liability company

RD BRANCH ASSOCIATES, L.P., a New York limited partnership

By: Acadia Property Holdings, LLC, its General Partner

ACADIA WEST DIVERSEY LLC, a Delaware limited liability company

868 BROADWAY LLC, a Delaware limited liability company

120 WEST BROADWAY LLC, a Delaware limited liability company

11 EAST WALTON LLC, a Delaware limited liability company

865 WEST NORTH AVENUE LLC, a Delaware limited liability company

61 MAIN STREET OWNER LLC, a Delaware limited liability company

252-264 GREENWICH AVENUE RETAIL LLC, a Delaware limited liability company

2520 FLATBUSH AVENUE LLC, a Delaware limited liability company

ACADIA CLARK-DIVERSEY LLC, a Delaware limited liability company

ACADIA NEW LOUDON LLC, a Delaware limited liability company

131-135 PRINCE STREET LLC, a Delaware limited liability company

201 NEEDHAM STREET OWNER LLC, a Delaware limited liability company

SHOPS AT GRAND AVENUE LLC, a Delaware limited liability company

2675 GEARY BOULEVARD LP, a Delaware limited partnership

By: 2675 City Center Partner LLC, its General Partner

2675 CITY CENTER PARTNER LLC, a Delaware limited liability company

ACADIA NAAMANS ROAD LLC, a Delaware limited liability company

ACADIA CRESCENT PLAZA LLC, a Delaware limited liability company

RD ELMWOOD ASSOCIATES, L.P., a Delaware limited partnership

By: Acadia Elmwood Park LLC, its General Partner

ACADIA ELMWOOD PARK LLC, a Delaware limited liability company

ROOSEVELT GALLERIA LLC, a Delaware limited liability company

ACADIA 56 EAST WALTON LLC, a Delaware limited liability company

ACADIA SECOND CITY 843-45 WEST ARMITAGE LLC, a Delaware limited liability company

ACADIA SECOND CITY 1521 WEST BELMONT LLC, a Delaware limited liability company

ACADIA SECOND CITY 2206-08 NORTH HALSTEAD LLC, a Delaware limited liability company

ACADIA SECOND CITY 2633 NORTH HALSTEAD LLC, a Delaware limited liability company

HEATHCOTE ASSOCIATES, L.P., a New York limited partnership

By: Acadia Heathcote LLC, its General Partner

ACADIA HEATHCOTE LLC, a Delaware limited liability company

152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

ACADIA 152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

165 NEWBURY STREET OWNER LLC, a Delaware limited liability company

ACADIA 639 WEST DIVERSEY LLC, a Delaware limited liability company

ACADIA BRENTWOOD LLC, a Delaware limited liability company

41 GREENE STREET OWNER LLC, a Delaware limited liability company

47-49 GREENE STREET OWNER LLC, a Delaware limited liability company

51 GREENE STREET OWNER LLC, a Delaware limited liability company

53 GREENE STREET OWNER LLC, a Delaware limited liability company

849 W. ARMITAGE OWNER LLC, a Delaware limited liability company

912 W. ARMITAGE OWNER LLC, a Delaware limited liability company

BEDFORD GREEN LLC, a Delaware limited liability company

ACADIA 4401 WHITE PLAINS ROAD LLC, a Delaware limited liability company

ACADIA MERRILLVILLE LLC, a Delaware limited liability company

37 GREENE STREET OWNER LLC, a Delaware limited liability company

907 W. ARMITAGE OWNER LLC, a Delaware limited liability company

45 GREENE STREET OWNER LLC, a Delaware limited liability company

8436-8452 MELROSE OWNER LP, a Delaware limited partnership

By: 8436-8452 MELROSE GENERAL PARTNER LLC, its General Partner

8436-8452 MELROSE GENERAL PARTNER LLC, a Delaware limited liability company

917 W. ARMITAGE OWNER LLC, a Delaware limited liability company

CALIFORNIA & ARMITAGE MAIN OWNER LLC, a Delaware limited liability company

ACADIA TOWN CENTER HOLDCO LLC, a Delaware limited liability company

ACADIA MARKET SQUARE, LLC, a Delaware limited liability company

ACADIA NORTH MICHIGAN AVENUE LLC, a Delaware limited liability company

565 BROADWAY OWNER LLC, a Delaware limited liability company

ACADIA BRANDYWINE HOLDINGS, LLC, a Delaware limited liability company

RD SMITHTOWN, LLC, a New York limited liability company

1324 14TH STREET OWNER LLC, a Delaware limited liability company

1526 14TH STREET OWNER LLC, a Delaware limited liability company

1529 14TH STREET OWNER LLC, a Delaware limited liability company

121 SPRING STREET OWNER LLC, a Delaware limited liability company

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President
on behalf of the entities listed above

LENDERS:

BANK OF AMERICA, N.A., as a Lender

By: /s/ Jeffrey L. Phelps
Name: Jefferey L. Phelps
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Craig V. Koshkarian
Name: Craig V. Koshkarian
Title: Director

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Brian P. Kelly
Name: Brian P. Kelly
Title: SVP

TRUIST BANK, Successor by Merger to SunTrust Bank, as a Lender

By: /s/ Ryan Almond
Name: Ryan Almond
Title: Director

TD BANK, N.A., as a Lender

By: /s/ Gianna Gioia
Name: Gianna Gioia
Title: Vice President

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Nora Skelton
Name: Nora Skelton
Title: Vice President

CITIBANK, N.A., as a Lender

By: /s/ Chris Albano
Name: Chris Albano
Title: Authorized Signatory

PEOPLE'S UNITED BANK, N.A., as a Lender

By: /s/ David R. Jablonowski
Name: David R. Jablonowski
Title: Senior Vice President

GOLDMAN SACHS BANK USA, as a Lender

By: /s/ Dan Martis
Name: Dan Martis
Title: Authorized Signatory

ADMINISTRATIVE AGENT:

BANK OF AMERICA, N.A., as Administrative Agent

By: /s/ Jeffrey L. Phelps
Name: Jeffrey L. Phelps
Title: Senior Vice President

Annex I to First Amendment

(see attached)

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of June 29, 2021

among

ACADIA REALTY LIMITED PARTNERSHIP,

as the Borrower,

and

ACADIA REALTY TRUST
and
CERTAIN SUBSIDIARIES OF ACADIA REALTY LIMITED PARTNERSHIP FROM TIME TO TIME PARTY HERETO,
as Guarantors

BANK OF AMERICA, N.A.,
as Administrative Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION,
TRUIST BANK
and
PNC BANK, NATIONAL ASSOCIATION,
as Syndication Agents

and

The Lenders and L/C Issuers Party Hereto

BOFA SECURITIES, INC.
and
WELLS FARGO SECURITIES, LLC,
as Joint Bookrunners

and

BOFA SECURITIES, INC.,
WELLS FARGO SECURITIES, LLC,
TRUIST SECURITIES, INC.
and
PNC CAPITAL MARKETS LLC,
as Joint Lead Arrangers

TABLE OF CONTENTS

Section Page

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS 1
1.01 Defined Terms 1
1.02 Other Interpretive Provisions 49
1.03 Accounting Terms 50
1.04 Rounding 50
1.05 Times of Day; Rates 51
1.06 Letter of Credit Amounts 51

ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS 51
2.01 Committed Loans 51
2.02 Borrowings, Conversions and Continuations of Committed Loans 52
2.03 Letters of Credit 53
2.04 [Reserved] 64
2.05 Prepayments 64
2.06 Termination or Reduction of Commitments 65
2.07 Repayment of Loans 66
2.08 Interest 66
2.09 Fees 67
2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate 67
2.11 Evidence of Debt 68
2.12 Payments Generally; Administrative Agent's Clawback 68
2.13 Sharing of Payments by Lenders 70
2.14 Extension of Maturity Date in respect of Revolving Credit Facility 71
2.15 Increase in Facilities 72
2.16 Cash Collateral 76
2.17 Defaulting Lenders 77

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY 79
3.01 Taxes 79
3.02 Illegality 83
3.03 Inability to Determine Rates 84
3.04 Increased Costs; Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans 87
3.05 Compensation for Losses 89
3.06 Mitigation Obligations; Replacement of Lenders 89
3.07 [Reserved] 90
3.08 Survival 90

ARTICLE IV. CONDITIONS PRECEDENT TO Credit Extensions 90
4.01 Conditions of Effectiveness 90
4.02 Conditions to all Credit Extensions 92

ARTICLE V. REPRESENTATIONS AND WARRANTIES 93
5.01 Existence, Qualification and Power 93
5.02 Authorization; No Contravention 93
5.03 Governmental Authorization; Other Consents 93
5.04 Binding Effect 93
5.05 Financial Statements; No Material Adverse Effect 93
5.06 Litigation 94
5.07 No Default 94
5.08 Ownership of Property 95
5.09 Environmental Compliance 95
5.10 Insurance 95
5.11 Taxes 95
5.12 ERISA Compliance 95
5.13 Subsidiaries; Equity Interests 96
5.14 Margin Regulations; Investment Company Act 96
5.15 Disclosure 97
5.16 Compliance with Laws 97
5.17 Taxpayer Identification Number 97
5.18 Intellectual Property; Licenses, Etc. 97
5.19 OFAC 97
5.20 Solvency 98
5.21 REIT Status; Stock Exchange Listing 98
5.22 Subsidiary Guarantors 98
5.23 Anti-Corruption Laws; Anti-Money Laundering Laws 98
5.24 Affected Financial Institution 98
5.25 Covered Entities 98

ARTICLE VI. AFFIRMATIVE COVENANTS 98
6.01 Financial Statements 99
6.02 Certificates; Other Information 99
6.03 Notices 101
6.04 Payment of Obligations 102
6.05 Preservation of Existence, Etc. 102
6.06 Maintenance of Properties 103
6.07 Maintenance of Insurance 103
6.08 Compliance with Laws 103
6.09 Books and Records 103
6.10 Inspection Rights 103
6.11 Use of Proceeds 104
6.12 Additional Guarantors 104
6.13 Compliance with Environmental Laws 105
6.14 Further Assurances 105
6.15 Maintenance of REIT Status; Stock Exchange Listing 105
6.16 Material Contracts 105
6.17 Preparation of Environmental Reports 105
6.18 Minimum Amount and Occupancy of Unencumbered Properties 106
6.19 Compliance with Terms of Leases 106

6.20 Anti-Corruption Laws; Sanctions; Anti-Money Laundering Laws 106

ARTICLE VII. NEGATIVE COVENANTS 107
7.01 Liens 107
7.02 Investments 107
7.03 Indebtedness 107
7.04 Fundamental Changes ~~107~~**108**
7.05 Dispositions ~~108~~**109**
7.06 Restricted Payments ~~109~~**110**
7.07 Change in Nature of Business ~~110~~**111**
7.08 Transactions with Affiliates ~~110~~**111**
7.09 Burdensome Agreements ~~110~~**111**
7.10 Use of Proceeds 111
7.11 Financial Covenants 111
7.12 Accounting Changes 112
7.13 Amendments of Organization Documents 112
7.14 Sanctions ~~112~~**113**
7.15 Subsidiaries of REIT ~~112~~**113**
7.16 Anti-Corruption Laws; Anti-Money Laundering Laws ~~112~~**113**
7.17 Swap Contracts ~~112~~**113**

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES 113
8.01 Events of Default 113
8.02 Remedies Upon Event of Default ~~115~~**116**
8.03 Application of Funds 116

ARTICLE IX. ADMINISTRATIVE AGENT ~~116~~**117**
9.01 Appointment and Authority 117
9.02 Rights as a Lender ~~117~~**118**
9.03 Exculpatory Provisions ~~117~~**118**
9.04 Reliance by Administrative Agent ~~118~~**119**
9.05 Delegation of Duties ~~118~~**119**
9.06 Resignation of Administrative Agent ~~119~~**120**
9.07 Non-Reliance on Administrative Agent, Arrangers, Bookrunners and Other Lenders ~~120~~**121**
9.08 No Other Duties, Etc. ~~121~~**122**
9.09 Administrative Agent May File Proofs of Claim ~~121~~**122**
9.10 Guaranty Matters ~~122~~**123**
9.11 Lender Representations Regarding ERISA ~~122~~**123**
9.12 Recovery of Erroneous Payments ~~123~~**124**

ARTICLE X. CONTINUING GUARANTY ~~124~~**125**
10.01 Guaranty ~~124~~**125**
10.02 Rights of Lenders ~~125~~**126**
10.03 Certain Waivers ~~125~~**126**
10.04 Obligations Independent ~~125~~**126**
10.05 Subrogation ~~125~~**126**

10.06 Termination; Reinstatement ~~126~~127
10.07 Subordination ~~126~~127
10.08 Stay of Acceleration ~~126~~127
10.09 Condition of the Borrower ~~126~~127
10.10 Limitations on Enforcement 127
10.11 Contribution ~~127~~128
10.12 Release of Subsidiary Guarantors and Re-designation of Unencumbered Properties ~~128~~129

ARTICLE XI. MISCELLANEOUS ~~131~~132
11.01 Amendments, Etc. ~~131~~132
11.02 Notices; Effectiveness; Electronic Communication ~~134~~135
11.03 No Waiver; Cumulative Remedies; Enforcement ~~136~~137
11.04 Expenses; Indemnity; Damage Waiver 137
11.05 Payments Set Aside ~~139~~140
11.06 Successors and Assigns ~~139~~140
11.07 Treatment of Certain Information; Confidentiality ~~145~~146
11.08 Right of Setoff ~~146~~147
11.09 Interest Rate Limitation ~~147~~148
11.10 Integration; Effectiveness ~~147~~148
11.11 Survival of Representations and Warranties 148
11.12 Severability ~~148~~149
11.13 Replacement of Lenders ~~148~~149
11.14 Governing Law; Jurisdiction; Etc. ~~149~~150
11.15 Waiver of Jury Trial ~~150~~151
11.16 No Advisory or Fiduciary Responsibility ~~150~~151
11.17 Electronic Execution; Electronic Records; Counterparts ~~151~~152
11.18 USA PATRIOT Act ~~152~~153
11.19 Authorized Persons and Authorized Signers ~~152~~153
11.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions ~~152~~153
11.21 No Novation ~~153~~154
11.22 Acknowledgement Regarding Any Supported QFCs 154
11.23 ENTIRE AGREEMENT 155

SCHEDULES

~~1.01(A) Excluded Debt Properties~~
1.01(B) Existing Letters of Credit
2.01 Commitments, Applicable Percentages and Letter of Credit Sublimits
5.05 Supplement to Interim Financial Statements
5.13 Subsidiaries; Jurisdiction of Incorporation/Organization and Principal Place of Business
11.02 Administrative Agent's Office; Certain Addresses for Notices; Taxpayer Identification Numbers

EXHIBITS

Form of

A Committed Loan Notice
B [Reserved]
C-1 Revolving Credit Note
C-2 Term Note
D Compliance Certificate
E-1 Assignment and Assumption
E-2 Administrative Questionnaire
F [Reserved]
G Joinder Agreement
H U.S. Tax Compliance Certificates
I Solvency Certificate
J Borrower's Instruction Certificate
K Borrower Remittance Instructions

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement") is entered into as of June 29, 2021, among ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (the "Borrower"), ACADIA REALTY TRUST, a Maryland real estate investment trust (the "REIT") and certain subsidiaries of the Borrower from time to time party hereto, as Guarantors, each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), BANK OF AMERICA, N.A. and WELLS FARGO BANK, NATIONAL ASSOCIATION, as L/C Issuers, and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower, the REIT, the subsidiaries of the Borrower party thereto as guarantors, the lenders party thereto, the swing line lender party thereto, the letter of credit issuer party thereto and the Administrative Agent are party to that certain Credit Agreement, dated as of February 20, 2018 (as amended or otherwise modified prior to the date hereof, the "Existing Credit Agreement"). The parties hereto desire to amend and restate the Existing Credit Agreement in its entirety, but not as a novation, on the terms and subject to the conditions hereinafter set forth.

In consideration of the mutual covenants and agreements herein contained, the parties hereto hereby agree that the Existing Credit Agreement shall be, and hereby is, amended and restated in its entirety as follows, effective on and as of the Closing Date, and hereby further covenant and agree as follows:

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning specified in Section 11.18.

"Adjusted EBITDA" means, as of any date of determination, (i) EBITDA for the then most recently ended period of four consecutive fiscal quarters minus (ii) the aggregate Annual Capital Expenditure Adjustment for all Properties owned by one or more members of the Consolidated Group, provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the aggregate Annual Capital Expenditure Adjustment attributable to Properties owned by such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Adjusted EBITDA, minus (iii) the Consolidated Group Pro Rata Share of the aggregate Annual Capital Expenditure Adjustment for all Properties owned by one or more Unconsolidated Affiliates.

"Administrative Agent" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

"Administrative Questionnaire" means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.

"Affected Financial Institution" means (a) any EEA Financial Institution, or (b) any UK Financial Institution.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For the avoidance of doubt, in no event shall any Arranger, any Bookrunner, the Administrative Agent, any Syndication Agent or any Managing Agent listed on the cover page hereof or any Lender, in their capacities as such, be deemed to be an affiliate of the Borrower.

"Aggregate Deficit Amount" has the meaning specified in Section 10.11.

"Aggregate Excess Amount" has the meaning specified in Section 10.11.

"Agreement" has the meaning specified in the first introductory paragraph hereto.

"Annual Capital Expenditure Adjustment" means, for any Property, an amount equal to the product of (i) $0.20 *multiplied by* (ii) the aggregate net rentable area (determined on a square feet basis) of such Property.

"Applicable Percentage" means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) on or prior to the Closing Date, such Term Lender's Term Commitment at such time, and (ii) thereafter, the principal amount of such Term Lender's Term Loans at such time and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender's Revolving Credit Commitment at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments made in accordance with the terms of this Agreement. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means (i) at any time prior to the Investment Grade Pricing Effective Date, the Leverage-Based Applicable Rate in effect at such time and (ii) at any time on and after the Investment Grade Pricing Effective Date, the Ratings-Based Applicable Rate in effect at such time.

"Applicable Revolving Credit Percentage" means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender's Applicable Percentage in respect of the Revolving Credit Facility at such time.

"Appropriate Lender" means, at any time, (a) with respect to the Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time and (b) with respect to the Letter of Credit Subfacility, (i) the L/C Issuers and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arrangers" means BofA Securities, Wells Fargo Securities, LLC, Truist Securities, Inc. and PNC Capital Markets LLC, in their capacities as joint lead arrangers for the Facilities.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

"Attributable Indebtedness" means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

"Audited Financial Statements" means the audited consolidated balance sheet of the REIT for the fiscal year ended December 31, 2020, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the REIT, including the notes thereto.

"Authorized Person" means any representative of the Borrower duly designated by the Borrower in accordance with the Borrower's Instruction Certificate, authorized to bind the Borrower in providing draw requests and requesting disbursements of Loan proceeds.

"Authorized Signer" means any representative of the Borrower duly designated by the Borrower in accordance with the Borrower's Instruction Certificate, authorized to bind the Borrower and to act for the Borrower for all purposes in connection with the Loan, including providing draw requests and requesting disbursements of Loan proceeds, obtaining information pertaining to the Loan, requesting any action under the Loan Documents, providing any certificates, and appointing and changing any Authorized Persons.

"Availability Period" means, in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (a) the Maturity Date for the Revolving Credit

Facility, (b) the date of termination of the Revolving Credit Facility pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of each L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank of America" means Bank of America, N.A. and its successors.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate," and (c) the Eurodollar Rate determined in accordance with clause (b) of the definition thereof, plus 1.00%; and if Base Rate shall be less than 1.00%, such rate shall be deemed to be 1.00%. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

"Base Rate Committed Loan" means a Committed Loan that is a Base Rate Loan.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Base Rate Revolving Credit Loan" means a Revolving Credit Loan that is a Base Rate Loan.

"Benchmark" means, initially, LIBOR; provided that if a replacement of the Benchmark has occurred pursuant to Section 3.03(c) then "Benchmark" means the applicable Benchmark

Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

"Benchmark Replacement" means:

(1) For purposes of Section 3.03(c)(i), the first alternative set forth below that can be determined by the Administrative Agent (and, in the case of the alternative set forth in clause (a) below, that has been consented to in writing by the Borrower):

(a) the sum of: (i) Term SOFR and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; or

(b) the sum of: (i) Daily Simple SOFR and (ii) 0.11448% (11.448 basis points);

provided that, if initially LIBOR is replaced with the rate contained in clause (b) above (Daily Simple SOFR plus the applicable spread adjustment) and subsequent to such replacement, the Administrative Agent determines that Term SOFR has become available and is administratively feasible for the Administrative Agent in its sole discretion, and the Administrative Agent notifies the Borrower and each Lender of such availability, then with the Borrower's written consent from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Benchmark Replacement shall be as set forth in clause (a) above; and

(2) For purposes of Section 3.03(c)(ii), the sum of (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Borrower as the replacement Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by a Relevant Governmental Body, for Dollar-denominated syndicated credit facilities at such time;

provided that, if the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.

Any Benchmark Replacement shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Benchmark Replacement shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or

operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"Benchmark Transition Event" means, with respect to any then-current Benchmark other than LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark or a Governmental Authority with jurisdiction over such administrator announcing or stating that all Available Tenors are or will no longer be representative, or made available, or used for determining the interest rate of loans, or shall or will otherwise cease, provided that, at the time of such statement or publication, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide any representative tenors of such Benchmark after such specific date.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined and subject to in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"BofA Securities" means BofA Securities, Inc. and its successors.

"Bookrunners" means BofA Securities and Wells Fargo Securities, LLC, in their capacities as joint bookrunners for the credit facilities under this Agreement.

"Borrower" has the meaning specified in the first introductory paragraph hereto.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrower Remittance Instructions" means, the Borrower's remittance instructions provided in the form attached hereto as Exhibit K. The Administrative Agent is authorized to follow the instructions in any Borrower Remittance Instructions delivered to the Administrative Agent until five (5) Business Days following receipt of a new Borrower Remittance Instructions accompanied by evidence, reasonably satisfactory to the Administrative Agent, of the authority of the Person executing such new Borrower Remittance Instructions.

"Borrower's Instruction Certificate" means a certificate provided by or on behalf of the Borrower in the form attached hereto as Exhibit J, designating certain Authorized Persons and Authorized Signers as set forth therein.

"Borrowing" means a Committed Borrowing.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located and, if such day relates to any Eurodollar Rate Loan or LIBOR Floating Rate Loan, means any such day that is also a London Banking Day.

"Capitalization Rate" means six and one-quarter percent (6.25%).

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuers or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the applicable L/C Issuer(s) shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and such L/C Issuer(s). "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means:

(c) United States dollars (including such dollars as are held as overnight bank deposits and demand deposits with banks);

(d) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency or instrumentality thereof and backed by the full faith and credit of the United States of America, in each case maturing within one year from the date of acquisition thereof;

(e) marketable direct obligations issued by any State of the United States of America or any political subdivision of any such State or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having a rating of at least A-2 from S&P or at least P-2 from Moody's;

(f) commercial paper maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 from S&P or at least P-2 from Moody's;

(g) time deposits, demand deposits, certificates of deposit, Eurodollar time deposits, time deposit accounts, term deposit accounts or bankers' acceptances maturing within one year from the date of acquisition thereof or overnight bank deposits, in each case, issued by any bank organized under the laws of the United States of America or any State thereof or the District of Columbia or any U.S. branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than $1,000,000,000; and

(h) investments in money market funds which invest substantially all their assets in securities of the types described in clauses (a) through (e) above.

"CFTC" means the Commodity and Futures Trading Commission, and any successor thereto.

"CFTC Regulations" means any and all regulations, rules, directives, or orders now or hereafter promulgated or issued by CFTC relating to Swap Contracts.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation (including, without limitation, Regulation D issued by the FRB) or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means an event or series of events by which:

(i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of 30% or more of the equity securities of the REIT entitled to vote for members of the board of directors or equivalent governing body of the REIT on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right);

(j) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the REIT cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body;

(k) the passage of thirty days from the date upon which any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of the REIT, or control over the equity securities of the REIT entitled to vote for members of the board of directors or equivalent governing body of the REIT on a fully-diluted basis (and taking into account all such securities that such Person or group has the right to acquire pursuant to any option right) representing 25% or more of the combined voting power of such securities; or

(l) (i) the REIT shall cease to be the sole general partner of the Borrower or shall cease to own, directly, (x) 100% of the general partnership interests of the Borrower and (y) Equity Interests of the Borrower representing at least 90% of the total economic interests of the Equity Interests of the Borrower, in each case free and clear of all Liens (other than Permitted Equity Encumbrances) or (ii) any holder of a limited partnership interest in the Borrower is provided with or obtains voting rights with respect to such limited partnership interest that are more expansive in any respect than the voting rights afforded to limited partners of the Borrower under the Organization Documents of the Borrower in effect on the Closing Date.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01.

"Code" means the Internal Revenue Code of 1986.

"Commitment" means a Term Commitment or a Revolving Credit Commitment, as the context may require.

"Commitment Increase Amendment" has the meaning specified in Section 2.15(g).

"Committed Borrowing" means a Revolving Credit Borrowing, a Term Borrowing or an Incremental Term Loan Borrowing, as the context may require.

"Committed Loan" means a Term Loan or a Revolving Credit Loan, as the context may require.

"Committed Loan Notice" means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to another, or (c) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

"Compliance Certificate" means a certificate substantially in the form of Exhibit D.

"Communication" means this Agreement, any Loan Document and any document, any amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Loan Document.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated Group" means, collectively, the Loan Parties and their Consolidated Subsidiaries.

"Consolidated Group Pro Rata Share" means, with respect to any Unconsolidated Affiliate or any Non-Wholly Owned Consolidated Subsidiary, the percentage interest held by the REIT and its Wholly Owned Subsidiaries, in the aggregate, in such Person determined by calculating the percentage of Equity Interests of such Person owned by the REIT and its Wholly Owned Subsidiaries.

"Consolidated Subsidiaries" means, as to any Person, all Subsidiaries of such Person that are consolidated with such Person for financial reporting purposes under GAAP.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Joint Venture" means a Subsidiary of the Borrower (the "Designated Subsidiary") that meets each of the following requirements: (i) the Designated Subsidiary owns or ground leases a Property (the "Designated Property"); (ii) the Borrower (either directly or through Wholly Owned Subsidiaries thereof that are not Controlled Joint Ventures) (A) owns 100% of all voting Equity Interests in the Designated Subsidiary, (B) has exclusive operational control over the Designated Property and the Designated Subsidiary, including the ability to cause the Designated Subsidiary to Dispose of, grant Liens in, or otherwise encumber the Designated Property and other assets, incur, repay and prepay Indebtedness, provide Guarantees and make Restricted Payments, in each case without any requirement for the consent of any other Person; and (iii) no Person other than the Borrower is entitled to receive any distributions or other payments from the Designated Subsidiary except upon Disposition of the Designated Property.

"Credit Extension" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Creditor Parties" means, collectively, the Administrative Agent, the Lenders, the L/C Issuers and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons to whom the Obligations are owing.

"Daily Simple SOFR" with respect to any applicable determination date means the secured overnight financing rate ("SOFR") published on such date by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York's website (or any successor source).

"Debt Rating" means, as of any date of determination, the rating assigned by a Rating Agency to the REIT's non-credit enhanced, senior unsecured long term debt as in effect on such date.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate, plus (ii) the Applicable Rate for Base Rate Loans under the Revolving Credit Facility (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum; provided, however, that (x) with respect to a Base Rate Loan, the Default Rate shall be an interest rate equal to (i) the Base Rate, plus (ii) the Applicable Rate for Base Rate Loans for the Facility under which such Loan was made (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, (y) with respect to a Eurodollar Rate Loan, the Default Rate shall be an interest rate equal to (i) the Eurodollar Rate, plus (ii) the Applicable Rate for Eurodollar Rate Loans for the Facility under which such Loan was made (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, and (z) with respect to a LIBOR Floating Rate Loan, the Default Rate shall be an interest rate equal to (i) the LIBOR Daily Floating Rate, plus (ii) the Applicable Rate for LIBOR Floating Rate Loans (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate then applicable to Letter of Credit Fees, plus 2.00% per annum.

"Defaulting Lender" means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within three Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any L/C Issuer or any Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or amounts payable pursuant to Section 11.04(c)) within three Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any L/C Issuer in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause

(c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower, each L/C Issuer and each other Lender promptly following such determination.

"Designated Jurisdiction" means any region, country or territory to the extent that such country, region or territory itself is the subject of any Sanction (which on the Closing Date includes Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine).

"Development Property" means a Property (a) the primary purpose of which is to be leased in the ordinary course of business or to be sold upon completion, (b) on which construction, redevelopment or material rehabilitation of material improvements has commenced and is continuing to be performed and (c) that is classified as "development in progress" on the Borrower's balance sheet or as a redevelopment project in any publicly filed financial and operating reporting supplement of the REIT, with any such Property remaining as a Development Property until the earlier of (i) such Property achieving an occupancy rate of 75% (based on net leasable area) and (ii) the first anniversary of the substantial completion of construction of such Property and material improvements as evidenced by a temporary or permanent certificate of occupancy; for the avoidance of doubt, on the date of the earlier of the occurrence of clause (i) or clause (ii) such Property will become a Newly Stabilized Property.

"Direct Owner" means, (i) as to any Unencumbered Property that is owned by or ground leased to a Subsidiary of the Borrower, the Subsidiary of the Borrower that directly owns or ground leases such Unencumbered Property and (ii) as to any Unencumbered First Mortgage Receivable held by a Subsidiary of the Borrower, the Subsidiary of the Borrower that directly holds such Unencumbered First Mortgage Loan Receivable.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith and including any disposition of property to a Division Successor pursuant to a Division.

"Dividing Person" has the meaning given that term in the definition of "Division."

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons (whether pursuant to a "plan of division" or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

"Division Successor" means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

"Disqualified Institution" means (a) any competitor of the REIT and its Affiliates that has been specifically identified by name on the DQ List and (b) an Affiliate of any such identified Person that (i) has been specifically identified to the Administrative Agent in writing by the Borrower or (ii) is clearly identifiable on the basis of such Affiliate's name; provided that "Disqualified Institutions" shall exclude any Person that the Borrower has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent and the Lenders from time to time until such time as Borrower has, in accordance with the terms of this Agreement, re-designated such Person as a "Disqualified Institution".

"Dollar" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of any political subdivision of the United States.

"DQ List" means the list of Disqualified Institutions provided by the Borrower to the Administrative Agent prior to the Closing Date, as the same may be updated in writing from time to time after the Closing Date upon notice from the Borrower to the Administrative Agent; provided that no such update shall become effective until the second Business Day after it is provided by the Borrower to the Administrative Agent for dissemination to the Lenders.

"Early Opt-in Effective Date" means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

"Early Opt-in Election" means the occurrence of:

(1) a determination by the Administrative Agent, or a notification by the Borrower to the Administrative Agent that the Borrower has made a determination, that U.S. dollar-denominated syndicated credit facilities currently being executed, or that include language similar to that contained in Section 3.03(c), are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, and

(2) the joint election by the Administrative Agent and the Borrower to replace LIBOR with a Benchmark Replacement and the provision by the Administrative Agent of written notice of such election to the Lenders.

"EBITDA" means, with respect to the Consolidated Group for any period, the sum of (a) Net Income for such period, in each case, excluding, without duplication, (i) any non-recurring or extraordinary gains and losses for such period, (ii) any income or gain and any loss in each case resulting from the early extinguishment of indebtedness during such period and (iii) any net income or gain or any loss resulting from a Swap Contract (including by virtue of a termination thereof) during such period, plus (b) an amount which, in the determination of Net Income for such period pursuant to clause (a) above, has been deducted for or in connection with: (i) Interest Expense (plus, amortization of deferred financing costs, to the extent included in the determination of Interest Expense per GAAP), (ii) income taxes, (iii) depreciation and amortization, all as determined in accordance with GAAP for such period, (iv) adjustments as a result of the straight lining of rents, (v) non-cash charges and (vi) transaction costs incurred in connection with the Loan Documents (and any amendment, consent, supplement or waiver thereto), plus (c) the Consolidated Group Pro Rata Share of the foregoing items attributable to the Consolidated Group's interests in Unconsolidated Affiliates; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary for such period shall be included in the calculation of EBITDA.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Electronic Copy" shall have the meaning specified in Section 11.17.

"Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)). For the avoidance of doubt, no Disqualified Institution shall be an Eligible Assignee.

"Eligible Ground Lease" means a ground lease that on the date of determination (a) has a minimum remaining term of thirty (30) years, including extension options controlled exclusively

by the tenant, (b) permits the Loan Party party thereto to grant a Lien thereon to secure the Obligations without the consent of any Person (other than any consent that has been obtained), (c) no default has occurred and is continuing, and no terminating event has occurred by any Loan Party or Subsidiary thereof, thereunder, (d) is not encumbered by any Liens, negative pledges and/or encumbrances, (e) no party thereto is subject to a proceeding under any Debtor Relief Law and (f) is otherwise reasonably acceptable to the Administrative Agent.

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA

Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"ESA" has the meaning specified in Section 6.17.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Eurodollar Rate" means:

(m) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for U.S. Dollars for a period equal in length to such Interest Period) ("LIBOR") as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(n) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at approximately 11:00 a.m., London time determined two London Banking Days prior to such date for Dollar deposits with a term of one month commencing that day; and

(o) if the Eurodollar Rate as determined in accordance with the foregoing is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Eurodollar Rate Loan" means a Committed Loan that bears interest at a rate based on clause (a) of the definition of "Eurodollar Rate."

"Event of Default" has the meaning specified in Section 8.01.

"Excepted Unencumbered Property" means any Unencumbered Property the occupancy rate with respect to which is less than 75% and that is designated as a Excepted Unencumbered Property by Borrower in any calculation of the covenant set forth in clause (ii) of Section 6.18.

~~"Excluded Debt" means any and all Non-Recourse Indebtedness secured solely by one of (a) the Properties listed on Schedule 1.01(A), (b) Properties owned by Specified Subsidiaries and/or (c) the Equity Interests of the Subsidiary of the Borrower that owns any such Properties.~~

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), (a)(iii) or (c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" has the meaning specified in the second introductory paragraph hereto.

"Existing Letter of Credit" means a "Letter of Credit" issued pursuant to the terms of, and as defined in, the Existing Credit Agreement and outstanding on the Closing Date and described on Schedule 1.01(B).

"Existing Maturity Date" has the meaning specified in Section 2.14(a).

"Existing Revolving Credit Note" means a "Revolving Credit Note" as defined in the Existing Credit Agreement.

"Existing Term Loan" has the meaning specified in Section 2.01(b).

"Existing Term Note" means a "Term Note" as defined in the Existing Credit Agreement.

"Extension Notice" has the meaning specified in Section 2.14(a).

"Facility" means the Term Facility, the Revolving Credit Facility and/or any Incremental Term Loan Facility, as the context may require.

"Facility Fee" has the meaning specified in Section 2.09(a)(ii).

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471 (b) (1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement,

treaty or convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

"Federal Funds Rate" means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of the Loan Documents.

"Fee Letters" means, collectively, the several letter agreements, each dated on or after April 26, 2021 and prior to the Closing Date, among the Borrower and an Arranger and any other parties thereto, that are identified therein as a "fee letter", and "Fee Letter" means any of them individually.

"First Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Fixed Charges" means, with respect to the Consolidated Group, as of any date of determination, an amount equal to the sum, without duplication, of (i) Interest Expense for the most recently ended period of four consecutive fiscal quarters, (ii) scheduled payments of principal on Total Indebtedness made or required be made during the most recently ended fiscal quarter (excluding any balloon payments payable on maturity of any such Total Indebtedness), (iii) the amount of dividends or distributions paid or required to be paid by any member of the Consolidated Group to any Person that is not a member of the Consolidated Group during the most recently ended period of four consecutive fiscal quarters in respect of its preferred Equity Interests and (iv) the Consolidated Group Pro Rata Share of the foregoing items attributable to the Consolidated Group's interests in Unconsolidated Affiliates. For the avoidance of doubt, with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Fixed Charges.

"Foreign Lender" means a Lender that is not a U.S. Person.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender such Defaulting Lender's Applicable Revolving Credit Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"Funds From Operations" means, with respect to any period and without double counting, an amount equal to the Net Income for such period, excluding gains (or losses) from sales of property, plus depreciation and amortization and after adjustments for unconsolidated partnerships

and joint ventures; provided that "Funds From Operations" shall exclude impairment charges, charges from the early extinguishment of indebtedness and other non-cash charges as evidenced by a certification of a Responsible Officer of the REIT containing calculations in reasonable detail satisfactory to the Administrative Agent. Adjustments for unconsolidated partnerships and joint ventures will be calculated to reflect "Funds From Operations" on the same basis. In addition, "Funds from Operations" shall be adjusted to remove any impact of the expensing of acquisition costs pursuant to FAS 141 (revised), as issued by the Financial Accounting Standards Board in December of 2007, and effective January 1, 2009, including, without limitation, (i) the addition to Net Income of costs and expenses related to ongoing consummated acquisition transactions during such period; and (ii) the subtraction from Net Income of costs and expenses related to acquisition transactions terminated during such period.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantor Release Notice" has the meaning specified in Section 10.12(b).

"Guarantors" means, collectively, the REIT and each Subsidiary Guarantor.

"Guaranty" means the Guaranty made by the Guarantors under Article X in favor of the Creditor Parties.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Impacted Loans" has the meaning specified in Section 3.03(a).

"Increase Effective Date" has the meaning specified in Section 2.15(a).

"Incremental Commitments" has the meaning specified in Section 2.15(a).

"Incremental Revolving Commitment" has the meaning specified in Section 2.15(a).

"Incremental Term Commitment" has the meaning specified in Section 2.15(a).

"Incremental Term Loan" means an advance made by an Incremental Term Loan Lender under an Incremental Term Loan Facility.

"Incremental Term Loan Borrowing" means, with respect to any Incremental Term Loan Facility a borrowing consisting of simultaneous Incremental Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Incremental Term Loan Lenders with respect to such Incremental Term Loan Facility pursuant to the applicable Commitment Increase Amendment.

"Incremental Term Loan Facility" has the meaning specified in Section 2.15(a).

"Incremental Term Loan Lender" means, at any time, any Lender that holds an Incremental Term Loan.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(p) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(q) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances and similar instruments (including bank guaranties, surety bonds, comfort letters, keep-well agreements and capital

maintenance agreements) to the extent such instruments or agreements support financial, rather than performance, obligations;

(r) net obligations under any Permitted Swap Contract not entered into as a hedge against interest rate risk in respect of term Indebtedness existing at the time such Permitted Swap Contract is entered into, in an amount equal to the Swap Termination Value thereof;

(s) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days after the date on which such trade account payable was created);

(t) capital leases, Synthetic Lease Obligations, Synthetic Debt and Off-Balance Sheet Arrangements;

(u) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(v) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and

(w) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof: (a) the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person**,** (b) the Indebtedness of the Consolidated Group shall include, with respect to the foregoing items and components thereof attributable to Indebtedness of Non-Wholly Owned Consolidated Subsidiaries, only the Consolidated Group Pro Rata Share thereof, (c) the Indebtedness of the Consolidated Group shall include the Consolidated Group Pro Rata Share of the foregoing items and components thereof attributable to Indebtedness of Unconsolidated Affiliates, (d) the amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date and (e) the amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" has the meaning specified in Section 11.04(b).

"Indirect Owner" means, (a) as to any Unencumbered Property owned by or ground leased to a Subsidiary of the Borrower, each other Subsidiary of the Borrower that owns a direct or

indirect interest in the Direct Owner of such Unencumbered Property and (b) as to any Unencumbered First Mortgage Receivable held by a Subsidiary of the Borrower, each other Subsidiary of the Borrower that owns a direct or indirect interest in the Direct Owner of such Unencumbered First Mortgage Receivable.

"Information" has the meaning specified in Section 11.07.

"Interest Expense" means, for any period, without duplication, total interest expense of the Consolidated Group for such period (including the Consolidated Group Pro Rata Share of total interest expense attributable to the Consolidated Group's ownership interests in Unconsolidated Affiliates and, for the avoidance of doubt, capitalized interest); provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the total interest expense of such Non-Wholly Owned Consolidated Subsidiary for such period shall be included in Interest Expense.

"Interest Payment Date" means, (a) as to any Loan other than a Base Rate Loan or a LIBOR Floating Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates and (b) as to any Base Rate Loan and any LIBOR Floating Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

"Interest Period" means as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one or three months thereafter (in each case, subject to availability), as selected by the Borrower in its Committed Loan Notice, or such other period that is six months or less requested by the Borrower and consented to by all the Appropriate Lenders; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Eurodollar Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any

arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Grade Credit Rating" means receipt of a Debt Rating of Baa3 or better from Moody's or BBB- or better from S&P.

"Investment Grade Pricing Effective Date" means the first Business Day following the date on which (i) the REIT has obtained an Investment Grade Credit Rating and (ii) the Borrower has delivered to the Administrative Agent a certificate executed by a Responsible Officer of the Borrower (i) certifying that an Investment Grade Credit Rating has been obtained by the REIT and is in effect (which certification shall also set forth the Debt Rating(s) received, if any, from each Rating Agency as of such date) and (ii) notifying the Administrative Agent that the Borrower has irrevocably elected to have the Ratings-Based Applicable Rate apply to the pricing of the Facilities.

"Investment Grade Release" has the meaning specified in Section 10.12.

"IRS" means the United States Internal Revenue Service.

"ISDA Definitions" means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

"ISP" means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

"Issuer Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the applicable L/C Issuer and the Borrower (or any Subsidiary) or in favor of such L/C Issuer and relating to such Letter of Credit.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to each Revolving Credit Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuers" means, collectively, (i) Bank of America and (ii) Wells Fargo, in each case in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder; provided that for so long as any Existing Letter of Credit remains outstanding hereunder, the issuer of such Existing Letter of Credit shall continue to be the L/C Issuer with respect to such Existing Letter of Credit. Any L/C Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such L/C Issuer, in which case the term "L/C Issuer" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate. Each reference herein to the "L/C Issuer" in connection with a Letter of Credit or other matter shall be deemed to be a reference to the relevant L/C Issuer with respect thereto.

"L/C Obligations" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, including any automatic or scheduled increases provided for by the terms of such Letters of Credit, determined without regard to whether any conditions to drawing could be met at that time, plus (b) the aggregate amount of all Unreimbursed Amounts, including all L/C Borrowings. The L/C Obligations of any Revolving Credit Lender at any time shall be its Applicable Revolving Credit Percentage of the total L/C Obligations at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Article 29(a) of the UCP or Rule 3.13 or Rule 3.14 of the ISP or similar terms of the Letter of Credit itself, or if compliant documents have been presented but not yet honored, such Letter of Credit shall be deemed to be "outstanding" and "undrawn" in the amount so remaining available to be paid, and the obligations of the Borrower and each Revolving Credit Lender shall remain in full force and effect until the L/C Issuers and the Revolving Credit Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

"Lender" and "Lenders" have the meanings specified in the first introductory paragraph hereto.

"Lender Party" and "Lender Recipient Party" means collectively, the Lenders and the L/C Issuers.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

"Letter of Credit" means any standby letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"Letter of Credit Fee" has the meaning specified in Section 2.03(h).

"Letter of Credit Subfacility" means, at any time, an amount equal to the lesser of (a) the aggregate amount of the L/C Issuers' Letter of Credit Sublimits at such time and (b) the Revolving Credit Facility at such time. The Letter of Credit Subfacility is part of, and not in addition to, the Revolving Credit Facility. On the Closing Date, the amount of the Letter of Credit Subfacility is $60,000,000.

"Letter of Credit Sublimit" means, as to each L/C Issuer, its agreement as set forth in Section 2.03 to issue, amend and extend Letters of Credit in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such L/C Issuer's name on Schedule 2.01, or in the Assignment and Assumption, New Lender Joinder Agreement or other documentation, which other documentation shall be in form and substance satisfactory to the Administrative Agent, pursuant to which such L/C Issuer becomes an L/C Issuer hereunder, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Leverage-Based Applicable Rate" means the applicable percentages per annum set forth below determined by reference to the ratio of Total Indebtedness to Total Asset Value as set forth in the most recent Compliance Certificate received by the Administrative Agent and the Lenders pursuant to Section 6.02(b):

Leverage-Based Applicable Rate						
		Revolving Credit Facility			**Term Facility**	
Pricing Level	**Ratio of Total Indebtedness to Total Asset Value**	**Eurodollar Rate, LIBOR Daily Floating Rate and Letters of Credit**	**Base Rate**	**Facility Fee**	**Eurodollar Rate**	**Base Rate**
I	< 35%	1.250%	0.250%	0.200%	1.400%	0.400%
II	≥ 35% but < 40%	1.350%	0.350%	0.200%	1.500%	0.500%
III	≥ 40% but < 45%	1.400%	0.400%	0.200%	1.550%	0.550%
IV	≥ 45% but < 50%	1.450%	0.450%	0.250%	1.650%	0.650%

Leverage-Based Applicable Rate						
		Revolving Credit Facility			Term Facility	
Pricing Level	Ratio of Total Indebtedness to Total Asset Value	Eurodollar Rate, LIBOR Daily Floating Rate and Letters of Credit	Base Rate	Facility Fee	Eurodollar Rate	Base Rate
V	≥ 50% but < 55%	1.550%	0.550%	0.300%	1.800%	0.800%
VI	≥ 55%	1.700%	0.700%	0.350%	2.000%	1.000%

Any increase or decrease in the Leverage-Based Applicable Rate resulting from a change in the ratio of Total Indebtedness to Total Asset Value shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level VI shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered.

Notwithstanding anything to the contrary contained in this definition, (a) from the Closing Date through the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b) for the fiscal quarter ending June 30, 2021 the Leverage-Based Applicable Rate in effect shall be at Pricing Level II and (b) the determination of the Leverage-Based Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

"LIBOR" has the meaning specified in the definition of Eurodollar Rate.

"LIBOR Daily Floating Rate" for any day, a fluctuating rate of interest per annum equal to LIBOR as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by Administrative Agent from time to time), at approximately 11:00 a.m., London time, two (2) London Banking Days prior to such day, for Dollar deposits with a term of one (1) month commencing that day; provided that (x) to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate will be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate will be applied in a manner as otherwise reasonably determined by the Administrative Agent and (y) if the LIBOR Daily Floating Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"LIBOR Floating Rate Loan" means a Revolving Credit Loan that bears interest at a rate based on the LIBOR Daily Floating Rate.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, negative pledge, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan.

"Loan Documents" means this Agreement, including schedules and exhibits hereto, each Note, each Issuer Document, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this Agreement, the Fee Letters and any amendments, modifications or supplements hereto or to any other Loan Document or waiver hereof or to any other Loan Document.

"Loan Parties" means, collectively, **(a) at any time prior to the Investment Grade Release,** the Borrower and the Guarantors **and (b) upon and at any time following the Investment Grade Release, the Borrower, the Guarantors (if any) and the Owners**.

"London Banking Day" means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Material Acquisition" means any acquisition or series of acquisitions by a member of the Consolidated Group in which the aggregate purchase price of all assets (including any Equity Interests) acquired pursuant thereto exceeds ten percent (10%) of the Total Asset Value as of the last day of the then most recently ended fiscal quarter of the REIT for which financial statements are publicly available.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the REIT or the Borrower and its Subsidiaries taken as a whole; (b) a material adverse effect on the rights and remedies of the Administrative Agent or any Lender under any Loan Document or of the ability of the Loan Parties taken as a whole to perform their obligations under any Loan Document; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party involving aggregate consideration payable to or by such Person of $5,000,000 or more in any year or that is otherwise material to the business, condition (financial or otherwise), operations, performance, properties or prospects of such Person.

"Maturity Date" means (a) with respect to the Revolving Credit Facility, the later of (i) fourth anniversary of the Closing Date and (ii) if maturity is extended pursuant to Section 2.14, such extended maturity date as determined pursuant to such Section and (b) with respect to the Term Facility, the fifth anniversary of the Closing Date; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

"Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Minimum Collateral Amount" means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances an amount equal to 105% of the Fronting Exposure of all L/C Issuers with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the L/C Issuers in their sole discretion.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage Loan Receivable" means any loan or other note receivable owned by or held by the Borrower or a Wholly Owned Subsidiary of the Borrower that is a Domestic Subsidiary, in each case, secured by a mortgage or deed of trust on Real Property.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means, with respect to any issuance or sale by the REIT of any of its Equity Interests, the excess of (i) the sum of the cash and Cash Equivalents received by the REIT in connection with such issuance or sale, less (ii) underwriting discounts and commissions, and other reasonable out-of-pocket expenses, incurred by the REIT in connection with such issuance or sale, other than any such amounts paid or payable to an Affiliate of the REIT.

"Net Income" means, for any period, the sum, without duplication, of (i) the net income (or loss) of the REIT and its Wholly Owned Subsidiaries for such period and (ii) the aggregate amount of cash actually distributed by Non-Wholly Owned Subsidiaries and Unconsolidated Affiliates during such period to the REIT or its Wholly Owned Subsidiary as a dividend or other distribution; provided, however, that Net Income shall exclude (a) extraordinary gains and extraordinary losses for such period and (b) the net income of any Wholly Owned Subsidiary of the REIT during such period to the extent that the declaration or payment of dividends or similar distributions by such Wholly Owned Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Wholly Owned Subsidiary during such period, except that the REIT's equity in any net loss of any such Wholly Owned Subsidiary for such period shall be included in determining Net Income, and (and in the case of a dividend or other distribution to a Wholly Owned Subsidiary of the REIT, such Wholly Owned Subsidiary is not precluded from further distributing such amount to the REIT as described in clause (b) of this proviso).

"Net Operating Income" means, with respect to any Property for any period, an amount equal to (a) the aggregate gross revenues from the operation of such Property during such period from tenants (as determined in accordance with GAAP), minus (b) the sum of all expenses and other proper charges incurred in connection with the operation of such Property during such period

(including management fees (which deduction for management fees shall be an amount equal to the greater of (x) three percent (3.00%) of the aggregate base rent and percentage rent due and payable with respect to such Property during such period and (y) the aggregate amount of any actual management, advisory or similar fees paid during such period) and accruals for real estate taxes and insurance, but excluding debt service charges, income taxes, depreciation, amortization and other non-cash expenses), which expenses and accruals shall be calculated in accordance with GAAP.

"New Lender Joinder Agreement" means a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel pursuant to which an Eligible Assignee becomes a Lender.

"Newly Acquired Property" means, as of any date, a Property (other than a Development Property) that has been owned or ground leased for less than four full fiscal quarters as of such date.

"Newly Stabilized Property" means as of any date a Property that as of such date is not a Development Property, but was a Development Property at some time during the most recently ended period of four full fiscal quarters.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders, all Lenders of a Facility or all affected Lenders in accordance with the terms of Section 11.01 and (ii) has been approved by the Required Lenders or the Required Term Lenders or Required Revolving Lenders, as applicable.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-Recourse Indebtedness" means, with respect to a Person, (a) Indebtedness in respect of which recourse for payment (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability) is contractually limited to specific assets of such Person encumbered by a Lien securing such Indebtedness, (b) if such Person is a Single Asset Entity, any Indebtedness of such Person (other than Indebtedness described in the immediately following clause (c)), or (c) if such Person is a Single Asset Holding Company, any Indebtedness ("Holdco Indebtedness") of such Single Asset Holding Company resulting from a Guarantee of, or Lien securing, Indebtedness of a Single Asset Entity that is a Subsidiary of such Single Asset Holding Company, so long as, in each case, either (i) recourse for payment of such Holdco Indebtedness (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability) is contractually limited to the Equity Interests held by such Single Asset Holding Company in such Single Asset Entity or (ii) such Single Asset Holding Company has no assets other than Equity Interests in such Single Asset Entity and cash and other assets of nominal value incidental to the ownership of such Single Asset Entity.

"Non-Recourse Subsidiary" means a Subsidiary that (a) is not a ~~Specified Subsidiary~~**Loan Party** and (b) **is not a Specified Subsidiary, (c)** has no Indebtedness other than Non-Recourse

Indebtedness **and (d) has no assets other than (i) *de minimis* amounts of cash and (ii) assets securing Non-Recourse Indebtedness**.

"Non-Recourse Threshold Amount" means $90,000,000.

"Non-Wholly Owned Consolidated Subsidiary" means a Consolidated Subsidiary of the REIT that is not a Wholly Owned Subsidiary of the REIT.

"Note" means a Term Note, a Revolving Credit Note or a promissory note made by the Borrower in favor of an Incremental Term Loan Lender under an Incremental Term Loan Facility evidencing the Incremental Term Loans made by such Incremental Term Loan Lender under such Incremental Term Loan Facility substantially in a form agreed among the Borrowers, the Administrative Agent and such Incremental Term Loan Lenders, as the context may require.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Off-Balance Sheet Arrangement" means any transaction, agreement or other contractual arrangement to which a Non-Wholly Owned Subsidiary or an Unconsolidated Affiliate is a party, under which any member of the Consolidated Group has:

(x) any obligation under a guarantee contract that has any of the characteristics identified in FASB ASC 460-10-15-4;

(y) a retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;

(z) any obligation, including a contingent obligation, under a contract that would be accounted for as a derivative instrument, except that it is both indexed to the REIT's stock and classified in stockholders' equity in the REIT's statement of financial position, as described in FASB ASC 815-10-15-74; or

(aa) any obligation, including a contingent obligation, arising out of a variable interest (as defined in the FASB ASC Master Glossary) in an unconsolidated entity that is held by, and material to, any member of the Consolidated Group, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, any member of the Consolidated Group.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Rate Early Opt-in" means the Administrative Agent and the Borrower have elected to replace LIBOR with a Benchmark Replacement other than a SOFR-based rate pursuant to (1) an Early Opt-in Election and (2) Section 3.03(c)(ii) and paragraph (2) of the definition of "Benchmark Replacement".

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

"Outstanding Amount" means (i) with respect to Committed Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Committed Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

"Owner" means, as to any Unencumbered Property or Unencumbered First Mortgage Receivable, the Direct Owner of such Unencumbered Property or Unencumbered First Mortgage Receivable, as the case may be, or any Indirect Owner of such Direct Owner.

"Pari Passu Obligations" means Unsecured Indebtedness of any Loan Party (exclusive of the Obligations) owing to a Person that is not a member of the Consolidated Group or an Affiliate thereof.

"Participant" has the meaning specified in Section 11.06(d).

"Participant Register" has the meaning specified in Section 11.06(d).

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

"Permitted Equity Encumbrances" means

(bb) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(cc) Liens imposed by law for taxes, assessments, governmental charges or levies that are not yet due or are being contested in compliance with Section 6.04; and

(dd) Permitted Pari Passu Provisions.

"Permitted Pari Passu Provisions" means provisions that are contained in documentation evidencing or governing Pari Passu Obligations which provisions are the result of (a) limitations on the ability of a Loan Party or any of its Subsidiaries to make Restricted Payments or transfer property to the Borrower or any Guarantor which limitations, taken as a whole, are substantially the same as or less restrictive than those contained in this Agreement, (b) limitations on the creation of any Lien on any assets of a Loan Party that, taken as a whole, are substantially the same as or less restrictive than those contained in this Agreement or (c) any requirement that Pari Passu Obligations be secured on an "equal and ratable basis" to the extent that the Obligations are secured.

"Permitted Property Encumbrances" means:

(ee) Liens for taxes or condo or other similar assessments and fees, in each case not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted (which actions or proceedings have the effect of preventing the forfeiture or sale of the property or assets subject to any such Lien), if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(ff) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted (which

proceedings have the effect of preventing the forfeiture or sale of the property or assets subject to any such Lien), if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(gg) easements, zoning restrictions, rights of way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(hh) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(ii) the rights of tenants under leases and subleases entered into in the ordinary course of business; provided that (i) such leases and subleases contain market terms and conditions (excluding rent), (ii) such rights of tenants constituting Liens do not secure any Indebtedness and (iii) such leases and subleases do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of business of the applicable Person;

(jj) rights of lessors under Eligible Ground Leases; and

(kk) Permitted Pari Passu Provisions.

"Permitted Swap Contract" means shall mean any Swap Contract entered into in accordance with the terms and provisions of Section 7.17.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any ERISA Affiliate or any such Plan to which the Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

"Platform" has the meaning specified in Section 6.02.

"Pricing Grid" means (i) prior to the Investment Grade Pricing Effective Date, the pricing grid set forth in the definition of "Leverage-Based Applicable Rate" and (ii) on and after the Investment Grade Pricing Effective Date, the pricing grid set forth in the definition of "Ratings-Based Applicable Rate".

"Property" means any real property assets owned or leased or acquired by one or more of the Borrower and its Subsidiaries.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Lender" has the meaning specified in Section 6.02.

"Rating Agency" means any of S&P or Moody's.

"Ratings-Based Applicable Rate" means the applicable percentages per annum determined, at any time, based on the range into which the Debt Ratings then fall, in accordance with the following table:

Ratings-Based Applicable Rate						
		Revolving Credit Facility			**Term Facility**	
Pricing Level	**Debt Ratings (Moody's/S&P)**	**Eurodollar Rate, LIBOR Daily Floating Rate and Letters of Credit**	**Base Rate**	**Facility Fee**	**Eurodollar Rate**	**Base Rate**
I	≥ A- / A3	0.725%	0.000%	0.125%	0.800%	0.000%
II	BBB+ / Baa1	0.775%	0.000%	0.150%	0.850%	0.000%
III	BBB / Baa2	0.850%	0.000%	0.200%	1.000%	0.000%
IV	BBB- / Baa3	1.050%	0.050%	0.250%	1.250%	0.250%
V	< BBB- / Baa3 (or unrated)	1.400%	0.400%	0.300%	1.650%	0.650%

If at any time the REIT has two (2) Debt Ratings, and such Debt Ratings are not equivalent, then: (A) if the difference between such Debt Ratings is one ratings category (e.g. Baa2 by Moody's and BBB- by S&P), the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the higher of the Debt Ratings were used; and (B) if the difference between such Debt Ratings is two ratings categories (e.g. Baa1 by Moody's and BBB- by S&P) or more, the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the rating that is one higher than the lower of the applicable Debt Ratings were used.

Initially, the Ratings-Based Applicable Rate shall be determined based upon the Debt Rating(s) specified in the certificate delivered pursuant to clause (ii) of the definition of "Investment Grade Pricing Effective Date". Thereafter, each change in the Ratings-Based Applicable Rate resulting from a publicly announced change in a Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of delivery by the REIT to the Administrative Agent of notice thereof pursuant to Section 6.03(e) and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change.

"Real Property" means real property assets that are (a) owned or acquired by one or more Persons that are not members of the Consolidated Group, (b) located in the United States of

America and (c) either (i) a retail facility or (ii) a mixed-use facility with respect to which at least 75% of gross income is expected to be generated by the retail component of such facility.

"Recipient" means the Administrative Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recourse Indebtedness" means Indebtedness for borrowed money (other than Indebtedness under the Loan Documents) in respect of which recourse for payment is to any Loan Party, excluding any Indebtedness in which recourse for payment to any Loan Party is limited solely for fraud, misrepresentation, misapplication of cash, waste, failure to pay taxes, environmental claims and liabilities and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate guaranty or indemnification agreements in non-recourse financings of real estate. **For the avoidance of doubt, "Recourse Indebtedness" shall include Indebtedness arising under Guarantees by a Loan Party of Non-Recourse Indebtedness and Guarantees by a Loan Party of obligations under Swap Contracts to the extent that (x) such Guarantee provides for recourse to such Loan Party or any of its assets and (y) the guarantor's obligations under such Guarantee have become payable or cash collateral in respect thereof has been demanded. For purposes of Section 8.01(e) the amount of Recourse Indebtedness of such Loan Party arising under any such Guarantee shall be the maximum face amount payable by it thereunder.**

"Register" has the meaning specified in Section 11.06(c).

"REIT" has the meaning specified in the first introductory paragraph hereto.

"REIT Status" means, with respect to any Person, (a) the qualification of such Person as a real estate investment trust under the provisions of Sections 856 et seq. of the Code and (b) the applicability to such Person and its shareholders of the method of taxation provided for in Sections 857 et seq. of the Code.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, consultants, service providers and representatives of such Person and of such Person's Affiliates.

"Relevant Governmental Body" means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

"Relevant Payment" has the meaning specified in Section 10.11.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice and (b) with respect to an L/C Credit Extension, a Letter of Credit Application.

"Required Lenders" means, as of any date of determination, two or more Lenders having greater than 50% of the sum of (a) the Total Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) the aggregate unused Commitments; provided that the unused Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided further that, Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Revolving Credit Lender shall be deemed to be held by the applicable L/C Issuer in making such determination.

"Required Revolving Lenders" means, as of any date of determination, two or more Revolving Credit Lenders having greater than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders; provided further that, the amount of any participation in any Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Revolving Credit Lender shall be deemed to be held by the applicable L/C Issuer in making such determination.

"Required Subsidiary Guarantor" means (a) at all times prior to an Investment Grade Release, each Owner with respect to any Property to be included as an Unencumbered Property, and (b) upon and at all times following an Investment Grade Release, each Owner with respect to any Property to be included as an Unencumbered Property (if any) that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities), but only for so long as such Subsidiary remains obligated in respect of such Unsecured Indebtedness, in each case under clauses (a) and (b), together with their successors and permitted assigns, in each case, to the extent such Subsidiary has not been released from its obligations hereunder in accordance with Section 10.12.

"Required Term Lenders" means, as of any date of determination, two or more Term Lenders having greater than 50% of the Term Facility on such date; provided that the portion of the Term Facility held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Term Lenders.

"Rescindable Amount" has the meaning specified in Section 2.12(b)(ii).

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means (a) in the case of the Borrower, (i) the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) designated as an "Authorized Signer" in Section I of the Borrower's Instruction Certificate, (ii) solely for

purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) designated as an "Authorized Person" in Section II of the Borrower's Instruction Certificate, (b) in the case of any other Loan Party that has one or more officers, (i) the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the applicable Loan Party for whom the Administrative Agent has received an incumbency certificate, (ii) solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the applicable Loan Party and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent and for whom the Administrative Agent has received an incumbency certificate, and (c) in the case of any other Loan Party that does not have any officers, (i) the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the general partner, manager, managing member or member, as applicable, of such Loan Party for whom the Administrative Agent has received an incumbency certificate, (ii) solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the general partner, manager, managing member or member, as applicable, of such Loan Party and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the general partner, manager, managing member or member, as applicable, of such Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent and for whom the Administrative Agent has received an incumbency certificate. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party (or general partner, manager, managing member or member, as applicable, of such Loan Party) and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any Subsidiary thereof, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to such Person's stockholders, partners or members (or the equivalent Person thereof).

"Revolving Credit Borrowing" means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(a).

"Revolving Credit Commitment" means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrower pursuant to Section 2.01(a) and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Revolving Credit Commitment" or opposite such caption in the Assignment and Assumption or

New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Revolving Credit Exposure" means, as to any Revolving Credit Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Credit Loans and such Lender's participation in L/C Obligations at such time.

"Revolving Credit Facility" means, at any time, the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments at such time. On the Closing Date, the Revolving Credit Facility is $300,000,000.

"Revolving Credit Lender" means, at any time, any Lender that has a Revolving Credit Commitment at such time.

"Revolving Credit Loan" has the meaning specified in Section 2.01(a).

"Revolving Credit Note" means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans made by such Lender, substantially in the form of Exhibit C-1.

"S&P" means S&P Global Ratings, a division of S&P Global, and any successor to its rating agency business.

"Sanction(s)" means any sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Second Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Secured Indebtedness" means, with respect to any Person, all Indebtedness of such Person that is secured by a Lien on any asset (including without limitation any Equity Interest) owned or held by any Person or any Subsidiary thereof; provided that a negative pledge shall not, in and of itself, cause any Indebtedness to be considered to be Secured Indebtedness.

"Secured Recourse Indebtedness" means, with respect to any Person, Recourse Indebtedness of such Person that is secured by a Lien.

"Single Asset Entity" means a Person (other than an individual) that (a) only owns or leases pursuant to an Eligible Ground Lease a single real property and/or cash and other assets of nominal value incidental to such Person's ownership of such real property; (b) is engaged only in the business of owning, developing and/or leasing such real property; and (c) receives substantially all of its gross revenues from such real property. In addition, if the assets of a Person consist solely of (i) Equity Interests in one or more other Single Asset Entities and (ii) cash and other assets of nominal value incidental to such Person's ownership of the other Single Asset Entities, such Person

shall also be deemed to be a Single Asset Entity for purposes of this Agreement (such an entity, a "Single Asset Holding Company").

"Single Asset Holding Company" has the meaning specified in the definition of Single Asset Entity.

"SOFR" has the meaning specified in the definition of Daily Simple SOFR.

"SOFR Early Opt-in" means the Administrative Agent and the Borrower have elected to replace LIBOR pursuant to (1) an Early Opt-in Election and (2) Section 3.03(c)(i) and paragraph (1) of the definition of "Benchmark Replacement".

"Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Solvency Certificate" means a Solvency Certificate of the chief financial officer or the chief accounting officer of the REIT, substantially in the form of Exhibit I.

"Specified Event of Default" means any Event of Default other than an Event of Default arising under (a) Section 8.01(b) solely from the Borrower's or another Loan Party's failure to perform or observe any term, covenant or agreement contained in any of Sections 6.01(c), 6.02(c), (e) or (h), 6.05(a) (solely with respect to a Subsidiary that is not a Loan Party), (b) or (c), or 6.10 or (b) Section 8.01(c).

"Specified Subsidiary" means any Subsidiary that (a) is not ~~an Owner~~**a Loan Party**, and (b) would not be a Subsidiary but for the governing body or management of such Subsidiary being controlled, directly, or indirectly through one or more intermediaries, or both, by the REIT or its Subsidiaries.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the REIT.

"Subsidiary Guarantor" means, at any time, a Subsidiary that at such time is a party to the Guaranty.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"Synthetic Debt" means, with respect to any Person as of any date of determination thereof, all obligations of such Person in respect of transactions entered into by such Person that are intended to function primarily as a borrowing of funds (including any minority interest transactions that function primarily as a borrowing) but are not otherwise included in the definition of "Indebtedness" or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Tangible Net Worth" means, for the Consolidated Group as of any date of determination, (a) total equity of the Consolidated Group, minus (b) all intangible assets of the Consolidated Group (other than lease intangibles), plus (c) all accumulated depreciation and amortization of the Consolidated Group, in each case on a consolidated basis determined in accordance with GAAP; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the

Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Tangible Net Worth.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Borrowing" means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to Section 2.01(b).

"Term Commitment" means, as to each Lender, its obligation to make and/or hold Term Loans to the Borrower pursuant to Section 2.01(b) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender's name on Schedule 2.01 under the caption "Term Commitment" or opposite such caption in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Term Facility" means, (a) at any time on or prior to the Closing Date, the aggregate amount of the Term Lenders' Term Commitments at such time and (b) at any time after the Closing Date, the aggregate amount of Term Loans of all Term Lenders outstanding at such time. On the Closing Date, the Term Facility is $400,000,000.

"Term Lender" means (a) at any time on or prior to the Closing Date, any Lender that has a Term Commitment at such time and (b) at any time after the Closing Date, any Lender that holds a Term Loan at such time.

"Term Loan" means an advance made by a Term Lender under the Term Facility.

"Term Note" means a promissory note made by the Borrower in favor of a Term Lender evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit C-2.

"Term SOFR" means, for the applicable corresponding tenor (or if any Available Tenor of a Benchmark does not correspond to an Available Tenor for the applicable Benchmark Replacement, the closest corresponding Available Tenor and if such Available Tenor corresponds equally to two Available Tenors of the applicable Benchmark Replacement, the corresponding tenor of the shorter duration shall be applied), the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Threshold Amount" means $30,000,000.

"Total Asset Value" means, with respect to the Consolidated Group as at any date of determination, without duplication, the sum of the following:

(ll) for each Property other than any Property that as of such date (i) was sold or otherwise disposed of during the then most recently ended fiscal quarter or (ii) is either (x) a Newly Acquired Property, (y) a Newly Stabilized Property or (z) a Development

Property, an amount equal to the Net Operating Income from such Property for the then most recently ended period of four consecutive fiscal quarters, *divided by* the Capitalization Rate, plus

(mm) for (i) each Newly Acquired Property that has been owned or ground leased for less than one full fiscal quarter as of such date, the acquisition cost of such Property, and (ii) (x) each Newly Stabilized Property that has been a Newly Stabilized Property for less than one full fiscal quarter as of such date and (y) each Development Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, plus

(nn) for (i) each Newly Acquired Property that has been owned or ground leased for at least one full fiscal quarter but less than four full fiscal quarters as of such date and (ii) each Newly Stabilized Property that has been a Newly Stabilized Property for at least one full fiscal quarter but less than four full fiscal quarters as of such date, in each case under clauses (i) and (ii), excluding any such Property that was sold or otherwise disposed of during the then most recently ended fiscal quarter, either

(A) in the case of a Newly Acquired Property, the acquisition cost of such Property and, in the case of a Newly Stabilized Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, or

(B) if the Borrower has made an irrevocable election to value such Property in accordance with this clause (c)(B), then

(II) if such Property has been a Newly Stabilized Property for at least one full fiscal quarter but less than two full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such fiscal quarter, *multiplied by* 4, *divided by* the Capitalization Rate,

(III) if such Property has been owned or ground leased (in the case of a Newly Acquired Property) or has been a Newly Stabilized Property (in the case of a Newly Stabilized Property) for at least two full fiscal quarters but less than three full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such two fiscal quarter period, multiplied by 2, divided by the Capitalization Rate,

(IV) if such Property has been owned or ground leased (in the case of a Newly Acquired Property) or has been a Newly Stabilized Property (in the case of a Newly Stabilized Property) for at least three full fiscal quarters but less than four full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such three fiscal quarter period, *multiplied by* 4/3, *divided by* the Capitalization Rate; plus

(oo) fee income generated by the Consolidated Group from (i) asset and property management fees, (ii) development fees, (iii) construction fees and (iv) leasing fees, in each case for the then most recently ended period of four consecutive fiscal quarters, then *multiplied by* five, provided that if at any time the amount under this clause (d) exceeds

15% of Total Asset Value at such time, such excess fee income shall be excluded from the calculation of Total Asset Value at such time, plus

(pp) the aggregate book value of all unimproved land holdings, mortgage or mezzanine loans and/or notes receivable owned by the Consolidated Group on such date, plus

(qq) all Unrestricted Cash of the Consolidated Group existing on such date, plus

(rr) the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in Unconsolidated Affiliates on such date; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of clauses (a) through (f) attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Asset Value.

Notwithstanding the foregoing, for purposes of calculating Total Asset Value at any time the contribution for certain types of Investments shall be limited, without duplication, as follows (in each case, calculated on the basis of the Consolidated Group Pro Rata Share of such Investment consistent with the foregoing) with any excess over such limit being excluded from Total Asset Value:

(i) not more than 5% of the Total Asset Value at any time may be attributable to Investments in unimproved land holdings (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns unimproved land holdings);

(ii) not more than 15% of the Total Asset Value at any time may be attributable to Investments (whether originated or acquired by the REIT or a Subsidiary thereof) consisting of commercial mortgage or mezzanine loans and commercial real estate-related notes receivable;

(iii) not more than 15% of the Total Asset Value at any time may be attributable to Investments in respect of Development Properties, excluding for purposes of this clause (iii) the Property located at 2675 Geary Blvd, San Francisco, California ("City Center");

(iv) not more than 10% of the Total Asset Value at any time may be attributable to Investments in any Unconsolidated Affiliates (including through the purchase or other acquisition of Equity Interests of any Unconsolidated Affiliate);

(v) not more than 5% of the Total Asset Value at any time may be attributable to Investments in real property assets that are not retail properties (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns real property assets that are not retail properties); and

(vi) not more than 25% of the Total Asset Value at any time may be attributable to the aggregate of Investments of the types set forth in clauses (i) though (v) above.

"Total Credit Exposure" means, as to any Lender at any time, the Applicable Percentage of the Term Facility, the unused Revolving Credit Commitment and Revolving Credit Exposure of such Lender at such time.

"Total Indebtedness" means, as at any date of determination, the aggregate amount of all Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Indebtedness.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"Total Revolving Credit Outstandings" means the aggregate Outstanding Amount of all Revolving Credit Loans and L/C Obligations.

"Total Secured Indebtedness" means, as at any date of determination, the aggregate amount of all Secured Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Secured Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Secured Indebtedness.

"Total Unsecured Indebtedness" means, as at any date of determination, the aggregate amount of all Unsecured Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Unsecured Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Unsecured Indebtedness.

"Type" means, with respect to a Committed Loan, its character as a Base Rate Loan, LIBOR Daily Floating Rate Loan or a Eurodollar Rate Loan.

"UCP" means the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (or such later version thereof as may be in effect at the applicable time).

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unconsolidated Affiliate" means, at any date, an Affiliate of the REIT whose financial results are not required to be consolidated with the financial results of the REIT in accordance with GAAP.

"Unencumbered Asset Value" means, at any time for the Consolidated Group, without duplication, the sum of the following:

(ss) Unencumbered NOI of all Unencumbered Properties (other than Development Properties, Newly Acquired Properties and Unencumbered Properties that were acquired during the then most recently ended period of four fiscal quarters) *divided by* the Capitalization Rate, plus

(tt) the aggregate acquisition cost of all Unencumbered Properties acquired during the then most recently ended period of four fiscal quarters, plus

(uu) for each Unencumbered Property that is (i) a Newly Stabilized Property that has been a Newly Stabilized Property for less than one full fiscal quarter as of such date and (ii) a Development Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, plus

(vv) for each Unencumbered Property that is a Newly Stabilized Property that has been a Newly Stabilized Property for at least one full fiscal quarter but less than four full fiscal quarters as of such date, excluding any such Property that was sold or otherwise disposed of during the then most recently ended fiscal quarter, either

(A) the undepreciated cost of such Property (after any impairments) in accordance with GAAP, or

(B) if the Borrower has made an irrevocable election to value such Property in accordance with this clause (d)(B), then

(II) if such Unencumbered Property has been a Newly Stabilized Property for at least one full fiscal quarter but less than two full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such fiscal quarter, *multiplied by* 4, *divided by* the Capitalization Rate,

(III) if such Unencumbered Property has been a Newly Stabilized Property for at least two full fiscal quarters but less than three full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such two fiscal quarter period, multiplied by 2, divided by the Capitalization Rate, or

(IV) if such Property has been a Newly Stabilized Property for at least three full fiscal quarters but less than four full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such three fiscal quarter period, *multiplied by* 4/3, *divided by* the Capitalization Rate, plus

(ww) the aggregate book value of all Unencumbered First Mortgage Receivables.

Notwithstanding the foregoing, for purposes of calculating Unencumbered Asset Value at any time, the contribution for certain types of Investments shall be limited, without duplication, as follows (in each case, calculated on the basis of the Consolidated Group Pro Rata Share of such Investment consistent with the foregoing) with any excess over such limit being excluded from Unencumbered Asset Value:

(i) not more than 10% of Unencumbered Asset Value at any time may be attributable to Development Properties and Newly Stabilized Properties, other than (x) City Center and (y) Newly Stabilized Properties with an occupancy rate of at least 75% for which the Borrower has made the irrevocable election pursuant to clause (d)(B) above;

(ii) not more than 10% of Unencumbered Asset Value at any time may be attributable to Unencumbered First Mortgage Receivables;

(iii) not more than 5% of Unencumbered Asset Value at any time may be attributable to Unencumbered Properties owned by a Controlled Joint Venture; and

(iv) not more than 15% of Unencumbered Asset Value at any time may be attributable to the aggregate of assets of the types set forth in clauses (i) through (iii) above.

"Unencumbered First Mortgage Receivable" means any Mortgage Loan Receivable that meets each of the following criteria:

(xx) such Mortgage Loan Receivable is secured by a first mortgage or a first deed of trust on Real Property;

(yy) (i) prior to the Investment Grade Release, each Owner of such Mortgage Loan Receivable is a Subsidiary Guarantor and (ii) following the Investment Grade Release, each Owner of such Mortgage Loan Receivable that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities) is a Subsidiary Guarantor;

(zz) none of the Equity Interests of any Owner of such Mortgage Loan Receivable are subject to any Liens (including, without limitation, any restriction contained in the organizational documents of any such Subsidiary that limits the ability to create a Lien thereon as security for indebtedness) other than Permitted Equity Encumbrances;

(aaa) such Mortgage Loan Receivable (and the income therefrom and proceeds thereof) is not subject to any negative pledge and/or other encumbrance or restriction on the ability of any Owner thereof to Dispose of, pledge, transfer or otherwise encumber such Mortgage Loan Receivable or any income therefrom or proceeds thereof (other than Permitted Pari Passu Provisions);

(bbb) no Owner of such Mortgage Loan Receivable is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness (other than (i) Indebtedness under the Loan Documents and (ii) other Unsecured Indebtedness so long as such Person is also a Subsidiary Guarantor);

(ccc) no Owner of such Mortgage Loan Receivable, nor any mortgagor or grantor with respect thereto, is subject to any proceedings under any Debtor Relief Law; and

(ddd) the mortgagor or grantor with respect to such Mortgage Loan Receivable is not delinquent sixty (60) days or more in interest or principal payments due thereunder.

"Unencumbered NOI" means, at any time for the Consolidated Group, the sum of the Net Operating Income of all Unencumbered Properties for the then most recently ended period of four consecutive fiscal quarters, minus Net Operating Income attributable to Unencumbered Properties that were Disposed of by the Consolidated Group during such period, minus the aggregate Annual Capital Expenditure Adjustment for such period with respect to all Unencumbered Properties.

"Unencumbered Property" means any Property that meets each of the following criteria:

(eee) such Property is either (i) a retail facility or (ii) a mixed-use facility with respect to which at least 75% of gross income is generated by the retail component of such facility;

(fff) such Property is located in the United States of America;

(ggg) such Property is Wholly-Owned in fee simple directly by, or is ground leased pursuant to an Eligible Ground Lease directly to, a Wholly Owned Subsidiary of the Borrower or a Controlled Joint Venture;

(hhh) (i) prior to the Investment Grade Release, each Owner of such Property is a Subsidiary Guarantor and (ii) following the Investment Grade Release, each Owner of such Property that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities) is a Subsidiary Guarantor;

(iii) each Owner of such Property is organized in a state within the United States of America;

(jjj) none of the Equity Interests of any Owner of such Property owned by a Subsidiary of the Borrower are subject to any Liens (including, without limitation, any restriction contained in the organizational documents of any such Subsidiary that limits the ability to create a Lien thereon as security for indebtedness) other than Permitted Equity Encumbrances;

(kkk) such Property (and the income therefrom and proceeds thereof) is not subject to any negative pledge and/or other encumbrance or restriction on the ability of any Owner of such Property to Dispose of, pledge, transfer or otherwise encumber such Property or

any income therefrom or proceeds thereof (other than Permitted Property Encumbrances) and is not subject to any ground lease (other than an Eligible Ground Lease);

(lll) such Property is free of all title, survey and other defects that would interfere with the use of such property for its intended purpose in any material respect;

(mmm) such Property is free of Hazardous Materials except as would not materially affect the value of such Property;

(nnn) no Owner of such Property is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness (other than (i) Indebtedness under the Loan Documents and (ii) other Unsecured Indebtedness so long as such Person is also a Subsidiary Guarantor); and

(ooo) no Owner of such Property is subject to any proceedings under any Debtor Relief Law.

"United States" and "U.S." mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unrestricted Cash" means, at any time, (a) the aggregate amount of cash and Cash Equivalents of a Person at such time that are not subject to any pledge, Lien or control agreement (excluding statutory Liens in favor of any depositary bank where such cash and Cash Equivalents are maintained), minus (b) amounts included in the foregoing clause (a) that are held by a Person other than a member of the Consolidated Group as a deposit or security for Contractual Obligations.

"Unsecured Indebtedness" means, with respect to any Person, all Indebtedness of such Person that is not Secured Indebtedness, including Indebtedness under the Loan Documents.

"Unsecured Interest Expense" means, for any period, the portion of Interest Expense for such period in respect of Total Unsecured Indebtedness determined in accordance with GAAP.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(III).

"USA PATRIOT Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Usage" means, with respect to any day, the ratio (expressed as a percentage) of (a) the sum of (i) the Outstanding Amount of Revolving Credit Loans on such day and (ii) the Outstanding Amount of L/C Obligations on such day to (b) the Revolving Credit Commitments in effect on such day.

"Wells Fargo" means Wells Fargo Bank, National Association and its successors.

"Wholly-Owned" means, with respect to the ownership by any Person of any Property, that one hundred percent (100%) of the title to such Property is held in fee directly or indirectly by, or one hundred percent (100%) of such Property is ground leased pursuant to an Eligible Ground Lease directly or indirectly by, such Person.

"Wholly Owned Subsidiary" means, as to any Person, (a) any corporation 100% of whose Equity Interests (other than directors' qualifying shares) is at the time owned by such Person and/or one or more Wholly Owned Subsidiaries of such Person and (b) any partnership, association, joint venture, limited liability company or other entity in which such Person and/or one or more Wholly Owned Subsidiaries of such Person have a 100% equity interest at such time; provided that, solely for purposes of clause (c) of the definition of "Unencumbered Property", the term Wholly Owned Subsidiary shall include a Controlled Joint Venture.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, amendments and restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions and all orders consolidating, amending, replacing or interpreting such law and any reference to any law, rule or regulation shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified or

supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a Division as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of any member of the Consolidated Group shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the REIT and its Subsidiaries or to the determination of any amount for the REIT and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the REIT is required to consolidate pursuant to FASB ASC 810 as if such variable interest entity were a Subsidiary as defined herein.

1.04 Rounding. Any financial ratios required to be maintained by one or more Loan Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day; Rates. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable). The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Eurodollar Rate" or "LIBOR Daily Floating Rate" or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Benchmark Replacement) or the effect of any of the foregoing, or of any Benchmark Replacement Conforming Changes.

1.06 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Committed Loans.

(a) Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Revolving Credit Loan") to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility and (ii) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(a), prepay under Section 2.05, and reborrow under this Section 2.01(a). Revolving Credit Loans may be Base Rate Loans, LIBOR Floating Rate Loans or Eurodollar Rate Loans, as further provided herein.

(b) The Term Borrowing. Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a single loan to the Borrower on the Closing Date in an amount not to exceed such Term Lender's Term Commitment; provided, however, that after giving effect to any such Term Borrowing, (x) the aggregate Outstanding Amount of all Term Loans shall not exceed the Term Facility and (y) the Outstanding Amount of all Term Loans made by such Term Lender shall not exceed such Term Lender's Term Commitment. Term Loans that are repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Committed Loans.

(a) Each Committed Borrowing, each conversion of Committed Loans from one Type to another, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Committed Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such Committed Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans or LIBOR Daily Floating Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans or LIBOR Floating Rate Loans or conversion of Base Rate Loans to LIBOR Floating Rate Loans or LIBOR Floating Rate Loans to Base Rate Loans; provided, however, that if the Borrower wishes to request Eurodollar Rate Loans having an Interest Period other than one, two or three months in duration as provided in the definition of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the Appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to all of them. Not later than 11:00 a.m., three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the Appropriate Lenders. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof. Except as provided in Section 2.03(c), each Borrowing of or conversion to Base Rate Loans or LIBOR Floating Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Committed Loan Notice shall specify (i) whether the Borrower is requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to another, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, converted or continued, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice for (i) a Revolving Credit Loan or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Revolving Credit Loan, then the applicable Revolving Credit Loans shall be made as, or converted to, LIBOR Floating Rate Loans, and (ii) a Term Loan or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Term Loan, then the applicable Term Loans shall be made as, or

converted to, Base Rate Loans. Any such automatic conversion to LIBOR Floating Rate Loans or Base Rate Loans, as the case may be, shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Appropriate Lender of the details of any automatic conversion to LIBOR Floating Rate Loans or Base Rate Loans, as the case may be, described in the preceding subsection. In the case of a Term Borrowing or a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Committed Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the Term Borrowing, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower in the Borrower Remittance Instructions; provided, however, that if, on the date the Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate.

(e) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to another, and all continuations of Committed Loans as the same Type, there shall not be more than seven Interest Periods in effect with respect to Committed Loans.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent, and such Lender.

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the Availability Period, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Subfacility. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued by the applicable L/C Issuer pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) No L/C Issuer shall issue any Letter of Credit, if, subject to Section 2.03(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless, subject to Section 2.03(b)(v), the Administrative Agent and the applicable L/C Issuer have approved such expiry date; provided that in no event will any Letter of Credit have an expiry date that is later than the first anniversary of the Maturity Date for the Revolving Credit Facility.

(iii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing the Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was

not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, the Letter of Credit is in an initial stated amount less than $500,000;

(D) the Letter of Credit is to be denominated in a currency other than Dollars;

(E) any Revolving Credit Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Borrower or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.17(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion; or

(F) after giving effect to any L/C Credit Extension with respect to such Letter of Credit, the L/C Obligations with respect to all Letters of Credit issued by such L/C Issuer would exceed such L/C Issuer's Letter of Credit Sublimit; provided that, subject to the limitations set forth in the proviso to the first sentence of Section 2.03(a)(i), any L/C Issuer in its sole discretion may issue Letters of Credit in excess of its Letter of Credit Sublimit.

(iv) No L/C Issuer shall amend or extend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) No L/C Issuer shall be under no obligation to amend or extend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and such L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to each L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letter of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, by a single L/C Issuer selected by the Borrower, upon the request of the Borrower delivered to such L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by such L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require. Additionally, the Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless such L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application in respect of a Letter of Credit, the applicable L/C Issuer may, in its sole discretion, agree to issue a

Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by such L/C Issuer, the Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) such L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the first anniversary of the Maturity Date for the Revolving Credit Facility, subject to the requirements of Section 2.03(b)(v); provided that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone (if promptly confirmed in writing) or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing such L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(v) If the expiry date of any Letter of Credit would occur after the Maturity Date for the Revolving Credit Facility, the Borrower hereby agrees that it will at least thirty (30) days prior to such Maturity Date (or, in the case of a Letter of Credit issued, amended or extended on or after thirty (30) days prior to the Maturity Date for the Revolving Credit Facility, on the date of such issuance, amendment or extension, as applicable) Cash Collateralize such Letter of Credit in an amount equal to 105% of the L/C Obligations arising or expected to arise in connection with such Letter of Credit.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof (such notification provided by an L/C Issuer to the Borrower and the Administrative Agent being referred to herein as an "L/C Draw Notice"). If an L/C Draw Notice with respect to a Letter of Credit is received by the Borrower (x) on or prior to 11:00 a.m. on the date of any payment by such L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), then, not later than 1:00 p.m. on the Honor Date, the Borrower shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing or (y) after 11:00 a.m. on the Honor Date, then, not later than 11:00 a.m. on the first Business Day following the Honor Date, the Borrower shall

reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing (such date on which the Borrower, pursuant to clauses (x) and (y) of this sentence, is required to reimburse an L/C Issuer for a drawing under a Letter of Credit is referred to herein as the "L/C Reimbursement Date"); provided that if the L/C Reimbursement Date for a drawing under a Letter of Credit is the Business Day following the Honor Date pursuant to clause (y) of this sentence, the Unreimbursed Amount shall accrue interest from and including the Honor Date until such time as the applicable L/C Issuer is reimbursed in full therefor (whether through payment by the Borrower and/or through a Revolving Credit Loan or L/C Borrowing made in accordance with paragraph (ii) or (iii) of this Section 2.03(c)) at a rate equal to (A) for the period from and including the Honor Date to but excluding the first Business Day to occur thereafter, the rate of interest then applicable to a Base Rate Revolving Credit Loan and (B) thereafter, at the Default Rate applicable to a Base Rate Revolving Credit Loan. Interest accruing on the Unreimbursed Amount pursuant to the proviso to the immediately preceding sentence shall be payable by the Borrower upon demand to the Administrative Agent, solely for the account of the applicable L/C Issuer. If the Borrower fails to so reimburse the applicable L/C Issuer for the full amount of the unreimbursed drawing (the "Unreimbursed Amount") in accordance with the preceding sentence on the applicable L/C Reimbursement Date, the Administrative Agent shall promptly notify each Lender that a payment was made on the Letter of Credit, the Honor Date, the L/C Reimbursement Date (if different from the Honor Date), the Unreimbursed Amount thereof, and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the L/C Reimbursement Date or, if the L/C Reimbursement Date is the Honor Date, the Business Day following the L/C Reimbursement Date, in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice) and upon the funding of such Revolving Credit Borrowing by the Lenders and remittance thereof to the applicable L/C Issuer together with any interest payable on the Unreimbursed Amount in accordance with the proviso to the second sentence of this Section 2.03(c)(i) (which interest shall be included in the amount of such Revolving Credit Borrowing unless the inclusion of such interest would result in such Revolving Credit Borrowing failing to comply with the proviso to the first sentence of Section 2.01(a)), the failure to pay such Unreimbursed Amount shall be cured. Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 3:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed

to have made a Base Rate Revolving Credit Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of an L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan

included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing to such L/C Issuer under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after an L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse each L/C Issuer for each drawing under each Letter of Credit issued by such L/C Issuer and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), such L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by such L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of the Borrower or any waiver by such L/C Issuer which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by such L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by such L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any Subsidiary.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against such L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable or responsible for any of the matters

described in clauses (i) through (viii) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an L/C Issuer, and an L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, an L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. An L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("**SWIFT**") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the applicable L/C Issuer and the Borrower when a Letter of Credit is issued by it (including any such agreement applicable to an Existing Letter of Credit), the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Borrower for, and no L/C Issuer's rights and remedies against the Borrower shall be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance, subject to Section 2.17, with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate for the Revolving Credit Facility times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the tenth Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date for the Revolving Credit Facility and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate for the Revolving Credit Facility during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate for the Revolving Credit Facility separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers. The Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum equal to the percentage separately agreed upon between the Borrower and such L/C Issuer, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date for the Revolving Credit Facility and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the applicable L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Revolving Lenders (or, if the maturity of the Loans has been accelerated, Revolving Credit Lenders with L/C Obligations representing at least 66-2/3% of the total L/C Obligations) demanding the deposit of cash collateral pursuant to this clause (j), the Borrower shall promptly (and in any event within one (1) Business Day of such notice) deposit into a non-interest bearing deposit account established and maintained on the books and records of the Administrative Agent (the "Collateral Account") an amount in cash equal to 105% of the total L/C Obligations as of such date plus any accrued and unpaid interest thereon, provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall be immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (f) of Section 8.01. Such deposit shall be held by the Administrative Agent in cash as collateral for the payment and performance of the obligations of the Borrower under this Agreement. In addition, and without limiting the foregoing or Section 2.03(a)(ii) or Section 2.03(b)(v), if any L/C Obligations remain outstanding after the expiration date specified in Section 2.03(a)(ii), the Borrower shall immediately deposit into the Collateral Account an amount in cash equal to 105% of such L/C Obligations as of such date plus any accrued and unpaid interest thereon.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Collateral Account. Moneys in the Collateral Account shall be applied by the Administrative Agent to reimburse each L/C Issuer for L/C Disbursements for which it has not been reimbursed, together with related fees, costs, and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the L/C Obligations at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Credit Lenders with L/C Obligations representing 66-2/3% of the total L/C Obligations), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(l) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse, indemnify (as and to the extent contemplated by this Agreement) and compensate (as and to the extent contemplated by this Agreement) the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit as if such Letter of Credit had been issued solely for the account of the Borrower. The Borrower irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(m) L/C Issuer Reports to Administrative Agent. Unless otherwise agreed by the Administrative Agent, each L/C Issuer shall, in addition to its notification obligations set forth elsewhere in this Section, provide the Administrative Agent with written reports from time to time, as follows:

(i) reasonably prior to the time that such L/C Issuer issues, amends, renews, increases or extends a Letter of Credit, a written report that includes the date of such issuance, amendment, renewal, increase or extension and the stated amount and currency of the applicable Letters of Credit after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed);

(ii) on each Business Day on which such L/C Issuer makes a payment pursuant to a Letter of Credit, a written report that includes the date and amount of such payment;

(iii) on any Business Day on which the Borrower fails to reimburse a payment made pursuant to a Letter of Credit required to be reimbursed to such L/C Issuer on such day, a written report that includes the date of such failure and the amount of such payment;

(iv) on any other Business Day, a written report that includes such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such L/C Issuer; and

(v) (x) on the last Business Day of each calendar month and (y) on each date that (1) an L/C Credit Extension occurs or (2) there is any expiration, cancellation and/or disbursement, in each case, with respect to any Letter of Credit issued by such L/C Issuer, a written report that includes the information for every outstanding Letter of Credit issued by such L/C Issuer.

2.04 [Reserved].

2.05 Prepayments.

(a) Optional Prepayments. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (A) such notice must be in a form acceptable to the Administrative Agent and be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Committed Loans or LIBOR Floating Rate Loans; (B) any prepayment of Eurodollar Rate Loans shall be in a minimum principal amount of $5,000,000; and (C) any prepayment of Base Rate Committed Loans or LIBOR Floating Rate Loans shall be in a minimum principal amount of $500,000, or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Committed Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.17, each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages in respect of the relevant Facilities.

(b) Mandatory Prepayments.

(i) If for any reason the Total Revolving Credit Outstandings exceed the Revolving Credit Facility then in effect, the Borrower shall immediately (x) prepay Loans (including L/C Borrowings) and/or (y) Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount necessary to cause Total Revolving Credit Outstandings to equal or be less than the Revolving Credit Facility then in effect; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b) unless after the prepayment in full of the Revolving Credit Loans the Total Revolving Credit Outstandings exceed the Revolving Credit Facility then in effect.

(ii) Prepayments made pursuant to this Section 2.05(b)(i), first, shall be applied ratably to the L/C Borrowings, second, shall be applied ratably to the outstanding Revolving Credit Loans, and third, shall be deposited into the Collateral Account and used to Cash Collateralize the remaining L/C Obligations. Upon a drawing under any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any other Loan Party) to reimburse the L/C Issuers or the Revolving Credit Lenders, as applicable.

2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Facility or the Letter of Credit Subfacility, or from time to time permanently reduce the Revolving Credit Facility or the Letter of Credit Subfacility; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $10,000,000 or any whole multiple of $1,000,000 in excess thereof and (iii) the Borrower shall not terminate or reduce (x) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility or (y) the Letter of Credit Subfacility if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Subfacility. The Administrative Agent will promptly notify the Revolving Credit Lenders of any such notice of termination or reduction of the Revolving Credit Facility or Letter of Credit Subfacility. Any reduction of the Revolving Credit Facility shall be applied to the Revolving Credit Commitment of each Revolving Credit Lender according to its Applicable Revolving Credit Percentage, and upon any resulting reduction of the Letter of Credit Subfacility, the Letter of Credit Sublimit of each L/C Issuer shall be reduced on a pro rata basis. All fees accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination. Following any such termination or reduction, the Administrative Agent may in its discretion replace the existing Schedule 2.01 with an amended and restated schedule that reflects all such terminations and reductions.

(b) Mandatory. The aggregate Term Commitments shall be automatically and permanently reduced to zero on the date of the Term Borrowing after giving effect thereto.

2.07 **Repayment of Loans**.

(a) The Borrower shall repay to the Revolving Credit Lenders on the Maturity Date of the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(b) The Borrower shall repay to the Term Lenders on the Maturity Date of the Term Facility the aggregate principal amount of all Term Loans outstanding on such date.

2.08 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate for such Facility; (ii) each LIBOR Floating Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the LIBOR Daily Floating Rate plus the Applicable Rate for the Revolving Credit Facility; and (iii) each Base Rate Committed Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Facility.

(b) (i) While any Event of Default exists under Section 8.01(a)(i) or Section 8.01(f), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clause (b)(i) above), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.03 and in Sections 2.14(b)(iii) and 2.15(b)(iv):

(a) Revolving Credit Facility Fee. The Borrower shall pay to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a facility fee (the "Facility Fee") equal to the "Facility Fee" component of the Applicable Rate times the actual daily amount of the Revolving Credit Facility (or, if the Revolving Credit Commitments have terminated, the Total Revolving Credit Outstandings). For the avoidance of doubt, the Facility Fee shall accrue at all times during the Availability Period (and thereafter so long as any Revolving Credit Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, on the last day of the Availability Period and, if applicable, thereafter on demand. The Facility Fee shall be calculated quarterly in arrears, and if there is any change in the "Facility Fee" component of the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the "Facility Fee" component of the Applicable Rate separately for each period during such quarter that such "Facility Fee" component of the Applicable Rate was in effect.

(b) Other Fees. The Borrower shall pay to the Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letters. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall

be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which such Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the REIT or for any other reason, the Borrower, the Administrative Agent or the Required Lenders determine that (i) the ratio of Total Indebtedness to Total Asset Value as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the ratio of Total Indebtedness to Total Asset Value would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the L/C Issuers, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or any L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or any L/C Issuer, as the case may be, under Section 2.03(c)(iii), 2.03(h) or 2.08(b) or under Article VIII. The Borrower's obligations under this paragraph shall survive the termination of the Facilities and the repayment of all other Obligations hereunder.

2.11 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender in the ordinary course of business. The Administrative Agent shall maintain the Register in accordance with Section 11.06(c). The accounts or records maintained by each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Credit Note and/or a Term Note, as applicable, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note(s) and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a) above, each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative

Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Committed Borrowing of Eurodollar Rate Loans (or, in the case of any Committed Borrowing of Base Rate Loans or LIBOR Floating Rate Loans, prior to 12:00 noon on the date of such Committed Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Committed Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Committed Borrowing of Base Rate Loans or LIBOR Floating Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans under the applicable Facility. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable L/C Issuer, as the case may be, the amount due. With respect to any payment that the Administrative Agent makes for the account of the Lenders or any L/C Issuer hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrower has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Borrower (whether or not then owed); or (3) the Administrative agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the applicable L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or such L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(iii) Notice. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 11.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on

any of the Committed Loans made by it, or the participations in L/C Obligations held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Committed Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Committed Loans and subparticipations in L/C Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Committed Loans and other amounts owing them in respect of the Facilities, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Extension of Maturity Date **in** respect of Revolving Credit Facility.

(a) Request for Extension. The Borrower may, by written notice to the Administrative Agent (such notice, an "Extension Notice") not earlier than 90 days and not later than 30 days prior to the Maturity Date then in effect hereunder for the Revolving Credit Facility (the "Existing Maturity Date"), request that the Revolving Credit Lenders extend the Maturity Date for the Revolving Credit Facility for an additional six (6) month period from such Existing Maturity Date (the "First Maturity Date Extension"), and (if so extended) for an additional six (6) month period to the fifth anniversary of the Closing Date (the "Second Maturity Date Extension" and together with the First Maturity Date Extension, each a "Maturity Date Extension"). The Administrative Agent shall distribute any such Extension Notice to the Revolving Credit Lenders promptly following its receipt thereof.

(b) Conditions Precedent to Effectiveness of each Maturity Date Extension. As conditions precedent to the effectiveness of each Maturity Date Extension, each of the following requirements shall be satisfied:

(i) The Administrative Agent shall have received an Extension Notice within the period required under subsection (a) above;

(ii) On the date of such Extension Notice and both immediately before and immediately after giving effect to such Maturity Date Extension, no Default or Event of Default shall have occurred and be continuing;

(iii) The Borrower shall have paid to the Administrative Agent, for the pro rata benefit of the Revolving Credit Lenders based on their Applicable Revolving Credit Percentages as of the applicable Existing Maturity Date, an extension fee in an amount equal to 0.075% of the Revolving Credit Facility in effect on such Existing Maturity Date, it being agreed that such fee shall be fully earned when paid and shall not be refundable for any reason; and

(iv) The Administrative Agent shall have received a certificate of ~~each Loan Party~~**the Borrower** dated as of the applicable Existing Maturity Date signed by a Responsible Officer of ~~such Loan Party~~**the Borrower** certifying that, before and after giving effect to such extension, (A) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of the Existing Maturity Date (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 2.14, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists.

2.15 Increase in Facilities.

(a) Request for Increase. The Borrower may by written notice to the Administrative Agent request, from time to time, to increase the aggregate principal amount of the Facilities to an amount not exceeding $900,000,000 through one or more increases in the existing Revolving Credit Facility (each, an "Incremental Revolving Commitment") and/or increases in the principal amount of the Term Loan (each, an "Incremental Term Commitment") and/or the addition of one or more new pari passu tranches of term loans (each an "Incremental Term Loan Facility"; each Incremental Term Loan Facility, Incremental Revolving Commitment and Incremental Term Commitment are collectively referred to as "Incremental Commitments"); provided that (i) any such request for an increase shall be in a minimum amount of $50,000,000 (provided that such amount may be less than $50,000,000 if such amount represents all remaining availability under the aggregate limit in respect of the Facilities set forth above) and (ii) the Borrower may make a maximum of three such requests. Each notice from the Borrower pursuant to this Section 2.15 shall specify (i) the date on which the Borrower proposes that the Incremental Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent (the "Notice Period") and (ii) the identity of each Lender and each other Eligible Assignee to whom the Borrower proposes any portion of such

Incremental Commitments be allocated and the amount of such Incremental Commitments being requested from each such Lender and Eligible Assignee; provided that any existing Lender approached to provide all or a portion of the Incremental Commitments may elect or decline, in its sole discretion, to provide such Incremental Commitment and any Lender not responding within the Notice Period shall be deemed to have declined to provide such Incremental Commitment. The Administrative Agent and the Borrower shall thereafter determine the effective date (each an "Increase Effective Date") and the final allocation of such Incremental Commitments among the Lenders and Eligible Assignees.

(b) Conditions. An Incremental Commitment shall become effective as of the Increase Effective Date; provided that:

(i) after giving pro forma effect to such Incremental Commitment and the use of proceeds, no Default shall exist;

(ii) the Borrower shall have delivered to the Administrative Agent a certificate dated as of the Increase Effective Date signed by a Responsible Officer of the Borrower (x) (A) certifying and attaching the resolutions adopted by or on behalf of **the Borrower and** each ~~Loan Party~~**Guarantor (if any)** approving or consenting to such increase, or (B) certifying that, as of such Increase Effective Date, the resolutions delivered to the Administrative Agent and the Lenders on the Closing Date (which resolutions include approval to increase the aggregate principal amount of the Facilities to an amount at least equal to $900,000,000) are and remain in full force and effect and have not been modified, rescinded or superseded since the date of adoption, and (y) certifying that, before and after giving effect to such Incremental Commitments and the Credit Extensions, if any to be made on such Increase Effective Date (A) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Increase Effective Date, except to the extent that (1) such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, (2) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such date (including such earlier date set forth in the foregoing clause (1)) after giving effect to such qualification and (3) for purposes of this Section 2.15, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists;

(iii) if requested by a new Lender participating in such Incremental Commitment, notes executed by the Borrower payable to such new Lender;

(iv) the Administrative Agent shall have received documentation from each Person providing such Incremental Commitment evidencing its share of the Incremental Commitments and its obligations under this Agreement in form and substance reasonably acceptable to the Administrative Agent, including, in the case of a new Lender, a New Lender Joinder Agreement, subject in each case to any requisite consents required under Section 11.06;

(v) the Borrower shall pay any applicable fees and expenses as are due and payable in connection with such Incremental Commitment;

(vi) the Borrower shall make any breakage payments in connection with any adjustment of Revolving Credit Loans pursuant to Section 2.15(d);

(vii) if requested by the Administrative Agent or any Lender or other Eligible Assignee participating in such Incremental Commitment, the Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, a customary opinion of counsel to the Loan Parties (which counsel shall be reasonably acceptable to the Administrative Agent), addressed to the Administrative Agent, the Lenders and the L/C Issuers;

(viii) upon the reasonable request of the Administrative Agent or any Lender participating in such Incremental Commitment made at least ten (10) days prior to such Increase Effective Date, the Borrower shall have provided to the Administrative Agent or such Lender, as applicable, all necessary information in connection with the USA PATRIOT Act, "know your customer" requirements, anti-money laundering requirements and the Beneficial Ownership Regulation (including a Beneficial Ownership Certification) and other customary requirements not later than five (5) days prior to such Increase Effective Date;

(ix) any Lender becoming a party hereto shall (1) execute such documents and agreements as the Administrative Agent may reasonably request and (2) in the case of any Lender that is organized under the laws of a jurisdiction outside of the United States of America, provide to the Administrative Agent, its name, address, tax identification number and/or such other information as shall be necessary for the Administrative Agent to comply with "know your customer" and anti-money laundering rules and regulations, including without limitation, the USA PATRIOT Act; and

(x) the Borrower shall have delivered or caused to be delivered such other assurances, certificates, documents, consents or opinions as the Administrative Agent, any of the Lenders or other Eligible Assignees providing such Incremental Commitment or, in the case of an Incremental Revolving Commitment, any L/C Issuer, reasonably may require.

(c) Terms of Incremental Commitments.

(i) Except in the case of a newly established Incremental Term Loan Facility, each such Incremental Commitment (including any existing Incremental Term Loan Facility) shall be on the same terms as the Facility being increased and all incremental commitments and loans provided as part of a newly established Incremental Term Loan Facility, subject to subsection (b) above, shall be on terms agreed to by the Borrower and the Lenders providing such Incremental Term Loan Facility; and

(ii) Each Incremental Term Loan Facility and the related Incremental Term Loans, subject to clause (ii) of the last proviso to Section 11.01, if applicable, will be on such terms (including as to amortization and maturity) as are agreed to by the Borrower and each Incremental Term Loan Lender with respect to such Incremental Term Loan Facility;

provided that, if the terms of such Incremental Term Loan Facility and the related Incremental Term Loans (other than final maturity) are not the same as the terms of a then existing Incremental Term Loan Facility, the operational, technical and administrative provisions of such Incremental Term Loan Facility shall be reasonably acceptable to the Administrative Agent; provided, further that such Incremental Term Loans will not in any event have a maturity date earlier than the latest Maturity Date (including any extension option) of any then existing Facility.

(d) Adjustment of Revolving Credit Loans. In the event that an Incremental Revolving Commitment results in any change to the Applicable Revolving Credit Percentage of any Lender, then on the Increase Effective Date, (i) subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Revolving Credit Lender and other Eligible Assignee that is providing such Incremental Revolving Commitment shall make a Revolving Credit Loan, the proceeds of which will be used to prepay the Revolving Credit Loans of the existing Revolving Credit Lenders immediately prior to such Increase Effective Date, so that, after giving effect thereto, the Revolving Credit Loans outstanding are held by the Revolving Credit Lenders pro rata based on their Revolving Credit Commitments after giving effect to such Incremental Revolving Commitment and (ii) the participation interests of the Lenders in any outstanding Letters of Credit shall be automatically reallocated among the Revolving Credit Lenders in accordance with their respective Applicable Revolving Credit Percentages after giving effect to such Incremental Revolving Commitment. If there is a new borrowing of Revolving Credit Loans on such Increase Effective Date, the Revolving Credit Lenders after giving effect to such Increase Effective Date shall make such Revolving Credit Loans in accordance with Section 2.01(a).

(e) Making of New Term Loans. On any Increase Effective Date on which an Incremental Term Commitment is effective, subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Lender and Eligible Assignee that has agreed to provide such Incremental Term Commitment shall make a Term Loan to the Borrower in an amount equal to its pro rata share of such Incremental Term Commitment.

(f) Incremental Term Loans. On any Increase Effective Date on which an Incremental Term Loan Facility is effective, subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Lender and Eligible Assignee that has agreed to provide such Incremental Term Loan Facility shall make an Incremental Term Loan to the Borrower in an amount equal to its pro rata share of such Incremental Term Loan Facility in accordance with the conditions and procedures set forth in Section 2.02 and any applicable Commitment Increase Amendment.

(g) Amendments. If any amendment to this Agreement or any other Loan Document is required to give effect to any Incremental Commitments or Loan made pursuant thereto in accordance with this Section 2.15, then such amendment shall be effective if executed by the Borrower, each Lender and Eligible Assignee providing such Incremental Commitments and the Administrative Agent (each such amendment is a "Commitment Increase Amendment"). Notwithstanding anything to the contrary in Section 11.01, the Commitment Increase Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the

other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.15.

(h) Equal and Ratable Benefit. The Loans and Commitments established pursuant to this Section 2.15 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents.

(i) Conflicting Provisions. This Section 2.15 shall supersede any provisions in Section 2.13 or 11.01 to the contrary.

2.16 Cash Collateral.

(a) Obligation to Cash Collateralize. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any L/C Issuer (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.05, 2.17 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including

by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 11.06(b)(vi))) or (ii) the determination by the Administrative Agent and the applicable L/C Issuer(s) that there exists excess Cash Collateral; provided, however, (x) Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default (and following application as provided in this Section 2.16 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash Collateral and the applicable L/C Issuer(s) may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.17 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Laws:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders", "Required Revolving Lenders", "Required Term Lenders" and Section 11.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to an L/C Issuer hereunder; *third*, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.16; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.16; *sixth*, to the payment of any amounts owing to the Lenders or the L/C Issuers as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which

such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.17(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any portion of such fee that otherwise would have been paid to that Defaulting Lender).

(B) Each Defaulting Lender that is a Revolving Credit Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Revolving Credit Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to the terms of this Agreement.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each applicable L/C Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations shall be reallocated among the Non-Defaulting Lenders that are Revolving Credit Lenders in accordance with their respective Applicable Revolving Credit Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. Subject to Section 11.20, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting

Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Laws, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.16.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, and, with respect to any Defaulting Lender that is a Revolving Credit Lender, the L/C Issuers, agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Committed Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified

Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Each Lender and each L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (*x*) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (*y*) the Administrative Agent and the Loan Parties, as applicable,

against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (*z*) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or such L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable

request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BENE (or W-8BEN, as applicable); or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BENE (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed

copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an L/C Issuer, or have any obligation to pay to any Lender or any L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that such Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to any Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments

or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or an L/C Issuer, the termination of the Facilities and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Credit Extension or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to issue, make, maintain, fund or charge interest with respect to any such Credit Extension or continue Eurodollar Rate Loans or to convert Base Rate Loans or LIBOR Floating Rate Loans to Eurodollar Rate Loans or to convert Eurodollar Rate Loans or Base Rate Loans to LIBOR Floating Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans and LIBOR Floating Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), immediately in the case of LIBOR Floating Rate Loans and, in the case of Eurodollar Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.05.

3.03 Inability to Determine Rates.

(a) If in connection with any request for a Eurodollar Rate Loan or LIBOR Floating Rate Loan, a conversion to a Eurodollar Rate Loan or LIBOR Floating Rate Loan or a continuation

of a Eurodollar Rate Loan, (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (A) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan or the applicable term with respect to any LIBOR Floating Rate Loan, or (B) (x) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan or for determining the LIBOR Daily Floating Rate for any applicable term with respect to an existing or proposed LIBOR Floating Rate Loan and (y) the circumstances described in Section 3.03(c)(i) do not apply (in each case with respect to this clause (i), "Impacted Loans"), or (ii) the Administrative Agent or the Required Lenders determine that for any reason the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or the LIBOR Daily Floating Rate for any applicable term with respect to an existing or proposed LIBOR Floating Rate Loan, as the case may be, does not adequately and fairly reflect the cost to such Lenders of funding such Eurodollar Rate Loan or LIBOR Floating Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain, or to convert to, Eurodollar Rate Loans and/or LIBOR Floating Rate Loans shall be suspended (to the extent of the affected Eurodollar Rate Loan, LIBOR Floating Rate Loan or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loan or Interest Periods) or any pending request for a Borrowing of or conversion to LIBOR Floating Rate Loans (to the extent of the affected LIBOR Floating Rate Loans or periods) or, failing that, will be deemed to have converted such request into a request for a borrowing of Base Rate Loans in the amount specified therein and (ii) any outstanding affected Eurodollar Rate Loan will be deemed to have been converted into a Base Rate Loan at the end of the applicable Interest Period and any outstanding LIBOR Floating Rate Loan shall be deemed to have been converted to a Base Rate Loan immediately.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (i) of Section 3.03(a), the Administrative Agent, in consultation with the Borrower and Required Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (i) of the first sentence of Section 3.03(a), (ii) the Administrative Agent or the Required Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (iii) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document:

(i) On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12- month U.S. dollar LIBOR tenor settings. On the earliest of (A) the date that all Available Tenors of U.S dollar LIBOR have permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative, (B) June 30, 2023 and (C) the Early Opt-in Effective Date in respect of a SOFR Early Opt-in, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a monthly basis.

(ii) (x) Upon (A) the occurrence of a Benchmark Transition Event or (B) a determination by the Administrative Agent that neither of the alternatives under clause (1) of the definition of Benchmark Replacement are available, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders (and any such objection shall be conclusive and binding absent manifest error); provided that solely in the event that the then-current Benchmark at the time of such Benchmark Transition Event is not a SOFR-based rate, the Benchmark Replacement therefor shall be determined in accordance with clause (1) of the definition of Benchmark Replacement unless the Administrative Agent determines that neither of such alternative rates is available.

(y) On the Early Opt-in Effective Date in respect of an Other Rate Early Opt-in, the Benchmark Replacement will replace LIBOR for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document.

(iii) At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Borrower may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Borrower's receipt of

notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans. During the period referenced in the foregoing sentence, the component of Base Rate based upon the Benchmark will not be used in any determination of Base Rate.

(iv) In connection with the implementation and administration of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(v) The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 3.03(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.03(c).

(vi) At any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (B) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.

3.04 Increased Costs; Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or any L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount

of each Eurodollar Rate Loan and LIBOR Floating Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of such notice.

3.05 Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan or a LIBOR Floating Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert into any Loan other than a Base Rate Loan or a LIBOR Floating Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 11.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable

pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 11.13.

3.07 [Reserved]

3.08 Survival. All of the Borrower's obligations under this Article III shall survive the termination of the Facilities, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

ARTICLE IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Effectiveness. The effectiveness of this Agreement and the obligation of each Term Lender to make its Term Loan hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals, or e-mail (in a .pdf format) or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, the Borrower's Instruction Certificate and the Borrower Remittance Instructions, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower;

(ii) a Revolving Credit Note executed by the Borrower in favor of each Revolving Credit Lender requesting a Revolving Credit Note and a Term Note executed by the Borrower in favor of each Term Lender requesting a Term Note;

(iii) a duly completed Borrower's Instruction Certificate executed by a Responsible Officer of the Borrower, together with such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in (A) its jurisdiction of organization and (B) each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(v) favorable opinions addressed and reasonably satisfactory to the Administrative Agent, the L/C Issuers and the Lenders, from counsel reasonably acceptable to the Administrative Agent, as to the matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(vi) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(vii) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied**,** (B) that there has been no event or circumstance since December 31, 2020 that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (C) that no action, suit, investigation or proceeding is pending or, to the knowledge of any Loan Party, threatened in any court or before any arbitrator or Governmental Authority that (1) relates to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or thereby, or (2) could reasonably be expected to have a Material Adverse Effect and (D) a calculation of the ratio of Total Indebtedness to Total Asset Value as of the last day of the fiscal quarter of the REIT ended March 31, 2021;

(viii) a Solvency Certificate from the REIT certifying that, after giving effect to the transactions to occur on the Closing Date (including, without limitation, all Credit Extensions to occur on the Closing Date), each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent;

(ix) a duly completed compliance certificate, giving pro forma effect to the transactions to occur on the Closing Date (including, without limitation, all Credit Extensions to occur on the Closing Date);

(x) duly completed Borrower Remittance Instructions signed by a Responsible Officer of the Borrower;

(xi) the financial statements referenced in Section 5.05(a) and (b);

(xii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, any L/C Issuer, the Required Lenders or the Required Term Lenders reasonably may require.

(b) Any fees required hereunder or under the Fee Letters to be paid on or before the Closing Date shall have been paid.

(c) Completion of all due diligence with respect to the REIT, the Borrower, and their respective Subsidiaries and properties in scope and determination satisfactory to the Administrative Agent, the Bookrunners, the Arrangers and the Lenders in their sole discretion.

(d) Unless waived by the Administrative Agent, the Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced (which invoice may be in summary form) prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(e) At least ten Business Days prior to the Closing Date, the Administrative Agent and each Lender shall have received documentation and other information with respect to each of the Loan Parties that is required, in the Administrative Agent's or such Lender's judgment, by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, the Beneficial Ownership Regulation (including a Beneficial Ownership Certification) and regulations implemented by the US Treasury's Financial Crimes Enforcement Network under the Bank Secrecy Act.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to another Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such Credit Extension (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties), and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to another Type or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power. Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms.

5.05 Financial Statements; No Material Adverse Effect.

(a) Each of the Audited Financial Statements and the audited consolidated balance sheet of the REIT for the fiscal year ended December 31, 2020, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the REIT, including the notes thereto (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the REIT and its Consolidated Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the REIT and its Consolidated Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The unaudited consolidated balance sheet of the REIT and its Consolidated Subsidiaries dated March 31, 2021, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the REIT and its Consolidated Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments. Schedule 5.05 sets forth all material indebtedness and other liabilities, direct or contingent, of the REIT and its Consolidated Subsidiaries not included in such financial statements, including liabilities for taxes, material commitments and Indebtedness.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) The consolidated forecasted balance sheet and statements of income and cash flows of the REIT and its Consolidated Subsidiaries delivered pursuant to Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the REIT's best estimate of its future financial condition and performance.

5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of any Loan Party after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) either individually or in the aggregate, if determined adversely, could reasonably be expected to have a Material Adverse Effect.

5.07 No Default. Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is

continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 Ownership of Property. Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.09 Environmental Compliance. The Loan Parties and their respective Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.10 Insurance. The properties of the REIT and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the REIT, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in each of the localities where the REIT or any of its Subsidiaries operates and/or owns properties.

5.11 Taxes. The REIT and each of its Subsidiaries has filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the REIT or any Subsidiary thereof that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

5.12 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of each Loan Party, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the best knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred, and neither any Loan Party nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither any Loan Party nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither any Loan Party nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) Neither the Borrower or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Closing Date, those listed on Schedule 5.12(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement.

(e) No Loan Party is or will be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

5.13 Subsidiaries; Equity Interests. As of the Closing Date, all of the outstanding Equity Interests in each Subsidiary Guarantor are owned, directly or indirectly, by the Borrower as set forth on Part (a) of Schedule 5.13 free and clear of all Liens. All of the outstanding Equity Interests in each Loan Party have been validly issued and are fully paid and nonassessable. Set forth on Part (b) of Schedule 5.13 is a complete and accurate list of all Loan Parties, showing as of the Closing Date (as to each Loan Party) the jurisdiction of its incorporation or organization and the address of its principal place of business.

5.14 Margin Regulations; Investment Company Act.

(a) Such Loan Party is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of such Loan Party only or of the Loan Parties and their Subsidiaries on a consolidated basis) will be margin stock.

(b) None of the REIT, any Person Controlling the REIT, or any Subsidiary of the REIT is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 Disclosure. Each Loan Party has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, each Loan Party represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

5.16 Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.17 Taxpayer Identification Number. Each Loan Party's true and correct U.S. taxpayer identification number is set forth on Schedule 11.02 (or, in the case of a Subsidiary that becomes a Loan Party after the Closing Date, is set forth in the information provided to the Administrative Agent with respect to such Subsidiary pursuant to Section 6.12).

5.18 Intellectual Property; Licenses, Etc. Each Loan Party, and each of its Subsidiaries, owns, or possesses the right to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and the use thereof by the Loan Parties and their Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.19 OFAC. No Loan Party, nor, to the knowledge of any Loan Party, any Related Party, (i) is currently the subject of any Sanctions, (ii) is located, organized or residing in any Designated Jurisdiction, (iii) is included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iv) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Credit Extension, has been used, directly or indirectly, to lend, contribute, provide or has otherwise made available to fund any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender, any Arranger, any Bookrunner, the Administrative Agent or any L/C Issuer) of Sanctions. The Loan Parties and their

respective Subsidiaries have, within the previous five (5) years, conducted their businesses in compliance in all material respects with all applicable Sanctions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Sanctions.

5.20 Solvency. Each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent.

5.21 REIT Status; Stock Exchange Listing.

(a) The REIT is organized and operated in a manner that allows it to qualify for REIT Status.

(b) At least one class of common Equity Interests of the REIT is listed on the New York Stock Exchange or the NASDAQ Stock Market.

5.22 Subsidiary Guarantors. Each Required Subsidiary Guarantor is a Subsidiary Guarantor.

5.23 Anti-Corruption Laws; Anti-Money Laundering Laws.

(a) The Borrower and its Subsidiaries have conducted their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, as amended, and other applicable anti-corruption laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) Neither the Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Borrower and its Subsidiaries, any Related Party thereof (i) has violated or is in violation of any applicable anti-money laundering law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of offenses designated in any applicable law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering.

5.24 Affected Financial Institution. Neither the Borrower nor any Guarantor is an Affected Financial Institution.

5.25 Covered Entities. Neither the Borrower nor any Guarantor is a Covered Entity.

ARTICLE VI. AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, each Loan Party shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03, 6.11, and 6.15) cause each Subsidiary thereof to:

6.01 Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the REIT (or, if earlier, 15 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)), a consolidated balance sheet of the REIT and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the REIT (or, if earlier, 5 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) consolidated balance sheet of the REIT and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of the REIT's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity, and cash flows for the portion of the REIT's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, treasurer or controller of the REIT as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the REIT and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event at least 15 days before the end of each fiscal year of the REIT, forecasts prepared by management of the REIT, in form satisfactory to the Administrative Agent and the Required Lenders, of statements of income or operations and cash flows of the REIT and its Subsidiaries on a quarterly basis for the immediately following fiscal year (including the fiscal year in which the latest Maturity Date occurs) together with projected calculations of the financial covenants set forth in Section 7.11 as of the last day of each fiscal quarter during such fiscal year.

As to any information contained in materials furnished pursuant to Section 6.02(d), the Loan Parties shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Loan Parties to furnish the information and materials described in subsections (a) and (b) above at the times specified therein.

6.02 Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) [intentionally omitted];

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the REIT (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes), which shall, among other things, set forth calculations demonstrating compliance with the financial covenants set forth in Section 7.11 and either include or be accompanied by a list of each Property included in such calculations annotated to identify each Unencumbered Property, Newly Acquired Property and Newly Stabilized Property and, with respect to each Unencumbered Property, the Unencumbered Asset Value and Unencumbered NOI attributable to such Unencumbered Property (all of which shall be in form, substance and detail reasonably satisfactory to the Administrative Agent);

(c) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or similar governing body) (or the audit committee of the board of directors or similar governing body) of any Loan Party by independent accountants in connection with the accounts or books of the REIT or any Subsidiary, or any audit of any of them;

(d) promptly after the same are available, (i) copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders or other equity holders of the REIT, (ii) copies of each annual report, proxy or financial statement or other financial report sent to the limited partners of the Borrower and (iii) copies of all annual, regular, periodic and special reports and registration statements which any Loan Party or any Subsidiary thereof files with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934 or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement that governs Indebtedness in an amount equal to or in excess of the Threshold Amount, and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(f) promptly, and in any event within five Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(g) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent, any L/C Issuer or any Lender for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the USA PATRIOT Act and the Beneficial Ownership Regulation; and

(h) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary thereof, any Property of any Loan Party or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the REIT posts such documents, or provides a link thereto on the REIT's website on the Internet at the website address listed on Schedule 11.02; or (ii) on which such documents are posted on the REIT's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that the REIT shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and each Lender shall be solely responsible for maintaining its copies of such documents.

Each Loan Party hereby acknowledges that (a) the Administrative Agent, the Bookrunners and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of any Loan Party hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the REIT or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Loan Party hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," each Loan Party shall be deemed to have authorized the Administrative Agent, the Bookrunners, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Loan Parties or their respective securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent, the Bookrunners and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

6.03 Notices. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of any Loan Party or any Subsidiary thereof; (ii) any dispute, litigation, investigation, proceeding or suspension between any Loan Party or any Subsidiary thereof and any Governmental Authority; (iii) the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Subsidiary thereof, including pursuant to any applicable Environmental Laws; or (iv) any noncompliance by any Loan Party or any of its Subsidiaries with any Environmental Law or Environmental Permit;

(c) of the occurrence of any ERISA Event;

(d) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof, including any determination by the Borrower referred to in Section 2.10(b); and

(e) of any announcement by Moody's or S&P of any change or possible change in a Debt Rating; provided, that the provisions of this clause (e) shall only apply on and after the Investment Grade Pricing Effective Date.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless (i) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by such Loan Party or such Subsidiary or (ii) solely in the case of a Specified Subsidiary or a Non-Recourse Subsidiary, the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect and any such tax liabilities, assessments and governmental charges or levies are solely upon such Specified Subsidiary or Non-Recourse Subsidiary or its respective properties or assets (and not upon any Loan Party or other Subsidiary thereof or any properties or assets of any Loan Party or other Subsidiary thereof); provided that in the case of real property tax liabilities, payment of such liabilities prior to the date such liabilities become delinquent shall for purposes of this covenant be deemed to have been paid when same are due and payable; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property (other than Permitted Equity Encumbrances, Permitted Property Encumbrances or, in the case of Specified Subsidiaries or Non-Recourse Subsidiaries, any Liens); and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except to the extent the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.05 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization

except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof ~~except where the failure to do so could not reasonably be expected to have a Material Adverse Effect~~; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities**; provided, in the case of clauses (a), (b) and (c) above, unless** the failure to do so**, either individually or in the aggregate,** could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance. Maintain and cause each of its Subsidiaries to maintain and use commercially reasonable efforts to cause lessees and other Persons operating or occupying any of its Properties to maintain with financially sound and reputable insurance companies not Affiliates of the REIT, insurance with respect to its properties and its business against general liability, property casualty and such casualties and contingencies as shall be commercially reasonable and in accordance with the customary and general practices of businesses having similar operations and real estate portfolios in similar geographic areas and in amounts, containing such terms, in such forms and for such periods as may be reasonable and prudent for such businesses, including without limitation, insurance policies and programs sufficient to cover (a) the replacement value of the improvements on the subject Properties (less commercially reasonable deductible amounts) and (b) liability risks associated with such ownership (less commercially reasonable deductible amounts).

6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Loan Party or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal

business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions for general corporate purposes, including for working capital, capital expenditures, acquisitions, development and redevelopment, and other corporate purposes, in each case, not in contravention of any Law or of any Loan Document.

6.12 Additional Guarantors.

(a) Prior to the inclusion of a Property as an Unencumbered Property hereunder the Borrower shall:

(i) notify the Administrative Agent in writing of any Required Subsidiary Guarantor that is not at such time a Guarantor (each such Subsidiary being referred to hereinafter as a "Proposed Subsidiary Guarantor");

(ii) provide the Administrative Agent with the U.S. taxpayer identification for each Proposed Subsidiary Guarantor; and

(iii) provide the Administrative Agent and each Lender with all documentation and other information concerning each Proposed Subsidiary Guarantor that the Administrative Agent or such Lender requests in order to comply with its obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act;

(iv) if requested by the Administrative Agent, deliver to the Administrative Agent the items referenced in Section 4.01(a)(iii), (iv) and (vi) with respect to each Proposed Subsidiary Guarantor;

(v) if requested by the Administrative Agent, deliver to the Administrative Agent a favorable opinion of counsel, which counsel shall be reasonably acceptable to the Administrative Agent, addressed to the Administrative Agent and each Lender, as to such matters concerning the Proposed Subsidiary Guarantor and the Loan Documents as the Administrative Agent may reasonably request; and

(vi) cause each Proposed Subsidiary Guarantor to become a Guarantor under this Agreement by executing and delivering to the Administrative Agent a joinder agreement in substantially the form of Exhibit G or such other document as the Administrative Agent shall deem appropriate for such purpose.

(b) Notwithstanding anything to the contrary contained in this Agreement, in the event that the results of any such "know your customer" or similar investigation conducted by the Administrative Agent or any Lender with respect to any Proposed Subsidiary Guarantor are not reasonably satisfactory to the Administrative Agent and each Lender, such Subsidiary shall not be

permitted to become a Guarantor, and for the avoidance of doubt no Property owned or ground leased, directly or indirectly, by such Proposed Subsidiary Guarantor shall be included as an Unencumbered Property, in each case without the prior written consent of the Administrative Agent and the Required Lenders.

6.13 Compliance with Environmental Laws. Comply, and cause all lessees and other Persons operating or occupying its properties to comply, in all material respects, with all applicable Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and properties; and conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws; provided, however, that neither the REIT nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

6.14 Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents and (ii) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Creditor Parties the rights granted or now or hereafter intended to be granted to the Creditor Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

6.15 Maintenance of REIT Status; Stock Exchange Listing. The REIT will, at all times (i) continue to be organized and operated in a manner that will allow it to qualify for REIT Status and (ii) remain publicly traded with securities listed on the New York Stock Exchange or the NASDAQ Stock Market.

6.16 Material Contracts. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Administrative Agent and, upon request of the Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so, except, in any case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.17 Preparation of Environmental Reports. At the request of the Required Lenders from time to time following a determination by the Required Lenders that there exists potential

liability or responsibility of a Loan Party for a violation of any Environmental Law with respect to an Unencumbered Property or material risk of such potential liability or responsibility, provide to the Lenders within 60 days after such request, at the expense of the Borrower, an environmental site assessment complying with ASTM guidelines (an "ESA") for any Unencumbered Property owned, leased or operated by a Loan Party described in such request, prepared by an environmental consulting firm reasonably acceptable to the Administrative Agent, indicating the presence or absence of Hazardous Materials and the estimated cost of any compliance, response or other corrective action to address any Hazardous Materials on such Unencumbered Properties, together with a letter from such environmental consultant permitting the Administrative Agent and the Lenders to rely on such ESA as if addressed to and prepared for each of them; without limiting the generality of the foregoing, if the Administrative Agent determines at any time that a material risk exists that any such ESA will not be provided within the time referred to above, the Administrative Agent may retain an environmental consulting firm to prepare an ESA at the expense of the Borrower, and the Borrower hereby grants and agrees to cause any of its Subsidiaries that owns or leases any Unencumbered Property described in such request to grant at the time of such request to the Administrative Agent, the Lenders, such firm and any agents or representatives thereof an irrevocable non-exclusive license, subject to the rights of tenants or necessary consent of landlords, to enter onto their respective properties to undertake such an assessment. In the absence of a Default, the Borrowers shall not be required to pay for more than one ESA per Unencumbered Property per year.

6.18 Minimum Amount and Occupancy of Unencumbered Properties. Cause (i) at least 50 Unencumbered Properties that are not Excepted Unencumbered Properties to be included in each calculation of Unencumbered Asset Value and Unencumbered NOI and (ii) the aggregate occupancy of all Unencumbered Properties (other than Development Properties and Excepted Unencumbered Properties) included in each calculation of Unencumbered Asset Value and Unencumbered NOI (determined on a percentage square foot occupied basis), based on tenants in occupancy and paying rent, to be at least 85%. (For the avoidance of doubt, any Unencumbered Property that is re-designated by the Borrower such that it is no longer an Unencumbered Property pursuant to Section 10.12 shall not be counted for purposes of clause (i) or included in any calculation of the aggregate occupancy under clause (ii)).

6.19 Compliance with Terms of Leases. Make all payments and otherwise perform all obligations in respect of all leases of real property to which it is party, as lessee, keep such leases in full force and effect and not allow such leases to lapse or be terminated or any rights to renew such leases to be forfeited or cancelled, notify the Administrative Agent of any default by any party with respect to such leases and cooperate with the Administrative Agent in all respects to cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

6.20 Anti-Corruption Laws; Sanctions; Anti-Money Laundering Laws.

(a) Each of the Borrower and its Subsidiaries will conduct their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, as amended, and other applicable anti-corruption laws and with all applicable Sanctions, and will maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

(b) Each of the Borrower and its Subsidiaries will conduct their respective businesses in a manner that will not result in a violation of any applicable law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering and any other applicable anti-money laundering law.

ARTICLE VII. NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, no Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien on (i) any Unencumbered Property other than Permitted Property Encumbrances, (ii) any Equity Interest of any Owner of any Unencumbered Property other than Permitted Equity Encumbrances or (iii) any income from or proceeds of any of the foregoing; or sign, file or authorize under the Uniform Commercial Code of any jurisdiction a financing statement that includes in its collateral description any portion of any Unencumbered Property.

7.02 Investments. Make any Investments, except:

(a) Investments held by the REIT or its Subsidiaries in the form of cash or Cash Equivalents;

(b) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors or lessees to the extent reasonably necessary in order to prevent or limit loss; ~~and~~

(c) **Guarantees of Indebtedness permitted under clause (a), (b), (e) or (f) of Section 7.03;**

(d) **Guarantees of any Indebtedness permitted under clause (d) of Section 7.03 made by any Subsidiary of the REIT that is not a Loan Party;**

(e) **Investments by the REIT or any Subsidiary thereof in a Loan Party;**

(f) **Investments by any Subsidiary of the REIT that is not a Loan Party in any other Subsidiary of the REIT that is not a Loan Party;**

(g) **Investments by any Specified Subsidiary or Non-Recourse Subsidiary;**

(h) **Investments by the REIT or any Subsidiary in any Specified Subsidiary so long as (i) no Specified Event of Default has occurred and is continuing immediately before or immediately after giving effect to the making of such Investment and (ii) immediately after giving effect to the making of such Investment the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and**

(i) ~~(e)~~ other Investments so long as (i) no Event of Default has occurred and is continuing immediately before or immediately after giving effect to the making of such Investment and (ii) immediately after giving effect to the making of such Investment the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.03 Indebtedness. Create, incur, assume or suffer to exist any **Indebtedness except:**

(a) **Indebtedness arising under this Agreement (including pursuant to Section 2.15);**

(b) **Indebtedness owed to a Loan Party, to the extent that such Indebtedness constitutes an Investment permitted under clause (e) or (h) of Section 7.02;**

(c) **Indebtedness of any Subsidiary of the REIT that is not a Loan Party owed to any other Subsidiary of the REIT that is not a Loan Party;**

(d) **cash management obligations and other Indebtedness in respect of netting services, automatic clearing house arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts incurred in the ordinary course of business;**

(e) **Indebtedness of a Specified Subsidiary which is not Recourse Indebtedness, so long as (i) no Specified Event of Default has occurred and is continuing immediately before or immediately after the incurrence of such Indebtedness and (ii) immediately after giving effect to the incurrence of such Indebtedness the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and**

(f) ~~. Create, incur, assume or suffer to exist any~~**other** Indebtedness ~~unless~~**, so long as** (~~a~~**i**) no **Event of** Default has occurred and is continuing immediately before ~~and~~**or** immediately after the incurrence of such Indebtedness and (~~b~~**ii**) immediately after giving effect to the incurrence of such Indebtedness, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions and whether effected pursuant to a Division or otherwise) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary of the Borrower may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person or (ii) any one or more other Subsidiaries of the Borrower, provided that if any Subsidiary Guarantor is merging with another Subsidiary, a Subsidiary Guarantor party to such merger shall be the continuing or surviving Person;

(b) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets (upon voluntary liquidation, pursuant to a Division or otherwise) to the Borrower or to another Subsidiary of the Borrower; provided that if the transferor in such a transaction is a Subsidiary Guarantor, then the transferee must either be the Borrower or a Subsidiary Guarantor; and

provided, further, that if any Subsidiary Guarantor consummates a Division, then, to the extent applicable, the Borrower must comply with the obligations set forth in Section 6.12 with respect to each Division Successor; and

(c) Dispositions permitted by Section 7.05(d) or (e) shall be permitted under this Section 7.04.

Notwithstanding anything to the contrary contained herein, in no event shall the Borrower be permitted to (i) merge, dissolve or liquidate or consolidate with or into any other Person unless after giving effect thereto the Borrower is the sole surviving Person of such transaction and no Change of Control results therefrom, (ii) consummate a Division or (iii) engage in any transaction pursuant to which it is reorganized or reincorporated in any jurisdiction other than a state of the United States or the District of Columbia.

7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, or, in the case of any Subsidiary of the REIT, issue, sell or otherwise Dispose of any of such Subsidiary's Equity Interests to any Person, except:

(a) Dispositions of obsolete or worn out equipment, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions by any Subsidiary of the Borrower to the Borrower or to another Subsidiary of the Borrower; provided that if the transferor is a Subsidiary Guarantor, the transferee thereof must either be the Borrower or a Subsidiary Guarantor; and provided, further, that if any Subsidiary Guarantor consummates a Division, then, to the extent applicable, the Borrower must comply with the obligations set forth in Section 6.12 with respect to each Division Successor;

(c) Dispositions permitted by Section 7.04(a) or (b);

(d) Dispositions of assets (other than Equity Interests of a Subsidiary) not constituting an Unencumbered Property;

(e) so long as no Default exists or would result therefrom, the issuance, sale or other Disposition of Equity Interests of any Subsidiary of the Borrower (other than an Owner of an Unencumbered Property);

(f) Dispositions not otherwise permitted under this Section 7.05, including the issuance, sale or other Disposition of Equity Interests of any Subsidiary of the Borrower that is an Owner of an Unencumbered Property; provided that:

(i) no Default exists or would result therefrom;

(ii) immediately upon giving effect thereto, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and

(iii) in the event of any Disposition of an Unencumbered Property for which an Owner is a Guarantor or a Disposition of any such Owner: (A) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in

all material respects on and as of on and as of the date thereof and immediately after giving effect thereto (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 7.05, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 and (B) the provisions of Section 10.12(b) or (c), as applicable, shall be satisfied; and

(g) the issuance, sale or other Disposition of limited partnership interests of the Borrower as consideration for the purchase by a Subsidiary of the REIT of a Property, but solely to the extent that, after giving effect thereto, a Change of Control has not occurred.

For the avoidance of doubt, nothing in this Section 7.05 restricts the issuance, sale or other Disposition of Equity Interests of the REIT, to the extent that such issuance, sale or other Disposition does not result in Change of Control.

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that the following shall be permitted:

(a) each Subsidiary of the Borrower may make Restricted Payments pro rata to the holders of its Equity Interest;

(b) the REIT and each Subsidiary thereof may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) (i) the REIT and each Subsidiary thereof may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its or its direct or indirect parent's common stock or other common Equity Interests and (ii) the REIT and/or the Borrower may purchase, redeem or otherwise acquire limited partnership interests of the Borrower held by a limited partner thereof in exchange for Equity Interests of the REIT, so long as after giving effect to any such purchase, redemption or other acquisition, a Change of Control does not occur;

(d) the Borrower shall be permitted to declare and pay pro rata dividends on its Equity Interests or make pro rata distributions with respect thereto, in an amount for any fiscal year of the REIT equal to the greater of (i) 95% of Funds From Operations for such fiscal year and (ii) such amount that will result in the REIT receiving the necessary amount of funds required to be distributed to its equityholders in order for the REIT to (x) maintain its REIT Status and (y) avoid the payment of federal or state income or excise tax; provided, however, (1) if an Event of Default shall have occurred and be continuing or would result therefrom, the Borrower shall only be permitted to declare and pay pro rata dividends on its Equity Interests or make pro rata distributions with respect thereto in an amount that will result in the REIT receiving the minimum amount of

funds required to be distributed to its equityholders in order for the REIT to maintain its REIT Status and (2) notwithstanding clause (1) of this proviso, no Restricted Payments shall be permitted under this clause (d) following an acceleration of the Obligations pursuant to Section 8.02 or following the occurrence of an Event of Default under Section 8.01(f) or (g);

(e) the REIT shall be permitted to make Restricted Payments with any amounts received by it from the Borrower pursuant to Section 7.06(d); and

(f) the REIT and the Borrower may purchase, redeem or otherwise acquire common stock of the REIT and/or limited partnership interests of the Borrower, as applicable; provided, that (i) the aggregate amount of cash paid for all such redemptions made pursuant to this clause (f) during the term of this Agreement shall not exceed $100,000,000 and (ii) after giving effect to any such purchase, redemption or other acquisition, (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.07 Change in Nature of Business. Engage in any material line of business other than the acquisition, ownership and leasing (as lessor) of income producing Properties and investments incidental thereto.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the REIT, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the REIT or a Subsidiary thereof as would be obtainable by the REIT or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restriction shall not apply to (i) transactions between or among the Loan Parties, (ii) transactions between or among Subsidiaries that are not Loan Parties and (iii) Investments and Restricted Payments expressly permitted hereunder.

7.09 Burdensome Agreements. Enter into any Contractual Obligation that limits the ability of (a) the REIT or any Subsidiary of the Borrower to Guarantee the Obligations, (b) the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on any Unencumbered Property, or the Equity Interests of any Owner of any Unencumbered Property, or any income from or proceeds of any of the foregoing, in each case other than this Agreement or Pari Passu Provisions, or (c) any Subsidiary to make Restricted Payments to the REIT, the Borrower or any Subsidiary Guarantor or to otherwise transfer property to the REIT, the Borrower or any Subsidiary Guarantor, in each case other than this **(1)** Agreement, **(2)** Pari Passu Provisions and **(3)** limitations on the ability of a Subsidiary that is not an Owner of an Unencumbered Property to make Restricted Payments which limitations are contained in an agreement governing Secured Indebtedness that is permitted to exist under Section 7.03 and Section 7.11~~-~~**, in each case solely to the extent the relevant limitations contained in any such agreement (x) is limited to property financed by or the subject of such Indebtedness (in the case of transfer limitations) or (y) applies solely to the direct owner of such property and such direct owner owns no other material assets (in the case of limitations on Restricted Payments).**

7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock

(within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

7.11 Financial Covenants.

(a) Maximum Leverage Ratio. Permit Total Indebtedness to exceed 60% of the Total Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to sixty-five percent (65%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than sixty-five percent (65%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(b) Maximum Secured Leverage Ratio. Permit Total Secured Indebtedness to exceed 40% of the Total Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to forty-five percent (45%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than forty-five percent (45%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(c) Minimum Tangible Net Worth. Permit Tangible Net Worth at any time to be less than the sum of (i) an amount equal to 75% of the Tangible Net Worth as of the date of the most recent financial statements of the REIT that are publicly available as of the Closing Date plus (ii) an amount equal to 75% of the Net Cash Proceeds received by the REIT from issuances and sales of its Equity Interests to any Person that is not a member of the Consolidated Group occurring after the date of such financial statements (other than proceeds received within ninety (90) days before or after the redemption, retirement or repurchase of Equity Interests in the REIT up to the amount paid by the REIT in connection with such redemption, retirement or repurchase, in each case where, for the avoidance of doubt, the net effect is that the REIT shall not have increased its net worth as a result of any such proceeds).

(d) Minimum Fixed Charge Coverage Ratio. Permit the ratio, as of the last day of each fiscal quarter of the REIT, of Adjusted EBITDA to Fixed Charges to be less than 1.50:1.00.

(e) Minimum Unsecured Interest Coverage Ratio. Permit the ratio, as of the last day of each fiscal quarter of the REIT for the period of four consecutive quarters then ended, of Unencumbered NOI to Unsecured Interest Expense for such period to be less than 1.75:1.00.

(f) Maximum Unencumbered Leverage Ratio. Permit Total Unsecured Indebtedness to exceed 60% of the Unencumbered Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to sixty-five percent (65%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than sixty-five percent (65%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(g) Maximum Secured Recourse Indebtedness Ratio. Permit Secured Recourse Indebtedness of the REIT and its Subsidiaries to exceed 10% of the Total Asset Value at any time prior to the occurrence of the Investment Grade Release.

7.12 Accounting Changes. Make any change in (a) accounting policies or reporting practices, except as required or permitted by GAAP, or (b) fiscal year.

7.13 **Amendments of Organization Documents**. At any time cause or permit any of its Organization Documents to be modified, amended, amended and restated or supplemented in any respect whatsoever, without, in each case, the express prior written consent or approval of the Administrative Agent, if such changes would materially adversely affect the rights of the Administrative Agent, the L/C Issuers or the Lenders hereunder or under any of the other Loan Documents; provided that if such prior consent or approval is not required, such Loan Party shall nonetheless notify the Administrative Agent in writing promptly after any such modification, amendment, amendment and restatement, or supplement to the charter documents of such Loan Party.

7.14 **Sanctions**. Permit any Credit Extension or the proceeds of any Credit Extension, directly or indirectly, (i) to be lent, contributed or otherwise made available to fund any activity or business in any Designated Jurisdiction; (ii) to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions; or (iii) in any other manner that will result in any violation by any Person (including any Lender, any Arranger, any Bookrunner, the Administrative Agent or any L/C Issuer) of any Sanctions.

7.15 **Subsidiaries of REIT**. Permit the REIT to have any Subsidiaries that are directly owned by the REIT, other than the Borrower.

7.16 **Anti-Corruption Laws;** Anti-Money Laundering Laws.

(a) Directly or indirectly use the proceeds of any Credit Extension for any purpose that would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions.

(b) Directly or indirectly, engage in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated in any applicable law, regulation or other binding measure by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering or violate these laws or any other applicable anti-money laundering law or engage in these actions.

7.17 **Swap Contracts**. Enter into any Swap Contract, unless (i) such Swap Contract was entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation, (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party other than normal setoff or netting rights, and (iii) such Swap Contract (x) was entered into by such Person that is an "eligible contract participant" (as such term

is defined in the Commodity Exchange Act and determined after giving effect to any applicable keepwell, support or other agreement for the benefit of such Person in accordance with the Commodity Exchange Act (7 U.S.C. § 1 et seq.) and applicable CFTC Regulations) and (y) is otherwise in compliance with all applicable Laws, including, without limitation, the Commodity Exchange Act and all applicable CFTC Regulations.

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower or any other Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.07, 6.10, 6.11, 6.12, 6.15 or 6.18 or Article VII or Article X; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or

(e) Cross-Default. (i) ~~Any~~**One or more failures by any** Loan Party or any Subsidiary thereof (~~A) fails~~**other than any Specified Subsidiary or Non-Recourse Subsidiary) (A)** to make any payment when due (**after giving effect to any notice or grace periods applicable thereto),** whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise~~)~~**, shall have occurred** in respect of (1) any Recourse Indebtedness or Guarantee of Recourse Indebtedness (other than Recourse Indebtedness hereunder or Guarantees thereof and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement)**, when taken together with all other Recourse Indebtedness or Guarantees of Recourse Indebtedness with respect to which such a failure exists,** of more than the Threshold Amount or (2) any Non-Recourse Indebtedness or Guarantee of Non-Recourse Indebtedness (other than ~~Excluded Debt or Guarantees thereof and~~ Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) ~~of more than the Non-Recourse Threshold Amount; provided that for purposes of determining the aggregate principal amount of Indebtedness under this clause (i)(A), (~~with respect to any ~~such Indebtedness of a Non-Wholly Owned Consolidated Subsidiary or an Unconsolidated Affiliate, the aggregate~~

~~principal amount of such Indebtedness included in the calculation shall be~~**amount owed by a Subsidiary that is not a Wholly-Owned Subsidiary,** only the Consolidated Group Pro Rata Share ~~thereof,~~ **of such amount attributable to the Consolidated Group's interest in such Subsidiary shall be included in any calculation under this clause (2)), when taken together with all other Non-Recourse Indebtedness or Guarantees of Non-Recourse Indebtedness with respect to which such a failure exists,** of more than the Non-Recourse Threshold Amount or (B) ~~fails~~ to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract**, and after giving effect to any notice or grace periods applicable thereto**) resulting from (A) any event of default under such Swap Contract as to which any Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Loan Party or any Subsidiary thereof **(other than any Specified Subsidiary or Non-Recourse Subsidiary)** is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; ~~or~~**provided that this clause (e) shall not apply to (i) Secured Indebtedness that becomes due and payable as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is assumed or repaid in full when required under the documents providing for such Indebtedness, or (ii) any early payment requirement or unwinding or termination with respect to any Swap Contract (A) not arising out of a default by any Loan Party or Subsidiary thereof and (B) to the extent that such Swap Termination Value owed has been paid in full by such Loan Party when due; or**

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary thereof institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary thereof (other than (x) a Specified Subsidiary or (y) one or more Non-Recourse Subsidiaries ~~having Non-Recourse Indebtedness that in the aggregate for all such Non-Recourse Subsidiaries does not exceed the Non-Recourse Threshold Amount~~) becomes unable or admits in writing its inability or

fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person **(other than (x) a Specified Subsidiary or (y) one or more Non-Recourse Subsidiaries)** and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary (i) one or more final judgments or orders for the payment of money (other than a ~~judgment with respect to any Excluded Debt~~**final judgment or order for the payment of money entered against any Specified Subsidiary or Non-Recourse Subsidiary or their respective properties**) in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) REIT Status. The REIT shall, for any reason, fail to maintain its REIT Status, after taking into account any cure provisions set forth in the Code that are complied with by the REIT; or

(m) Stock Exchange Listing. The REIT shall fail to have at least one class of its common Equity Interests listed on the New York Stock Exchange or The NASDAQ Stock Market.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(c) require that the Borrower Cash Collateralize the L/C Obligations (by depositing into the Collateral Account an amount in cash equal to the Minimum Collateral Amount with respect thereto); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it, the Lenders and the L/C Issuers under the Loan Documents and applicable Laws;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers (including fees and time charges for attorneys who may be employees of any Lender or any L/C Issuer) and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.16; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.16, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX. ADMINISTRATIVE AGENT

9.01 Appointment and Authority. Each Lender and each L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Laws. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Administrative Agent, Bookrunners or Arrangers, as applicable, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without

limiting the generality of the foregoing or the provisions of Section 9.08, the Administrative Agent, Bookrunners or Arrangers, as applicable:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or any L/C Issuer, any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates, that is communicated to, obtained or in the possession of, the Administrative Agent, any Bookrunner, any Arranger or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or an L/C Issuer; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for any Loan Party), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a Lender or an Affiliate of a Lender, or if appointed by the Required Lenders after consultation with the Borrower, another bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender or a Disqualified Institution. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof or if a court of competent jurisdiction has determined in a final and non-appealable judgment that such Person has acted with gross negligence or willful misconduct in performing its duties or exercising its rights and powers hereunder or under any other Loan Document, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer (as applicable) directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(d) Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it that are outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to

require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). Upon the appointment (if any) by the Borrower of a successor to Bank of America as an L/C Issuer hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, (b) the retiring L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by Bank of America, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

9.07 Non-Reliance **on Administrative Agent, Arrangers, Bookrunners and Other Lenders**. Each Lender and each L/C Issuer expressly acknowledges that none of the Administrative Agent nor any Bookrunner or Arranger has made any representation or warranty to it, and that no act by the Administrative Agent, any Bookrunner or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent, any Bookrunner or any Arranger to any Lender or each L/C Issuer as to any matter, including whether the Administrative Agent, any Bookrunner or any Arranger have disclosed material information in their (or their Related Parties') possession. Each Lender and each L/C Issuer represents to the Administrative Agent, the Bookrunners and the Arrangers that it has, independently and without reliance upon the Administrative Agent, any Bookrunner, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Bookrunner, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each L/C Issuer represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or L/C Issuer for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or L/C Issuer, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each L/C Issuer agrees not to assert a claim in contravention of the foregoing. Each Lender and each L/C Issuer represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such

commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agents or Managing Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

9.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 11.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or any L/C Issuer in any such proceeding.

9.10 Guaranty Matters. Without limiting the provisions of Section 9.09, each of the Lenders and each of the L/C Issuers irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Guarantor from its obligations under the Guaranty if such

Person (i) ceases to be a Subsidiary or (ii) ceases to be a Required Subsidiary Guarantor, in each case under clauses (i) and (ii), as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

9.11 Lender Representations Regarding ERISA.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Bookrunners and the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or,

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and

covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Bookrunners and the Arrangers and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, any Bookrunner or any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

9.12 Recovery of Erroneous Payments. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender Recipient Party, whether or not in respect of an Obligation due and owing by the Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Lender Recipient Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Lender Recipient Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender Recipient Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Lender Recipient Party promptly upon determining that any payment made to such Lender Recipient Party comprised, in whole or in part, a Rescindable Amount.

ARTICLE X. CONTINUING GUARANTY

10.01 Guaranty. Each Guarantor hereby absolutely and unconditionally guarantees, jointly and severally, as a guaranty of payment and performance and not merely as a guaranty of collection, prompt payment when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, and at all times thereafter, of any and all of the Obligations, whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise, of the Borrower to the Creditor Parties, and whether arising hereunder or under any other Loan Document (including all renewals, extensions, amendments, amendments and restatements, refinancings and other modifications thereof and all costs, attorneys' fees and expenses incurred by the Creditor Parties in connection with the collection or enforcement thereof). The Administrative Agent's books and records showing the amount of the Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon each Guarantor, and conclusive for the purpose of establishing the amount of the Obligations absent demonstrable error. This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any instrument or agreement evidencing any Obligations, or by the existence, validity, enforceability, perfection, non-perfection or extent of any collateral therefor, or by any fact or circumstance relating to the Obligations which might otherwise

constitute a defense to the obligations of any Guarantor under this Guaranty, and each Guarantor hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to any or all of the foregoing.

Anything contained in this Guaranty to the contrary notwithstanding, it is the intention of each Guarantor and the Creditor Parties that the obligations of each Guarantor (other than the REIT) hereunder at any time shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code (Title 11, United States Code) or any comparable provisions of any similar federal or state law. To that end, but only in the event and to the extent that after giving effect to Section 10.11, such Guarantor's obligations with respect to the Obligations or any payment made pursuant to such Obligations would, but for the operation of the first sentence of this paragraph, be subject to avoidance or recovery in any such proceeding under applicable Debtor Relief Laws after giving effect to Section 10.11, the amount of such Guarantor's obligations with respect to the Obligations shall be limited to the largest amount which, after giving effect thereto, would not, under applicable Debtor Relief Laws, render such Guarantor's obligations with respect to the Obligations unenforceable or avoidable or otherwise subject to recovery under applicable Debtor Relief Laws. To the extent any payment actually made pursuant to the Obligations exceeds the limitation of the first sentence of this paragraph and is otherwise subject to avoidance and recovery in any such proceeding under applicable Debtor Relief Laws, the amount subject to avoidance shall in all events be limited to the amount by which such actual payment exceeds such limitation, and the Obligations as limited by the first sentence of this paragraph shall in all events remain in full force and effect and be fully enforceable against such Guarantor. The first sentence of this paragraph is intended solely to preserve the rights of the Creditor Parties hereunder against such Guarantor in such proceeding to the maximum extent permitted by applicable Debtor Relief Laws and neither such Guarantor, the Borrower, any other Guarantor nor any other Person shall have any right or claim under such sentence that would not otherwise be available under applicable Debtor Relief Laws in such proceeding.

10.02 Rights of Lenders. Each Guarantor consents and agrees that the Creditor Parties may, at any time and from time to time, without notice or demand, and without affecting the enforceability or continuing effectiveness hereof: (a) amend, extend, renew, compromise, discharge, accelerate or otherwise change the time for payment or the terms of the Obligations or any part thereof; (b) take, hold, exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any security for the payment of this Guaranty or any Obligations; (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent and the Lenders in their sole discretion may determine; and (d) release or substitute one or more of any endorsers or other guarantors of any of the Obligations. Without limiting the generality of the foregoing, each Guarantor consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of such Guarantor under this Guaranty or which, but for this provision, might operate as a discharge of such Guarantor.

10.03 Certain Waivers. Each Guarantor waives (a) any defense arising by reason of any disability or other defense of the Borrower or any other guarantor, or the cessation from any cause whatsoever (including any act or omission of any Creditor Party, but excluding satisfaction thereof by way of payment) of the liability of the Borrower; (b) any defense based on any claim that such Guarantor's obligations exceed or are more burdensome than those of the Borrower; (c) the benefit

of any statute of limitations affecting such Guarantor's liability hereunder; (d) any right to proceed against the Borrower, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Creditor Party whatsoever; (e) any benefit of and any right to participate in any security now or hereafter held by any Creditor Party; and (f) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by applicable law limiting the liability of or exonerating guarantors or sureties. Each Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Obligations.

10.04 Obligations Independent. The obligations of each Guarantor hereunder are those of a primary obligor, and not merely as surety, and are independent of the Obligations and the obligations of any other guarantor, and a separate action may be brought against each Guarantor to enforce this Guaranty whether or not the Borrower or any other Person or entity is joined as a party.

10.05 Subrogation. Each Guarantor shall not exercise any right of subrogation, contribution, indemnity, reimbursement or similar rights with respect to any payments it makes under this Guaranty until all of the Obligations and any amounts payable under this Guaranty have been indefeasibly paid in cash and performed in full, all Commitments and the Facilities have been terminated, and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. If any amounts are paid to any Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Creditor Parties and shall forthwith be paid to the Administrative Agent for the benefit of the Creditor Parties to reduce the amount of the Obligations, whether matured or unmatured.

10.06 Termination; Reinstatement. This Guaranty is a continuing and irrevocable guaranty of all Obligations now or hereafter existing and shall remain in full force and effect until all Obligations and any other amounts payable under this Guaranty are indefeasibly paid in cash and performed in full, all Commitments and Facilities have been terminated, and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. Notwithstanding the foregoing, this Guaranty shall continue in full force and effect or be revived, as the case may be, if any payment by or on behalf of the Borrower or any other Guarantor is made, or any of the Creditor Parties exercises its right of setoff, in respect of the Obligations and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by any of the Creditor Parties in their discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Laws or otherwise, all as if such payment had not been made or such setoff had not occurred and whether or not the Creditor Parties are in possession of or have released this Guaranty and regardless of any prior revocation, rescission, termination or reduction. The obligations of the Guarantors under this paragraph shall survive termination of this Guaranty.

10.07 Subordination. Each Guarantor hereby subordinates the payment of all obligations and indebtedness of the Borrower owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of the Borrower to such Guarantor as subrogee of the Creditor Parties or resulting from such Guarantor's performance under this Guaranty, to the indefeasible payment in full in cash of all Obligations. If the Creditor Parties so request, any such obligation or indebtedness of the Borrower to such Guarantor shall be enforced and performance received by such Guarantor as trustee for the Creditor Parties and the proceeds thereof shall be paid over to the Creditor Parties on account of the Obligations, but without reducing or affecting in any manner the liability of any Guarantor under this Guaranty.

10.08 Stay of Acceleration. If acceleration of the time for payment of any of the Obligations is stayed, in connection with any case commenced by or against any Guarantor or the Borrower under any Debtor Relief Laws, or otherwise, all such amounts shall nonetheless be payable by a Guarantor immediately upon demand by the Creditor Parties.

10.09 Condition of the Borrower. Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrower and any other guarantor such information concerning the financial condition, business and operations of the Borrower and any such other guarantor as such Guarantor requires, and that none of the Creditor Parties has any duty, and such Guarantor is not relying on the Creditor Parties at any time, to disclose to such Guarantor any information relating to the business, operations or financial condition of the Borrower or any other guarantor (each Guarantor waiving any duty on the part of the Creditor Parties to disclose such information and any defense relating to the failure to provide the same).

10.10 Limitations on Enforcement. If, in any action to enforce this Guaranty or any proceeding to allow or adjudicate a claim under this Guaranty, a court of competent jurisdiction determines that enforcement of this Guaranty against any Guarantor for the full amount of the Obligations is not lawful under, or would be subject to avoidance under, Section 548 of the Bankruptcy Code or any applicable provision of comparable state law, the liability of such Guarantor under this Guaranty shall be limited to the maximum amount lawful and not subject to avoidance under such law.

10.11 Contribution. At any time a payment in respect of the Obligations is made under this Guaranty, the right of contribution of each Guarantor (other than the REIT) against each other Guarantor (other than the REIT) shall be determined as provided in the immediately following sentence, with the right of contribution of each Guarantor to be revised and restated as of each date on which a payment (a "Relevant Payment") is made on the Obligations under this Guaranty. At any time that a Relevant Payment is made by a Guarantor (other than the REIT) that results in the aggregate payments made by such Guarantor in respect of the Obligations to and including the date of the Relevant Payment exceeding such Guarantor's Contribution Percentage (as defined below) of the aggregate payments made by all Guarantors (other than the REIT) in respect of the Obligations to and including the date of the Relevant Payment (such excess, the "Aggregate Excess Amount"), each such Guarantor shall have a right of contribution against each other Guarantor (other than the REIT) which either has not made any payments or has made payments in respect of the Obligations to and including the date of the Relevant Payment in an aggregate amount less than such other Guarantor's Contribution Percentage of the aggregate payments made to and

including the date of the Relevant Payment by all Guarantors (other than the REIT) in respect of the Obligations (the aggregate amount of such deficit, the "Aggregate Deficit Amount") in an amount equal to (x) a fraction the numerator of which is the Aggregate Excess Amount of such Guarantor and the denominator of which is the Aggregate Excess Amount of all Guarantors (other than the REIT) multiplied by (y) the Aggregate Deficit Amount of such other Guarantor. A Guarantor's right of contribution pursuant to the preceding sentences shall arise at the time of each computation, subject to adjustment at the time of each computation; provided, that no Guarantor may take any action to enforce such right until all of the Obligations and any amounts payable under this Guaranty have been indefeasibly paid and performed in full in immediately available funds, all Commitments are terminated and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit, it being expressly recognized and agreed by all parties hereto that any Guarantor's right of contribution arising pursuant to this Section 10.11 against any other Guarantor shall be expressly junior and subordinate to such other Guarantor's obligations and liabilities in respect of the Obligations and any other obligations owing under this Guaranty. As used in this Section 10.11, (i) each Guarantor's "Contribution Percentage" shall mean the percentage obtained by dividing (x) the Adjusted Net Worth (as defined below) of such Guarantor by (y) the aggregate Adjusted Net Worth of all Guarantors (other than the REIT); (ii) the "Adjusted Net Worth" of each Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Guarantor and (y) zero; and (iii) the "Net Worth" of each Guarantor shall mean the amount by which the fair saleable value of such Guarantor's assets on the date of any Relevant Payment exceeds its existing debts and other liabilities (including contingent liabilities, but without giving effect to any Obligations arising under this Guaranty) on such date. All parties hereto recognize and agree that, except for any right of contribution arising pursuant to this Section 10.11, each Guarantor which makes any payment in respect of the Obligations shall have no right of contribution or subrogation against any other Guarantor in respect of such payment until all of the Obligations have been indefeasibly paid and performed in full in cash, all Commitments are terminated and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. Each of the Guarantors recognizes and acknowledges that the rights to contribution arising hereunder shall constitute an asset in favor of the party entitled to such contribution. In this connection, each Guarantor has the right to waive its contribution right against any Guarantor to the extent that after giving effect to such waiver such Guarantor would remain solvent, in the determination of the Required Lenders.

10.12 Release of Subsidiary Guarantors and Re-designation of Unencumbered Properties.

(a) Investment Grade Release. If at any time the REIT obtains an Investment Grade Credit Rating, the Administrative Agent shall (at the sole cost of the Borrower and pursuant to documentation reasonably satisfactory to the Administrative Agent) promptly release all of the Subsidiary Guarantors (other than any Subsidiary that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness) from their obligations under the Guaranty (the "Investment Grade Release"), subject to satisfaction of the following conditions:

(i) The Borrower shall have delivered to the Administrative Agent, on or prior to the date that is ten (10) Business Days (or such shorter period of time as agreed to by the

Administrative Agent) before the date on which the Investment Grade Release is to be effected, an Officer's Certificate,

(i) certifying that the REIT has obtained an Investment Grade Credit Rating, and

(ii) notifying the Administrative Agent and the Lenders that it is requesting the Investment Grade Release, which notice shall include a list of the Subsidiary Guarantors that are to be released, and

(ii) The Borrower shall have submitted to the Administrative Agent and the Lenders, within one (1) Business Day prior to the date on which the Investment Grade Release is to be effected, an Officer's Certificate certifying to the Administrative Agent and the Lenders that (x) none of the Subsidiary Guarantors that are to be released is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness and (y) immediately before and immediately after giving effect to the Investment Grade Release,

(i) no Default has occurred and is continuing or would result therefrom, and

(ii) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of the date of such release and immediately after giving effect to such release (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 10.12(a), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) Release and re-designation prior to the Investment Grade Release. At the request of the Borrower, the Administrative Agent shall release any Subsidiary Guarantor from its obligations under the Guaranty, or re-designate any Unencumbered Property such that it is no longer an Unencumbered Property, subject to satisfaction of the following conditions:

(i) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date of the proposed release or re-designation (or such shorter period of time as agreed to by the Administrative Agent in writing), a written request for such release or re-designation (a "Guarantor Release Notice") which shall identify the Subsidiary or Property, as applicable, to which it applies and the proposed date of the release or re-designation,

(ii) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of the date of such release or re-designation and, both before and after giving effect to such release or re-designation (without duplication of materiality qualifiers set forth in such representations

and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 10.12(b), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01,

(iii) immediately after giving effect to such release or re-designation the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11,

(iv) no Default shall have occurred and be continuing or would result under any other provision of tl Agreement after giving effect to such release or re-designation, and

(v) the Borrower shall have delivered to the Administrative Agent an Officer's Certificate certifying that the conditions in clauses (ii) through (iv) above have been satisfied.

Upon the satisfaction of the conditions in clauses (i) through (v) above, each Unencumbered Property that is owned or ground leased directly or indirectly by a Subsidiary Guarantor that is the subject of a release pursuant to this Section 10.12(b) will immediately upon such release cease to be an Unencumbered Property.

The Administrative Agent will (at the sole cost of the Borrower) following receipt of such Guarantor Release Notice and Officer's Certificate, and each of the Lenders and each of the L/C Issuers irrevocably authorizes the Administrative Agent to, execute and deliver such documents as the Borrower or such Subsidiary Guarantor may reasonably request as is necessary or desirable to evidence the release of such Subsidiary Guarantor from its obligations under the Guaranty or the re-designation of such Property to no longer be an Unencumbered Property, as applicable, which documents shall be reasonably satisfactory to the Administrative Agent.

(c) Release and re-designation following the Investment Grade Release. At the request of the Borrower, the Administrative Agent shall release any Subsidiary Guarantor from its obligations under the Guaranty to the extent not already released under this Section 10.12, or re-designate any Unencumbered Property such that it is no longer an Unencumbered Property, subject to satisfaction of the following conditions:

(i) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date of the proposed release or re-designation (or such shorter period of time as agreed to by the Administrative Agent in writing), a Guarantor Release Notice,which notice shall identify the Subsidiary or Property, as applicable, to which it applies, the proposed date of the release or re-designation, as applicable, and specify, in the case of a release of a Subsidiary Guarantor from its obligations under the Guaranty, whether the Subsidiary Guarantor to which such notice relates will be a borrower or guarantor of, or otherwise have payment obligations in respect of, any Unsecured Indebtedness,

(ii) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the effective date of such release or re-designation and, both before and after giving effect to such release or re-designation, except (A) to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, (B) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such applicable date (including such earlier date set forth in the foregoing clause (A)) after giving effect to such qualification and (C) for purposes of this Section 10.12(c), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01,

(iii) immediately after giving effect to such release or re-designation, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11,

(iv) no Default shall have occurred and be continuing or would result under any other provision of tl Agreement after giving effect to such release or re-designation, and

(v) the Borrower shall have delivered to the Administrative Agent an Officer's Certificate certifying that the conditions in clauses (ii) through (iv) above have been satisfied.

For the avoidance of doubt, if a Subsidiary Guarantor is a borrower or guarantor of, or is otherwise obligated in respect of, any Indebtedness at the time that it is released from its obligations under the Guaranty, each Unencumbered Property that is owned or ground leased directly or indirectly by such Subsidiary Guarantor that is the subject of a release pursuant to this Section 10.12(c) will immediately upon such release cease to be an Unencumbered Property.

The Administrative Agent will (at the sole cost of the Borrower) following receipt of such Guarantor Release Notice and Officer's Certificate, and each of the Lenders and each of the L/C Issuers irrevocably authorizes the Administrative Agent to, execute and deliver such documents as the Borrower or such Subsidiary Guarantor may reasonably request as is necessary or desirable to evidence the release of such Subsidiary Guarantor from its obligations under the Guaranty or the re-designation of such Property to no longer be an Unencumbered Property, as applicable, which documents shall be reasonably satisfactory to the Administrative Agent.

(d) The Administrative Agent shall promptly notify the Lenders of any such release hereunder, and this Agreement and each other Loan Document shall be deemed amended to delete the name of any Subsidiary Guarantor released pursuant to this Section 10.12. For the avoidance of doubt, (i) any Owner (including any Owner that is released pursuant to this Section 10.12) that becomes a borrower or guarantor of, or is otherwise obligated in respect of, Unsecured Indebtedness shall be required, in accordance with Section 6.12, to become a Subsidiary Guarantor within three (3) Business Days of becoming a borrower or guarantor of, or otherwise becoming obligated in respect of, Unsecured Indebtedness and remain a Subsidiary Guarantor for so long as such Subsidiary is so obligated and (ii) in no event shall the REIT be released from its obligations under the Guaranty pursuant to this Section 10.12.

ARTICLE XI. MISCELLANEOUS

11.01 Amendments, Etc**.** Subject to Section 3.03 and clauses (ii) through (v) of the last paragraph of this Section 11.01, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that:

(a) the written consent of each Lender shall be required with respect to:

(i) the amendment or waiver of any condition set forth in Section 4.01(a) or, in the case of the initial Credit Extension, Section 4.02;

(ii) the adoption of any provision, amendment or waiver that subordinates or has the effect of subordinating all or any portion of the Obligations to any other Indebtedness or obligation; and

(iii) any change to any provision of this Section 11.01 or the definition of "Required Lenders" or the adoption of any provision, amendment or waiver of any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (b) of this proviso);

(b) the adoption of any provision, amendment or waiver that changes the definition of "Required Revolving Lenders" or "Required Term Lenders" shall require the written consent of each Lender under the applicable Facility;

(c) the written consent of the Required Revolving Lenders or Required Term Lenders, as the case may be, shall be required with respect to the amendment or waiver of any condition set forth in Section 4.02 as to any Credit Extension to be made after the Closing Date under a particular Facility;

(d) the adoption of any provision, amendment or waiver that changes (or has the effect of changing) Section 2.13 or Section 8.03 or any other provision governing pro rata payments, distributions, commitment reductions or sharing of payments in a manner that would have the effect of altering the ratable reduction of Lender Commitments or the pro rata sharing of payments otherwise required hereunder shall require the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(e) the adoption of any provision, amendment or waiver that releases the REIT or the Borrower from their respective obligations under this Agreement or any other Loan Document (other than in connection with the payment in full of all Obligations and any other amounts payable under this Agreement, the termination of all Commitments and Facilities, and the cancellation, expiration, termination or collateralization (to the satisfaction of the Administrative Agent and the

L/C Issuers that issued such Letters of Credit) of all Letters or Credit), or release all or substantially all of the value of the Guaranty, in each case without the written consent of each Lender;

(f) the adoption of any provision, amendment or waiver that extends (except as provided in Section 2.14) or increases the Commitment of any Lender (or reinstating any Commitment terminated pursuant to Section 8.02) shall require the written consent of such Lender;

(g) the adoption of any provision, amendment or waiver that postpones any date fixed by this Agreement or any other Loan Document for any payment (including any mandatory prepayment required pursuant to Section 2.05) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document shall require the written consent of each Lender directly affected thereby;

(h) the adoption of any provision, amendment or waiver that reduces the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 11.01) any fees or other amounts payable hereunder or under any other Loan Document shall require the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(i) the adoption of any provision of any Loan Document in a manner that by its terms (i) adversely affects the rights of the Banks under one of the Facilities differently than such amendment, modification or waiver affects the rights of the Banks under another of the Facilities in respect of the right to or priority of payments or (ii) imposes any greater restriction on the ability of any Bank under one of the Facilities to assign any of its rights or obligations hereunder, in each case without the written consent of (x) if such Facility is the Term Facility, the Required Term Lenders and (y) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuers in addition to the Lenders required above, affect the rights or duties of any L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, (x) affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document or (y) amend or waive, or consent to any departure from, the definitions of "LIBOR", "Available Tenor", "Benchmark", "Benchmark Replacement", "Benchmark Replacement Conforming Changes", "Benchmark Transition Event", "Daily Simple SOFR", "Early Opt-in Effective Date", "Early Opt-in Election", "Other Rate Early Opt-in", "Relevant Governmental Body", "SOFR", "SOFR Early Opt-in", or "Term SOFR" or the provisions of Section 3.03; and (iii) any Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary herein,

(i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended (except as provided in Section 2.14) without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender;

(ii) the Administrative Agent, with the consent of the Borrower, may amend, modify or supplement any Loan Document without the consent of any Lender or the Required Lenders in order to correct, amend or cure any ambiguity, inconsistency or defect or correct any typographical error or other manifest error in any Loan Document so long as such amendment, modification or supplement does not impose additional obligations on any Lender; provided that the Administrative Agent shall promptly give the Lenders notice of any such amendment, modification or supplement;

(iii) an Incremental Term Loan Facility Amendment to give effect to any addition of one or more Incremental Facilities shall be effective if executed by the Loan Parties, each Lender providing such Incremental Facilities, the Administrative Agent and, if required by clause (i) or (ii) of the proviso immediately following clause (i) above, the L/C Issuers;

(iv) the Administrative Agent and the Borrower may, without the consent of any Lender or any Guarantor then party hereto, amend this Agreement to add a Subsidiary as a "Guarantor" hereunder pursuant to a joinder agreement in substantially the form of Exhibit G; and

(v) for the avoidance of doubt, this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrower and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement.

11.02 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or any other Loan Party, the Administrative Agent or any L/C Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, any L/C Issuer or any Loan Party may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's, any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) Change of Address, Etc. Each Loan Party, the Administrative Agent and each L/C Issuer may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and each L/C Issuer. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Laws, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Committed Loan Notices and Letter of Credit Applications) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Each Loan Party shall jointly and severally indemnify the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

11.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided

under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and all of the L/C Issuers; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

11.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. Each Loan Party shall jointly and severally pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, amendments and restatements, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by each L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or any L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Loan Parties. Each Loan Party shall jointly and severally indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an

"Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby (including, without limitation, the Indemnitee's reliance on any Communication executed using an Electronic Signature or in the form of an Electronic Record), the performance by any of the parties hereto to perform (or the failure of any of the parties hereto to perform) any of their respective obligations hereunder or under any other Loan Document, any action taken or omitted by the Administrative Agent or any Lender hereunder or under any of the other Loan Documents, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto**, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 11.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to the Administrative Agent (or any sub-agent thereof), any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage

(determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, each Loan Party shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent and any L/C Issuer, the replacement of any Lender, the termination of the Facilities and the repayment, satisfaction or discharge of all the other Obligations.

11.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the applicable Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the applicable Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Credit Facility, or $5,000,000, in the case of any assignment in respect of the Term Facility unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to prohibit any Lender from assigning all or a portion of its rights and obligations under separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required for (1) assignments to a Disqualified Institution and (2) all other assignments unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of each L/C Issuer shall be required for any assignment in respect of the Revolving Credit Facility that is not to a Lender.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to any Loan Party or any Loan Party's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of one or more natural persons).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be

outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Laws without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the

primary benefit of one or more natural persons, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 11.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment, or grant of a security interest, to secure obligations to a Federal Reserve Bank or any other central bank; provided that no such pledge or assignment or grant shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee or grantee for such Lender as a party hereto.

(f) Resignation as L/C Issuer after Assignment. Notwithstanding anything to the contrary contained herein, if at any time a Lender that is an L/C Issuer assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to subsection (b) above, such Lender may, upon 30 days' notice to the Borrower, the Administrative Agent and the other Lenders, resign as an L/C Issuer. In the event of any such resignation as an L/C Issuer, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Lender as an L/C Issuer. If any Lender resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). Upon the appointment of a successor L/C Issuer, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by the resigning L/C Issuer, if any, outstanding at the time of such succession or make other arrangements satisfactory to resigning L/C Issuer to effectively assume the obligations of resigning L/C Issuer with respect to such Letters of Credit.

(g) Disqualified Institutions.

(i) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions of this Agreement or any other Loan Document relating to Disqualified Institutions. Without limiting the generality of the foregoing, neither the Administrative Agent nor any assigning Lender shall (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

(ii) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless the Borrower has consented to such assignment as otherwise contemplated by this Section 11.06, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be

disqualified from becoming a Lender or participant and (y) the execution by the Borrower of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this clause (g)(ii) shall not be void, but the other provisions of this clause (g) shall apply.

(iii) If any assignment or participation is made to any Disqualified Institution without the Borrower's prior consent in violation of clause (ii) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate all Commitments of such Disqualified Institution and repay all Obligations of the Borrower owing to such Disqualified Institution in connection with such Commitments (but only to the extent that no proceeds of Loans are used to make such repayment), and/or (B) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 11.06), all of its interest, rights and obligations under this Agreement and the other Loan Documents to one or more Eligible Assignees at the lesser of (x) the outstanding principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents; provided that (1) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b), and (2) such assignment does not conflict with applicable Laws.

(iv) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not have the right to (x) receive information, reports or other materials provided to Lenders by the Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders or the Administrative Agent, or (z) access the Platform or any other electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws (a "Bankruptcy Plan"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Bankruptcy Plan, (2) if such Disqualified Institution does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(v) The Administrative Agent shall, and the Borrower hereby expressly authorizes the Administrative Agent to, (A) post the DQ List (including any updates thereto from time to time) on the Platform, including that portion of the Platform that is designated for "public side" Lenders and (B) provide the DQ List to each Lender requesting the same.

11.07 Treatment of Certain Information; Confidentiality. The Administrative Agent, each Lender and each L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.15(c) or Section 11.01 or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder (it being understood that the DQ List may be disclosed to any assignee or Participant, or prospective assignee or Participant), (g) on a confidential basis to (i) any rating agency in connection with rating the REIT or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than a Loan Party. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

The Administrative Agent, each Lender and each L/C Issuer each acknowledges that (a) the Information may include material non-public information concerning a Loan Party or a Subsidiary thereof, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Laws, including United States Federal and state securities Laws.

Notwithstanding anything herein to the contrary, the Administrative Agent, each Lender, each L/C Issuer and each of their respective Related Parties may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of any transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Related Parties relating to such tax treatment or tax structure.

11.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. Each Lender and each L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Laws (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Laws, (a) characterize any payment that is

not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Integration; Effectiveness. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or any L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

11.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or the L/C Issuers, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders. If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

11.14 Governing Law; Jurisdiction; Etc**.**

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW

YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, amendment and restatement, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by

the Administrative Agent, the Bookrunners, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Bookrunners, the Arrangers and the Lenders, on the other hand, (B) each of the Borrower and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Bookrunner, each Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any Bookrunner, any Arranger nor any Lender has any obligation to the Borrower, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Bookrunners, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent, any Bookrunner, any Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and each other Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, any Bookrunner, any Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.17 Electronic Execution; Electronic Records; Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and the Lender Parties agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Lender Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent nor any L/C Issuer is under any obligation to accept an Electronic

Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent or any L/C Issuer has agreed to accept such Electronic Signature, the Administrative Agent and each of the Lender Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Lender Party without further verification and (b) upon the request of the Administrative Agent or any Lender Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

Neither the Administrative Agent nor any L/C ~~Issuer~~**Issuer** shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's or any L/C Issuer's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent and any L/C Issuer shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Loan Parties and each Lender Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document based solely on the lack of paper original copies of this Agreement, such other Loan Document, and (ii) waives any claim against the Administrative Agent, each Lender Party and each Related Party for any liabilities arising solely from the Administrative Agent's and/or any Lender Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

11.18 USA PATRIOT Act. Each Lender that is subject to the USA PATRIOT Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. The Loan Parties shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

11.19 Authorized Persons and Authorized Signers. The Administrative Agent is authorized to rely upon the continuing authority of the Authorized Persons and Authorized Signers to bind the Borrower as set forth in the Borrower's Instruction Certificate. Such authorization may be changed only upon written notice to the Administrative Agent accompanied by evidence, reasonably satisfactory to the Administrative Agent, of the authority of the Person giving such

notice. Such notice shall be effective not sooner than five (5) Business Days following receipt thereof by the Administrative Agent.

11.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Solely to the extent any Lender that is an Affected Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any Affected Resolution Authority.

11.21 No Novation.

(a) This Agreement amends, restates and supersedes the Existing Credit Agreement in its entirety and is not intended to be or operate as a novation or an accord and satisfaction of the Existing Credit Agreement or the obligations evidenced thereby or provided for thereunder. Without limiting the generality of the foregoing (i) all "Loans" under (and as defined in) the Existing Credit Agreement shall on the Closing Date become Loans hereunder and (ii) all other "Obligations" (under and as defined in the Existing Credit Agreement) that remain outstanding on the Closing Date shall be Obligations under this Agreement.

(b) On the Closing Date, the Existing Revolving Credit Notes and Existing Term Notes, if any, held by each Lender shall be deemed to be cancelled and, if such Lender has requested a Revolving Credit Note and/or Term Note hereunder, amended and restated by the Revolving Credit Note or Term Note, as applicable, delivered hereunder on or about the Closing Date (regardless of whether any Lender shall have delivered to the Borrower for cancellation any Existing Note held by it). Each Lender, whether or not requesting a Note hereunder, shall use its commercially reasonable efforts to deliver the Existing Revolving Credit Note and/or Existing Term Note held by it to the Borrower for cancellation and/or amendment and restatement. All amounts owing under, and evidenced by, the Existing Revolving Credit Note and Existing Term

Note of any Lender as of the Closing Date shall continue to be outstanding hereunder, and shall from and after the Closing Date be evidenced by the Notes (if any) received by such Lender pursuant to this Agreement, and shall in any event be evidenced by, and governed by the terms of, this Agreement. Each Lender hereby agrees to indemnify and hold harmless the Borrower from and against any and all liabilities, losses, damages, actions or claims that may be imposed on, incurred by or asserted against the Borrower arising out of such Lender's failure to deliver the Existing Revolving Credit Note and/or Existing Term Note held by it to the Borrower for cancellation, subject to the condition that the Borrower shall not make any payment to any Person claiming to be the holder of any such Existing Revolving Credit Note or Existing Term Note unless such Lender is first notified of such claim and is given the opportunity, at such Lender's sole cost and expense, to assert any defenses to such payment.

11.22 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 11.22, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

11.23 ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[*signature pages immediately follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA REALTY TRUST, its General Partner

By: _____
Name: Jason Blacksberg
Title: Senior Vice President

GUARANTORS:

ACADIA REALTY TRUST, a Maryland real estate investment trust

By: ____
Name: Jason Blacksberg
Title: Senior Vice President

ACADIA 1520 MILWAUKEE AVENUE LLC, a Delaware limited liability company

ACADIA 2914 THIRD AVENUE LLC, a Delaware limited liability company

ACADIA 5-7 EAST 17TH STREET LLC, a Delaware limited liability company

ACADIA 83 SPRING STREET LLC, a Delaware limited liability company

ACADIA BARTOW AVENUE LLC, a Delaware limited liability company

ACADIA CHESTNUT LLC, a Delaware limited liability company

ACADIA GOLD COAST LLC, a Delaware limited liability company

ACADIA MAD RIVER PROPERTY LLC, a Delaware limited liability company

ACADIA MERCER STREET LLC, a Delaware limited liability company

ACADIA RUSH WALTON LLC, a Delaware limited liability company

ACADIA TOWN LINE, LLC, a Connecticut limited liability company

ACADIA WEST 54TH STREET LLC, a Delaware limited liability company

ACADIA WEST SHORE EXPRESSWAY LLC, a Delaware limited liability company

MARK PLAZA FIFTY L.P., a Pennsylvania limited partnership

By: ACADIA MARK PLAZA LLC, its General Partner

ACADIA MARK PLAZA LLC, a Delaware limited liability company

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD ABSECON ASSOCIATES, L.P, a Delaware limited partnership

By: ACADIA ABSECON LLC, its General Partner

ACADIA ABSECON LLC, a Delaware limited liability company

RD BLOOMFIELD ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD HOBSON ASSOCIATES, L.P., a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

MARK TWELVE ASSOCIATES, LP, a Pennsylvania limited partnership

By: ACADIA HOBSON LLC, its General Partner

ACADIA HOBSON LLC, a Delaware limited liability company

RD METHUEN ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

ACADIA PROPERTY HOLDINGS, LLC, a Delaware limited liability company

ACADIA 181 MAIN STREET LLC, a Delaware limited liability company

ACADIA CHICAGO LLC, a Delaware limited liability company

ACADIA CONNECTICUT AVENUE LLC, a Delaware limited liability company

8-12 EAST WALTON LLC, a Delaware limited liability company

RD BRANCH ASSOCIATES, L.P., a New York limited partnership

By: Acadia Property Holdings, LLC, its General Partner

ACADIA WEST DIVERSEY LLC, a Delaware limited liability company

868 BROADWAY LLC, a Delaware limited liability company

120 WEST BROADWAY LLC, a Delaware limited liability company

11 EAST WALTON LLC, a Delaware limited liability company

865 WEST NORTH AVENUE LLC, a Delaware limited liability company

61 MAIN STREET OWNER LLC, a Delaware limited liability company

252-264 GREENWICH AVENUE RETAIL LLC, a Delaware limited liability company

2520 FLATBUSH AVENUE LLC, a Delaware limited liability company

ACADIA CLARK-DIVERSEY LLC, a Delaware limited liability company

ACADIA NEW LOUDON LLC, a Delaware limited liability company

131-135 PRINCE STREET LLC, a Delaware limited liability company

201 NEEDHAM STREET OWNER LLC, a Delaware limited liability company

SHOPS AT GRAND AVENUE LLC, a Delaware limited liability company

2675 GEARY BOULEVARD LP, a Delaware limited partnership

By: 2675 City Center Partner LLC, its General Partner

2675 CITY CENTER PARTNER LLC, a Delaware limited liability company

ACADIA NAAMANS ROAD LLC, a Delaware limited liability company

ACADIA CRESCENT PLAZA LLC, a Delaware limited liability company

RD ELMWOOD ASSOCIATES, L.P., a Delaware limited partnership

By: Acadia Elmwood Park LLC, its General Partner

ACADIA ELMWOOD PARK LLC, a Delaware limited liability company

ROOSEVELT GALLERIA LLC, a Delaware limited liability company

ACADIA 56 EAST WALTON LLC, a Delaware limited liability company

ACADIA SECOND CITY 843-45 WEST ARMITAGE LLC, a Delaware limited liability company

ACADIA SECOND CITY 1521 WEST BELMONT LLC, a Delaware limited liability company

ACADIA SECOND CITY 2206-08 NORTH HALSTEAD LLC, a Delaware limited liability company

ACADIA SECOND CITY 2633 NORTH HALSTEAD LLC, a Delaware limited liability company

HEATHCOTE ASSOCIATES, L.P., a New York limited partnership

By: Acadia Heathcote LLC, its General Partner

ACADIA HEATHCOTE LLC, a Delaware limited liability company

152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

ACADIA 152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

165 NEWBURY STREET OWNER LLC, a Delaware limited liability company

ACADIA 639 WEST DIVERSEY LLC, a Delaware limited liability company

ACADIA BRENTWOOD LLC, a Delaware limited liability company

41 GREENE STREET OWNER LLC, a Delaware limited liability company

47-49 GREENE STREET OWNER LLC, a Delaware limited liability company

51 GREENE STREET OWNER LLC, a Delaware limited liability company

53 GREENE STREET OWNER LLC, a Delaware limited liability company

849 W. ARMITAGE OWNER LLC, a Delaware limited liability company

912 W. ARMITAGE OWNER LLC, a Delaware limited liability company

BEDFORD GREEN LLC, a Delaware limited liability company

ACADIA 4401 WHITE PLAINS ROAD LLC, a Delaware limited liability company

ACADIA MERRILLVILLE LLC, a Delaware limited liability company

37 GREENE STREET OWNER LLC, a Delaware limited liability company

907 W. ARMITAGE OWNER LLC, a Delaware limited liability company

45 GREENE STREET OWNER LLC, a Delaware limited liability company

8436-8452 MELROSE OWNER LP, a Delaware limited partnership

By: 8436-8452 MELROSE GENERAL PARTNER LLC, its General Partner

8436-8452 MELROSE GENERAL PARTNER LLC, a Delaware limited liability company

917 W. ARMITAGE OWNER LLC, a Delaware limited liability company

CALIFORNIA & ARMITAGE MAIN OWNER LLC, a Delaware limited liability company

ACADIA TOWN CENTER HOLDCO LLC, a Delaware limited liability company

ACADIA MARKET SQUARE, LLC, a Delaware limited liability company

ACADIA NORTH MICHIGAN AVENUE LLC, a Delaware limited liability company

565 BROADWAY OWNER LLC, a Delaware limited liability company

ACADIA BRANDYWINE HOLDINGS, LLC, a Delaware limited liability company

By: ____
Name: Jason Blacksberg
Title: Senior Vice President
on behalf of the 82 entities listed above

RD SMITHTOWN, LLC, a Delaware limited liability company

By: ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA REALTY TRUST, its General Partner

By: ____
Name: Jason Blacksberg
Title: Senior Vice President

BANK OF AMERICA, N.A., as Administrative Agent

By: ____
Name: Henry G. Pennell
Title: Vice President

BANK OF AMERICA, N.A., as a Lender and an L/C Issuer

By: _____
Name: Gregory Egli
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a Lender and an L/C Issuer

By: ____
Name: Craig V. Koshkarian
Title: Director

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: _____
Name: Brian Kelly
Title: Senior Vice President

TRUIST BANK, Successor by Merger to SunTrust Bank, as a Lender

By: _____
Name: Ryan Almond
Title: Director

TD BANK, N.A., as a Lender

By: _____
Name: Gianna Gioia
Title: Vice President

JPMORGAN CHASE BANK, N.A., as a Lender

By: _____
Name: Christian Lunt
Title: Executive Director

[Signature Page to Second Amended and Restated Credit Agreement]

CITIBANK, N.A., as a Lender

By: _____
Name: David Bouton
Title: Authorized Signatory

[Signature Page to Second Amended and Restated Credit Agreement]

PEOPLE'S UNITED BANK, N.A., as a Lender

By: _____
Name: David J. Jablonowski
Title: Vice President

[Signature Page to Second Amended and Restated Credit Agreement]

GOLDMAN SACHS BANK USA, as a Lender

By: _____
Name: Rebecca Katz
Title: Authorized Signatory

SECOND AMENDMENT
TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT

SECOND AMENDMENT, dated as of December 21, 2022 (this "Amendment"), to the Second Amended and Restated Credit Agreement, dated as of June 29, 2021, by and among Acadia Realty Limited Partnership, a Delaware limited partnership (the "Borrower"), Acadia Realty Trust, a Maryland real estate investment trust (the "REIT") and certain subsidiaries of the Borrower from time to time party thereto, as guarantors, the Lenders and L/C Issuers from time to time party thereto, and Bank of America, N.A., as Administrative Agent (as heretofore amended, modified, extended, restated, replaced, or supplemented, the "Existing Credit Agreement"). Any term used herein and not otherwise defined herein shall have the meaning assigned to such term in the Existing Credit Agreement, as amended by this Amendment (the "Amended Credit Agreement").

WHEREAS, the Borrower and the Lenders party hereto have agreed to modify the Existing Credit Agreement as herein set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Amendments to Credit Agreement. The parties hereto agree that effective as of the Second Amendment Effective Date (defined below) the Existing Credit Agreement shall be amended:

(a) to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth on the pages of the Amended Credit Agreement attached as Annex I hereto;

(b) by replacing Exhibit A to the Existing Credit Agreement with the Exhibit A attached hereto as Annex II; and

(c) to incorporate the Exhibit F (Form of Notice of Loan Prepayment) attached hereto as Annex III as Exhibit F thereto.

SECTION 2. Conditions of Effectiveness. This Amendment shall be effective as of the first date each of the following conditions precedent has been satisfied (the first date each of such conditions precedent has been satisfied being referred to herein as the "Second Amendment Effective Date"):

The Administrative Agent's receipt of the following, each of which shall be originals, telecopies or in .pdf or other electronic format in each case in accordance with Section 11.17 of the Existing Credit Agreement as incorporated herein pursuant to Section 8 hereof:

(a) counterparts of this Agreement, duly executed and delivered by each of the Loan Parties, each Lender and the Administrative Agent; and

(b) a certificate of the Borrower dated as of the Second Amendment Effective Date signed by a Responsible Officer of the Borrower certifying that before and after giving effect to this Amendment, the representations and warranties contained in Article V of the Amended Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection therewith or with this Amendment, are true and correct in all material respects on and as of the Second Amendment Effective Date (without duplication of materiality qualifiers set forth in such representations and warranties), except (i) with respect to the representations and warranties set forth in Section 5.19 of the Amended Credit Agreement, in which case they are true and correct in all respects, (ii) to the extent that such representations and warranties expressly relate to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties), and (iii) that for purposes hereof, the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Amended Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 of the Amended Credit Agreement.

SECTION 3. **Representations and Warranties of Loan Parties**. After giving effect to this Amendment, the Borrower reaffirms and restates the representations and warranties set forth in the Amended Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, and all such representations and warranties shall be true and correct in all material respects on the date hereof with the same force and effect as if made on such date (without duplication of materiality qualifiers set forth in such representations and warranties), except (1) with respect to the representations and warranties set forth in Section 5.19 of the Amended Credit Agreement, in which case they are true and correct in all respects, (2) to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and (3) that for purposes hereof, the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Amended Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01 of the Amended Credit Agreement. Each of the Loan Parties represents and warrants (which representations and warranties shall survive the execution and delivery hereof) to the Administrative Agent and the Lenders that:

(a) it has the requisite power and authority to execute, deliver and perform its obligations under this Amendment and has taken or caused to be taken all necessary company action to authorize the execution, delivery and performance of this Amendment;

(b) no consent of any Person (including, without limitation, any of its equity holders or creditors), and no action of, or filing with, any governmental or public body or authority is necessary or required in connection with, the execution, delivery and performance of this Amendment;

(c) this Amendment has been duly executed and delivered on its behalf by a duly authorized officer, and constitutes its legal, valid and binding obligation enforceable in accordance with its terms, subject to bankruptcy, reorganization, insolvency,

moratorium and other similar laws affecting the enforcement of creditors' rights generally and the exercise of judicial discretion in accordance with general principles of equity;

(d) no Default or Event of Default has occurred and is continuing; and

(e) the execution, delivery and performance of this Amendment will not violate any Law, or any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject, or conflict with, or result in the breach of, or constitute a default under, any Contractual Obligation of any Loan Party or any of its Subsidiaries.

SECTION 4. **Affirmation of Guarantors**. Each Guarantor hereby approves and consents to this Amendment and the transactions contemplated by this Amendment and agrees and affirms that its guarantee of the Obligations continues to be in full force and effect and is hereby ratified and confirmed in all respects and shall apply to the Amended Credit Agreement and all of the other Loan Documents, as such are amended, restated, supplemented or otherwise modified from time to time in accordance with their terms.

SECTION 5. **Ratification**.

(a) Except as herein agreed, the Amended Credit Agreement and the other Loan Documents remain in full force and effect and are hereby ratified and affirmed by the Loan Parties.

(b) This Amendment shall be limited precisely as written and, except as expressly provided herein, shall not be deemed (i) to be a consent granted pursuant to, or a waiver, modification or forbearance of, any term or condition of the Amended Credit Agreement or any of the instruments or agreements referred to therein or a waiver of any Default or Event of Default under the Amended Credit Agreement, whether or not known to the Administrative Agent, any of the L/C Issuers or any of the Lenders, or (ii) to prejudice any right or remedy which the Administrative Agent, any of the L/C Issuers or any of the Lenders may now have or have in the future against any Person under or in connection with the Amended Credit Agreement, any of the instruments or agreements referred to therein or any of the transactions contemplated thereby.

SECTION 6. **Modifications**. Neither this Amendment, nor any provision hereof, may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the parties hereto.

SECTION 7. **References**. The Loan Parties acknowledge and agree that this Amendment constitutes a Loan Document. Each reference in the Amended Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference in each other Loan Document (and the other documents and instruments delivered pursuant to or in connection therewith) to the "Credit Agreement", "thereunder", "thereof" or words of like import, shall mean and be a reference to the Amended Credit Agreement and as the Amended Credit Agreement may in the future be amended, restated, supplemented or modified from time to time.

SECTION 8. **Counterparts; Execution**. Section 11.17 of the Amended Credit Agreement is incorporated herein, *mutatis mutandis*, as if a part hereof.

SECTION 9. **Successors and Assigns**. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10. **Severability**. If any provision of this Amendment shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or enforceability without in any manner affecting the validity or enforceability of such provision in any other jurisdiction or the remaining provisions of this Amendment in any jurisdiction.

SECTION 11. **Governing Law**. THIS AMENDMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AMENDMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 12. **Headings**. Section headings in this Amendment are included for convenience of reference only and are not to affect the construction of, or to be taken into consideration in interpreting, this Amendment.

SECTION 13. **Loan Document**. This Amendment is a Loan Document.

SECTION 14. **Entire Agreement**. This Amendment constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Without limitation of the foregoing:

THIS AMENDMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[The remainder of this page left blank intentionally]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the date hereof.

BORROWER:

ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA REALTY TRUST, its General Partner

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President

GUARANTORS:

Each of the Guarantors is hereby executing this Amendment for the purposes of acknowledging its agreement to the representations and warranties made by such Guarantor under Section 3 of this Amendment, the affirmations made by such Guarantor under Section 4 of this Amendment and the ratifications, affirmations, confirmations and agreements made under Section 5 of this Amendment.

ACADIA REALTY TRUST, a Maryland real estate investment trust

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President

ACADIA 1520 MILWAUKEE AVENUE LLC, a Delaware limited liability company

ACADIA 2914 THIRD AVENUE LLC, a Delaware limited liability company

ACADIA 5-7 EAST 17TH STREET LLC, a Delaware limited liability company

ACADIA 83 SPRING STREET LLC, a Delaware limited liability company

ACADIA BARTOW AVENUE LLC, a Delaware limited liability company

ACADIA CHESTNUT LLC, a Delaware limited liability company

ACADIA GOLD COAST LLC, a Delaware limited liability company

ACADIA MAD RIVER PROPERTY LLC, a Delaware limited liability company

ACADIA MERCER STREET LLC, a Delaware limited liability company

ACADIA RUSH WALTON LLC, a Delaware limited liability company

ACADIA TOWN LINE, LLC, a Connecticut limited liability company

ACADIA WEST 54TH STREET LLC, a Delaware limited liability company

ACADIA WEST SHORE EXPRESSWAY LLC, a Delaware limited liability company

MARK PLAZA FIFTY L.P., a Pennsylvania limited partnership

By: ACADIA MARK PLAZA LLC, its General Partner

ACADIA MARK PLAZA LLC, a Delaware limited liability company

RD ABINGTON ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD ABSECON ASSOCIATES, L.P, a Delaware limited partnership

By: ACADIA ABSECON LLC, its General Partner

ACADIA ABSECON LLC, a Delaware limited liability company

RD BLOOMFIELD ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

RD HOBSON ASSOCIATES, L.P., a Delaware limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

MARK TWELVE ASSOCIATES, LP, a Pennsylvania limited partnership

By: ACADIA HOBSON LLC, its General Partner

ACADIA HOBSON LLC, a Delaware limited liability company

RD METHUEN ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: ACADIA PROPERTY HOLDINGS, LLC, its General Partner

ACADIA PROPERTY HOLDINGS, LLC, a Delaware limited liability company

ACADIA 181 MAIN STREET LLC, a Delaware limited liability company

ACADIA CHICAGO LLC, a Delaware limited liability company

ACADIA CONNECTICUT AVENUE LLC, a Delaware limited liability company

8-12 EAST WALTON LLC, a Delaware limited liability company

RD BRANCH ASSOCIATES, L.P., a New York limited partnership

By: Acadia Property Holdings, LLC, its General Partner

ACADIA WEST DIVERSEY LLC, a Delaware limited liability company

868 BROADWAY LLC, a Delaware limited liability company

120 WEST BROADWAY LLC, a Delaware limited liability company

11 EAST WALTON LLC, a Delaware limited liability company

865 WEST NORTH AVENUE LLC, a Delaware limited liability company

61 MAIN STREET OWNER LLC, a Delaware limited liability company

252-264 GREENWICH AVENUE RETAIL LLC, a Delaware limited liability company

2520 FLATBUSH AVENUE LLC, a Delaware limited liability company

ACADIA CLARK-DIVERSEY LLC, a Delaware limited liability company

ACADIA NEW LOUDON LLC, a Delaware limited liability company

131-135 PRINCE STREET LLC, a Delaware limited liability company

201 NEEDHAM STREET OWNER LLC, a Delaware limited liability company

SHOPS AT GRAND AVENUE LLC, a Delaware limited liability company

2675 GEARY BOULEVARD LP, a Delaware limited partnership

By: 2675 City Center Partner LLC, its General Partner

2675 CITY CENTER PARTNER LLC, a Delaware limited liability company

ACADIA NAAMANS ROAD LLC, a Delaware limited liability company

ACADIA CRESCENT PLAZA LLC, a Delaware limited liability company

RD ELMWOOD ASSOCIATES, L.P., a Delaware limited partnership

By: Acadia Elmwood Park LLC, its General Partner

ACADIA ELMWOOD PARK LLC, a Delaware limited liability company

ROOSEVELT GALLERIA LLC, a Delaware limited liability company

ACADIA 56 EAST WALTON LLC, a Delaware limited liability company

ACADIA SECOND CITY 843-45 WEST ARMITAGE LLC, a Delaware limited liability company

ACADIA SECOND CITY 1521 WEST BELMONT LLC, a Delaware limited liability company

ACADIA SECOND CITY 2206-08 NORTH HALSTEAD LLC, a Delaware limited liability company

ACADIA SECOND CITY 2633 NORTH HALSTEAD LLC, a Delaware limited liability company

HEATHCOTE ASSOCIATES, L.P., a New York limited partnership

By: Acadia Heathcote LLC, its General Partner

ACADIA HEATHCOTE LLC, a Delaware limited liability company

152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

ACADIA 152-154 SPRING STREET RETAIL LLC, a Delaware limited liability company

165 NEWBURY STREET OWNER LLC, a Delaware limited liability company

ACADIA 639 WEST DIVERSEY LLC, a Delaware limited liability company

ACADIA BRENTWOOD LLC, a Delaware limited liability company

41 GREENE STREET OWNER LLC, a Delaware limited liability company

47-49 GREENE STREET OWNER LLC, a Delaware limited liability company

51 GREENE STREET OWNER LLC, a Delaware limited liability company

53 GREENE STREET OWNER LLC, a Delaware limited liability company

849 W. ARMITAGE OWNER LLC, a Delaware limited liability company

912 W. ARMITAGE OWNER LLC, a Delaware limited liability company

BEDFORD GREEN LLC, a Delaware limited liability company

ACADIA 4401 WHITE PLAINS ROAD LLC, a Delaware limited liability company

ACADIA MERRILLVILLE LLC, a Delaware limited liability company

37 GREENE STREET OWNER LLC, a Delaware limited liability company

907 W. ARMITAGE OWNER LLC, a Delaware limited liability company

45 GREENE STREET OWNER LLC, a Delaware limited liability company

8436-8452 MELROSE OWNER LP, a Delaware limited partnership

By: 8436-8452 MELROSE GENERAL PARTNER LLC, its General Partner

8436-8452 MELROSE GENERAL PARTNER LLC, a Delaware limited liability company

917 W. ARMITAGE OWNER LLC, a Delaware limited liability company

CALIFORNIA & ARMITAGE MAIN OWNER LLC, a Delaware limited liability company

ACADIA TOWN CENTER HOLDCO LLC, a Delaware limited liability company

ACADIA MARKET SQUARE, LLC, a Delaware limited liability company

ACADIA NORTH MICHIGAN AVENUE LLC, a Delaware limited liability company

565 BROADWAY OWNER LLC, a Delaware limited liability company

ACADIA BRANDYWINE HOLDINGS, LLC, a Delaware limited liability company

RD SMITHTOWN, LLC, a New York limited liability company

1324 14TH STREET OWNER LLC, a Delaware limited liability company

1526 14TH STREET OWNER LLC, a Delaware limited liability company

1529 14TH STREET OWNER LLC, a Delaware limited liability company

121 SPRING STREET OWNER LLC, a Delaware limited liability company

ACADIA 28 JERICHO TURNPIKE LLC, a Delaware limited liability company

BEVERLY OWNER LP, a Delaware limited partnership

BEVERLY OWNER GP LLC, a Delaware limited liability company

2622-2634 HENDERSON AVE OWNER LLC, a Delaware limited liability company

HENDERSON AVE DEV 1 OWNER LLC, a Delaware limited liability company

HENDERSON AVE DEV 2 OWNER LLC, a Delaware limited liability company

HENDERSON AVE GRAND OWNER LLC, a Delaware limited liability company

HENDERSON AVE LAND OWNER LLC, a Delaware limited liability company

HENDERSON AVE LOTS OWNER LLC, a Delaware limited liability company

HENDERSON AVE MAIN OWNER LLC, a Delaware limited liability company

HENDERSON AVE SHOPS OWNER LLC, a Delaware limited liability company

By: /s/ Jason Blacksberg
Name: Jason Blacksberg
Title: Senior Vice President
on behalf of the entities listed above

LENDERS:

BANK OF AMERICA, N.A., as a Lender

By: /s/ Gregory Egli
Name: Gregory Egli
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Craig V. Koshkarian
Name: Craig V. Koshkarian
Title: Director

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Brian P. Kelly
Name: Brian P. Kelly
Title: SVP

TRUIST BANK, Successor by Merger to SunTrust Bank, as a Lender

By: /s/ Trudy Wilson
Name: Trudy Wilson
Title: Vice President

TD BANK, N.A., as a Lender

By: /s/ Gianna Gioia
Name: Gianna Gioia
Title: Vice President

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Nora Skelton
Name: Nora Skelton
Title: Authorized Signatory

CITIBANK, N.A., as a Lender

By: /s/ Chris Albano
Name: Chris Albano
Title: Authorized Signatory

M&T BANK, as a Lender

By: /s/ David Moorin
Name: David Moorin
Title: Assistant Vice President

GOLDMAN SACHS BANK USA, as a Lender

By: /s/ Keshia Leday
Name: Keshia Leday
Title: Authorized Signatory

ADMINISTRATIVE AGENT:

BANK OF AMERICA, N.A., as Administrative Agent

By: /s/ Carolyn LaBatte-Leavitt
Name: Carolyn LaBatte-Leavitt
Title: Vice President

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of June 29, 2021

among

ACADIA REALTY LIMITED PARTNERSHIP,

as the Borrower,

and

ACADIA REALTY TRUST
and
CERTAIN SUBSIDIARIES OF ACADIA REALTY LIMITED PARTNERSHIP FROM TIME TO TIME PARTY HERETO,
as Guarantors

BANK OF AMERICA, N.A.,
as Administrative Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION,
TRUIST BANK
and
PNC BANK, NATIONAL ASSOCIATION,
as Syndication Agents

and

The Lenders and L/C Issuers Party Hereto

BOFA SECURITIES, INC.
and
WELLS FARGO SECURITIES, LLC,
as Joint Bookrunners

and

BOFA SECURITIES, INC.,
WELLS FARGO SECURITIES, LLC,
TRUIST SECURITIES, INC.
and
PNC CAPITAL MARKETS LLC,
as Joint Lead Arrangers

TABLE OF CONTENTS

Section Page

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS 1
1.01 Defined Terms 1
1.02 Other Interpretive Provisions ~~49~~48
1.03 Accounting Terms ~~50~~48
1.04 Rounding ~~50~~49
1.05 Times of Day~~; Rates 51~~ 49
1.06 Letter of Credit Amounts ~~51~~49
1.07 Interest Rates 50

ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS ~~51~~50
2.01 Committed Loans ~~51~~50
2.02 Borrowings, Conversions and Continuations of Committed Loans ~~52~~51
2.03 Letters of Credit 53
2.04 [Reserved] 64
2.05 Prepayments 64
2.06 Termination or Reduction of Commitments 65
2.07 Repayment of Loans ~~66~~65
2.08 Interest ~~66~~65
2.09 Fees ~~67~~66
2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate 67
2.11 Evidence of Debt ~~68~~67
2.12 Payments Generally; Administrative Agent's Clawback 68
2.13 Sharing of Payments by Lenders 70
2.14 Extension of Maturity Date in respect of Revolving Credit Facility ~~71~~70
2.15 Increase in Facilities 72
2.16 Cash Collateral ~~76~~75
2.17 Defaulting Lenders ~~77~~76

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY ~~79~~78
3.01 Taxes ~~79~~78
3.02 Illegality 83
3.03 Inability to Determine Rates; Replacement of Successor Rates 84
3.04 Increased Costs~~; Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans 87~~ 86
3.05 Compensation for Losses ~~89~~87
3.06 Mitigation Obligations; Replacement of Lenders ~~89~~88
3.07 [Reserved] ~~90~~88
3.08 Survival ~~90~~88

ARTICLE IV. CONDITIONS PRECEDENT TO Credit Extensions ~~90~~88
4.01 Conditions of Effectiveness ~~90~~88
4.02 Conditions to all Credit Extensions ~~92~~91

ARTICLE V. REPRESENTATIONS AND WARRANTIES ~~93~~91
5.01 Existence, Qualification and Power ~~93~~91
5.02 Authorization; No Contravention ~~93~~92
5.03 Governmental Authorization; Other Consents ~~93~~92
5.04 Binding Effect ~~93~~92
5.05 Financial Statements; No Material Adverse Effect ~~93~~92
5.06 Litigation ~~94~~93
5.07 No Default ~~94~~93
5.08 Ownership of Property ~~95~~93
5.09 Environmental Compliance ~~95~~93
5.10 Insurance ~~95~~93
5.11 Taxes ~~95~~93
5.12 ERISA Compliance ~~95~~94
5.13 Subsidiaries; Equity Interests ~~96~~95
5.14 Margin Regulations; Investment Company Act ~~96~~95
5.15 Disclosure ~~97~~95
5.16 Compliance with Laws ~~97~~95
5.17 Taxpayer Identification Number ~~97~~96
5.18 Intellectual Property; Licenses, Etc. ~~97~~96
5.19 OFAC ~~97~~96
5.20 Solvency ~~98~~96
5.21 REIT Status; Stock Exchange Listing ~~98~~96
5.22 Subsidiary Guarantors ~~98~~96
5.23 Anti-Corruption Laws; Anti-Money Laundering Laws ~~98~~96
5.24 Affected Financial Institution ~~98~~97
5.25 Covered Entities ~~98~~97

ARTICLE VI. AFFIRMATIVE COVENANTS ~~98~~97
6.01 Financial Statements ~~99~~97
6.02 Certificates; Other Information ~~99~~98
6.03 Notices ~~101~~100
6.04 Payment of Obligations ~~102~~100
6.05 Preservation of Existence, Etc. ~~102~~101
6.06 Maintenance of Properties ~~103~~101
6.07 Maintenance of Insurance ~~103~~101
6.08 Compliance with Laws ~~103~~102
6.09 Books and Records ~~103~~102
6.10 Inspection Rights ~~103~~102
6.11 Use of Proceeds ~~104~~102
6.12 Additional Guarantors ~~104~~102
6.13 Compliance with Environmental Laws ~~105~~103
6.14 Further Assurances ~~105~~103
6.15 Maintenance of REIT Status; Stock Exchange Listing ~~105~~104
6.16 Material Contracts ~~105~~104
6.17 Preparation of Environmental Reports ~~105~~104
6.18 Minimum Amount and Occupancy of Unencumbered Properties ~~106~~104
6.19 Compliance with Terms of Leases ~~106~~105

6.20 Anti-Corruption Laws; Sanctions; Anti-Money Laundering Laws ~~106~~105

ARTICLE VII. NEGATIVE COVENANTS ~~107~~105
7.01 Liens ~~107~~105
7.02 Investments ~~107~~105
7.03 Indebtedness ~~107~~106
7.04 Fundamental Changes ~~108~~107
7.05 Dispositions ~~109~~107
7.06 Restricted Payments ~~110~~108
7.07 Change in Nature of Business ~~111~~109
7.08 Transactions with Affiliates ~~111~~109
7.09 Burdensome Agreements ~~111~~110
7.10 Use of Proceeds ~~111~~110
7.11 Financial Covenants ~~111~~110
7.12 Accounting Changes ~~112~~111
7.13 Amendments of Organization Documents ~~112~~111
7.14 Sanctions ~~113~~111
7.15 Subsidiaries of REIT ~~113~~111
7.16 Anti-Corruption Laws; Anti-Money Laundering Laws ~~113~~112
7.17 Swap Contracts ~~113~~112

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES ~~113~~112
8.01 Events of Default ~~113~~112
8.02 Remedies Upon Event of Default ~~116~~115
8.03 Application of Funds ~~116~~115

ARTICLE IX. ADMINISTRATIVE AGENT ~~117~~116
9.01 Appointment and Authority ~~117~~116
9.02 Rights as a Lender ~~118~~116
9.03 Exculpatory Provisions ~~118~~117
9.04 Reliance by Administrative Agent ~~119~~118
9.05 Delegation of Duties ~~119~~118
9.06 Resignation of Administrative Agent ~~120~~118
9.07 Non-Reliance on Administrative Agent, Arrangers, Bookrunners and Other Lenders ~~121~~120
9.08 No Other Duties, Etc. ~~122~~121
9.09 Administrative Agent May File Proofs of Claim ~~122~~121
9.10 Guaranty Matters ~~123~~122
9.11 Lender Representations Regarding ERISA ~~123~~122
9.12 Recovery of Erroneous Payments ~~124~~123

ARTICLE X. CONTINUING GUARANTY ~~125~~123
10.01 Guaranty ~~125~~123
10.02 Rights of Lenders ~~126~~124
10.03 Certain Waivers ~~126~~125
10.04 Obligations Independent ~~126~~125
10.05 Subrogation ~~126~~125

10.06 Termination; Reinstatement ~~127~~125
10.07 Subordination ~~127~~126
10.08 Stay of Acceleration ~~127~~126
10.09 Condition of the Borrower ~~127~~126
10.10 Limitations on Enforcement ~~127~~126
10.11 Contribution ~~128~~126
10.12 Release of Subsidiary Guarantors and Re-designation of Unencumbered Properties ~~129~~127

ARTICLE XI. MISCELLANEOUS ~~132~~131
11.01 Amendments, Etc. ~~132~~131
11.02 Notices; Effectiveness; Electronic Communication ~~135~~134
11.03 No Waiver; Cumulative Remedies; Enforcement ~~137~~136
11.04 Expenses; Indemnity; Damage Waiver ~~137~~136
11.05 Payments Set Aside ~~140~~138
11.06 Successors and Assigns ~~140~~139
11.07 Treatment of Certain Information; Confidentiality ~~146~~145
11.08 Right of Setoff ~~147~~146
11.09 Interest Rate Limitation ~~148~~147
11.10 Integration; Effectiveness ~~148~~147
11.11 Survival of Representations and Warranties ~~148~~147
11.12 Severability ~~149~~147
11.13 Replacement of Lenders ~~149~~148
11.14 Governing Law; Jurisdiction; Etc. ~~150~~148
11.15 Waiver of Jury Trial ~~151~~150
11.16 No Advisory or Fiduciary Responsibility ~~151~~150
11.17 Electronic Execution; Electronic Records; Counterparts ~~152~~151
11.18 USA PATRIOT Act ~~153~~152
11.19 Authorized Persons and Authorized Signers ~~153~~152
11.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions ~~153~~152
11.21 No Novation ~~154~~153
11.22 Acknowledgement Regarding Any Supported QFCs ~~154~~153
11.23 ENTIRE AGREEMENT ~~155~~154

SCHEDULES

1.01(B) Existing Letters of Credit
2.01 Commitments, Applicable Percentages and Letter of Credit Sublimits
5.05 Supplement to Interim Financial Statements
5.13 Subsidiaries; Jurisdiction of Incorporation/Organization and Principal Place of Business
11.02 Administrative Agent's Office; Certain Addresses for Notices; Taxpayer Identification Numbers

EXHIBITS

Form of

A Committed Loan Notice
B [Reserved]
C-1 Revolving Credit Note
C-2 Term Note
D Compliance Certificate
E-1 Assignment and Assumption
E-2 Administrative Questionnaire
F ~~[Reserved]~~Form of Notice of Loan Prepayment
G Joinder Agreement
H U.S. Tax Compliance Certificates
I Solvency Certificate
J Borrower's Instruction Certificate
K Borrower Remittance Instructions

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement") is entered into as of June 29, 2021, among ACADIA REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (the "Borrower"), ACADIA REALTY TRUST, a Maryland real estate investment trust (the "REIT") and certain subsidiaries of the Borrower from time to time party hereto, as Guarantors, each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), BANK OF AMERICA, N.A. and WELLS FARGO BANK, NATIONAL ASSOCIATION, as L/C Issuers, and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower, the REIT, the subsidiaries of the Borrower party thereto as guarantors, the lenders party thereto, the swing line lender party thereto, the letter of credit issuer party thereto and the Administrative Agent are party to that certain Credit Agreement, dated as of February 20, 2018 (as amended or otherwise modified prior to the date hereof, the "Existing Credit Agreement"). The parties hereto desire to amend and restate the Existing Credit Agreement in its entirety, but not as a novation, on the terms and subject to the conditions hereinafter set forth.

In consideration of the mutual covenants and agreements herein contained, the parties hereto hereby agree that the Existing Credit Agreement shall be, and hereby is, amended and restated in its entirety as follows, effective on and as of the Closing Date, and hereby further covenant and agree as follows:

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning specified in Section 11.18.

"Adjusted EBITDA" means, as of any date of determination, (i) EBITDA for the then most recently ended period of four consecutive fiscal quarters minus (ii) the aggregate Annual Capital Expenditure Adjustment for all Properties owned by one or more members of the Consolidated Group, provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the aggregate Annual Capital Expenditure Adjustment attributable to Properties owned by such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Adjusted EBITDA, minus (iii) the Consolidated Group Pro Rata Share of the aggregate Annual Capital Expenditure Adjustment for all Properties owned by one or more Unconsolidated Affiliates.

"Administrative Agent" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

"Administrative Questionnaire" means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.

"Affected Financial Institution" means (a) any EEA Financial Institution, or (b) any UK Financial Institution.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For the avoidance of doubt, in no event shall any Arranger, any Bookrunner, the Administrative Agent, any Syndication Agent or any Managing Agent listed on the cover page hereof or any Lender, in their capacities as such, be deemed to be an affiliate of the Borrower.

"Aggregate Deficit Amount" has the meaning specified in Section 10.11.

"Aggregate Excess Amount" has the meaning specified in Section 10.11.

"Agreement" has the meaning specified in the first introductory paragraph hereto.

"Annual Capital Expenditure Adjustment" means, for any Property, an amount equal to the product of (i) $0.20 *multiplied by* (ii) the aggregate net rentable area (determined on a square feet basis) of such Property.

"Applicable Law" means, as to any Person, all applicable Laws binding upon such Person or to which such a Person is subject. For purposes of Section 3.01, the term "Applicable Law" shall include FATCA.

"Applicable Percentage" means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) on or prior to the Closing Date, such Term Lender's Term Commitment at such time, and (ii) thereafter, the principal amount of such Term Lender's Term Loans at such time and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender's Revolving Credit Commitment at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments made in accordance with the terms of this Agreement. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means (i) at any time prior to the Investment Grade Pricing Effective Date, the Leverage-Based Applicable Rate in effect at such time and (ii) at any time on and after

the Investment Grade Pricing Effective Date, the Ratings-Based Applicable Rate in effect at such time.

"Applicable Revolving Credit Percentage" means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender's Applicable Percentage in respect of the Revolving Credit Facility at such time.

"Appropriate Lender" means, at any time, (a) with respect to the Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time and (b) with respect to the Letter of Credit Subfacility, (i) the L/C Issuers and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arrangers" means BofA Securities, Wells Fargo Securities, LLC, Truist Securities, Inc. and PNC Capital Markets LLC, in their capacities as joint lead arrangers for the Facilities.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

"Attributable Indebtedness" means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

"Audited Financial Statements" means the audited consolidated balance sheet of the REIT for the fiscal year ended December 31, 2020, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the REIT, including the notes thereto.

"Authorized Person" means any representative of the Borrower duly designated by the Borrower in accordance with the Borrower's Instruction Certificate, authorized to bind the Borrower in providing draw requests and requesting disbursements of Loan proceeds.

"Authorized Signer" means any representative of the Borrower duly designated by the Borrower in accordance with the Borrower's Instruction Certificate, authorized to bind the Borrower and to act for the Borrower for all purposes in connection with the Loan, including providing draw requests and requesting disbursements of Loan proceeds, obtaining information pertaining to the Loan, requesting any action under the Loan Documents, providing any certificates, and appointing and changing any Authorized Persons.

"Availability Period" means, in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (a) the Maturity Date for the Revolving Credit Facility, (b) the date of termination of the Revolving Credit Facility pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of each L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

~~"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.~~

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank of America" means Bank of America, N.A. and its successors.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate," and (c) ~~the Eurodollar Rate determined in accordance with clause (b) of the definition thereof,~~Term SOFR plus 1.00%~~;~~ and ~~if Base Rate shall be less than 1.00%, such rate shall be deemed to be~~(d) 1.00%. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

"Base Rate Committed Loan" means a Committed Loan that is a Base Rate Loan.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Base Rate Revolving Credit Loan" means a Revolving Credit Loan that is a Base Rate Loan.

"Benchmark" means, initially, LIBOR; provided that if a replacement of the Benchmark has occurred pursuant to Section 3.03(c) then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

"Benchmark Replacement" means:

(1) For purposes of Section 3.03(c)(i), the first alternative set forth below that can be determined by the Administrative Agent (and, in the case of the alternative set forth in clause (a) below, that has been consented to in writing by the Borrower):

(a) the sum of: (i) Term SOFR and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; or

(b) the sum of: (i) Daily Simple SOFR and (ii) 0.11448% (11.448 basis points);

provided that, if initially LIBOR is replaced with the rate contained in clause (b) above (Daily Simple SOFR plus the applicable spread adjustment) and subsequent to such replacement, the Administrative Agent determines that Term SOFR has become available and is administratively feasible for the Administrative Agent in its sole discretion, and the Administrative Agent notifies the Borrower and each Lender of such availability, then with the Borrower's written consent from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Benchmark Replacement shall be as set forth in clause (a) above; and

(2) For purposes of Section 3.03(c)(ii), the sum of (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Borrower as the replacement Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by a Relevant Governmental Body, for Dollar-denominated syndicated credit facilities at such time;

provided that, if the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.

Any Benchmark Replacement shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Benchmark Replacement shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of borrowing

~~requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).~~

~~"Benchmark Transition Event" means, with respect to any then-current Benchmark other than LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark or a Governmental Authority with jurisdiction over such administrator announcing or stating that all Available Tenors are or will no longer be representative, or made available, or used for determining the interest rate of loans, or shall or will otherwise cease, provided that, at the time of such statement or publication, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide any representative tenors of such Benchmark after such specific date.~~

"Beneficial Ownership Certification" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined and subject to in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"BofA Securities" means BofA Securities, Inc. and its successors.

"Bookrunners" means BofA Securities and Wells Fargo Securities, LLC, in their capacities as joint bookrunners for the credit facilities under this Agreement.

"Borrower" has the meaning specified in the first introductory paragraph hereto.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrower Remittance Instructions" means, the Borrower's remittance instructions provided in the form attached hereto as Exhibit K. The Administrative Agent is authorized to follow the instructions in any Borrower Remittance Instructions delivered to the Administrative Agent until five (5) Business Days following receipt of a new Borrower Remittance Instructions accompanied by evidence, reasonably satisfactory to the Administrative Agent, of the authority of the Person executing such new Borrower Remittance Instructions.

"Borrower's Instruction Certificate" means a certificate provided by or on behalf of the Borrower in the form attached hereto as Exhibit J, designating certain Authorized Persons and Authorized Signers as set forth therein.

"Borrowing" means a Committed Borrowing.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located ~~and, if such day relates to any Eurodollar Rate Loan or LIBOR Floating Rate Loan, means any such day that is also a London Banking Day~~.

"Capitalization Rate" means six and one-quarter percent (6.25%).

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuers or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the applicable L/C Issuer(s) shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and such L/C Issuer(s). "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means:

(a) United States dollars (including such dollars as are held as overnight bank deposits and demand deposits with banks);

(b) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency or instrumentality thereof and backed by the full faith and credit of the United States of America, in each case maturing within one year from the date of acquisition thereof;

(c) marketable direct obligations issued by any State of the United States of America or any political subdivision of any such State or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having a rating of at least A-2 from S&P or at least P-2 from Moody's;

(d) commercial paper maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 from S&P or at least P-2 from Moody's;

(e) time deposits, demand deposits, certificates of deposit, ~~Eurodollar~~eurodollar time deposits, time deposit accounts, term deposit accounts or bankers' acceptances maturing within one year from the date of acquisition thereof or overnight bank deposits, in each case, issued by any bank organized under the laws of the United States of America or any State thereof or the District of Columbia or any U.S. branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than $1,000,000,000; and

(f) investments in money market funds which invest substantially all their assets in securities of the types described in clauses (a) through (e) above.

"CFTC" means the Commodity and Futures Trading Commission, and any successor thereto.

"CFTC Regulations" means any and all regulations, rules, directives, or orders now or hereafter promulgated or issued by CFTC relating to Swap Contracts.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation (including, without limitation, Regulation D issued by the FRB) or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means an event or series of events by which:

(g) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of 30% or more of the equity securities of the REIT entitled to vote for members of the board of directors or equivalent governing body of the REIT on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right);

(h) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the REIT cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body;

(i) the passage of thirty days from the date upon which any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of the REIT, or control over the equity securities of the REIT entitled to vote for members of the board of directors or equivalent governing body of the REIT on a fully-diluted basis (and taking into account all such securities that such Person or group has the right to acquire pursuant to any option right) representing 25% or more of the combined voting power of such securities; or

(j) (i) the REIT shall cease to be the sole general partner of the Borrower or shall cease to own, directly, (x) 100% of the general partnership interests of the Borrower and (y) Equity Interests of the Borrower representing at least 90% of the total economic interests of the Equity Interests of the Borrower, in each case free and clear of all Liens (other than Permitted Equity Encumbrances) or (ii) any holder of a limited partnership interest in the Borrower is provided with or obtains voting rights with respect to such limited partnership interest that are more expansive in any respect than the voting rights afforded to limited partners of the Borrower under the Organization Documents of the Borrower in effect on the Closing Date.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01.

"CME" means CME Group Benchmark Administration Limited.

"Code" means the Internal Revenue Code of 1986.

"Commitment" means a Term Commitment or a Revolving Credit Commitment, as the context may require.

"Commitment Increase Amendment" has the meaning specified in Section 2.15(g).

"Committed Borrowing" means a Revolving Credit Borrowing, a Term Borrowing or an Incremental Term Loan Borrowing, as the context may require.

"Committed Loan" means a Term Loan or a Revolving Credit Loan, as the context may require.

"Committed Loan Notice" means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to another, or (c) a continuation of ~~Eurodollar Rate~~Term SOFR Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

~~"Compliance Certificate" means a certificate substantially in the form of Exhibit D.~~

"Communication" means this Agreement, any Loan Document and any document, any amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Loan Document.

"Compliance Certificate" means a certificate substantially in the form of Exhibit D.

"Conforming Changes" means, with respect to the use, administration of or any conventions associated with SOFR, any proposed Successor Rate, Daily Simple SOFR or Term SOFR, as applicable, any conforming changes to the definitions related thereto, including "Base Rate, "SOFR", "Daily Simple SOFR, "Term SOFR" and "Interest Period", timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definitions of "Business Day" and "U.S. Government Securities Business Day", timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate exists, in such other manner of administration as the Administrative Agent determines, in consultation with the Borrower, is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated Group" means, collectively, the Loan Parties and their Consolidated Subsidiaries.

"Consolidated Group Pro Rata Share" means, with respect to any Unconsolidated Affiliate or any Non-Wholly Owned Consolidated Subsidiary, the percentage interest held by the REIT and its Wholly Owned Subsidiaries, in the aggregate, in such Person determined by calculating the percentage of Equity Interests of such Person owned by the REIT and its Wholly Owned Subsidiaries.

"Consolidated Subsidiaries" means, as to any Person, all Subsidiaries of such Person that are consolidated with such Person for financial reporting purposes under GAAP.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Joint Venture" means a Subsidiary of the Borrower (the "Designated Subsidiary") that meets each of the following requirements: (i) the Designated Subsidiary owns or ground leases a Property (the "Designated Property"); (ii) the Borrower (either directly or through

Wholly Owned Subsidiaries thereof that are not Controlled Joint Ventures) (A) owns 100% of all voting Equity Interests in the Designated Subsidiary, (B) has exclusive operational control over the Designated Property and the Designated Subsidiary, including the ability to cause the Designated Subsidiary to Dispose of, grant Liens in, or otherwise encumber the Designated Property and other assets, incur, repay and prepay Indebtedness, provide Guarantees and make Restricted Payments, in each case without any requirement for the consent of any other Person; and (iii) no Person other than the Borrower is entitled to receive any distributions or other payments from the Designated Subsidiary except upon Disposition of the Designated Property.

"Credit Extension" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Creditor Parties" means, collectively, the Administrative Agent, the Lenders, the L/C Issuers and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons to whom the Obligations are owing.

"Daily Simple SOFR" ~~with respect to any applicable determination date means the secured overnight financing rate ("SOFR") published on such date by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York's website (or any successor source)~~means the rate per annum equal to SOFR determined for any day pursuant to the definition thereof plus the SOFR Adjustment. Any change in Daily Simple SOFR shall be effective from and including the date of such change without further notice. If the rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement and the other Loan Documents.

"Daily SOFR Loan" means a Committed Loan that bears interest at a rate based on Daily Simple SOFR.

"Debt Rating" means, as of any date of determination, the rating assigned by a Rating Agency to the REIT's non-credit enhanced, senior unsecured long term debt as in effect on such date.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate, plus (ii) the Applicable Rate for Base Rate Loans under the Revolving Credit Facility (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum; provided, however, that (x) with respect to a Base Rate Loan, the Default Rate shall be an interest rate equal to (i) the Base Rate, plus (ii) the Applicable Rate for Base Rate Loans for the Facility under which such Loan was made (determined

using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, (y) with respect to a ~~Eurodollar Rate~~Term SOFR Loan, the Default Rate shall be an interest rate equal to (i) ~~the Eurodollar Rate~~Term SOFR, plus (ii) the Applicable Rate for ~~Eurodollar Rate~~Term SOFR Loans for the Facility under which such Loan was made (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, and (z) with respect to a ~~LIBOR Floating Rate~~Daily SOFR Loan, the Default Rate shall be an interest rate equal to (i) ~~the LIBOR~~ Daily ~~Floating Rate~~Simple SOFR, plus (ii) the Applicable Rate for ~~LIBOR Floating Rate~~Daily SOFR Loans for the Facility under which such Loan was made (determined using the highest pricing level applied in the then applicable Pricing Grid), plus (iii) 2.00% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate then applicable to Letter of Credit Fees, plus 2.00% per annum.

"Defaulting Lender" means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within three Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any L/C Issuer or any Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or amounts payable pursuant to Section 11.04(c)) within three Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any L/C Issuer in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the

Administrative Agent to the Borrower, each L/C Issuer and each other Lender promptly following such determination.

"Designated Jurisdiction" means any region, country or territory to the extent that such country, region or territory itself or the government of any such country, region or territory, is the subject of any Sanction ~~(which on the Closing Date includes Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine)~~.

"Development Property" means a Property (a) the primary purpose of which is to be leased in the ordinary course of business or to be sold upon completion, (b) on which construction, redevelopment or material rehabilitation of material improvements has commenced and is continuing to be performed and (c) that is classified as "development in progress" on the Borrower's balance sheet or as a redevelopment project in any publicly filed financial and operating reporting supplement of the REIT, with any such Property remaining as a Development Property until the earlier of (i) such Property achieving an occupancy rate of 75% (based on net leasable area) and (ii) the first anniversary of the substantial completion of construction of such Property and material improvements as evidenced by a temporary or permanent certificate of occupancy; for the avoidance of doubt, on the date of the earlier of the occurrence of clause (i) or clause (ii) such Property will become a Newly Stabilized Property.

"Direct Owner" means, (i) as to any Unencumbered Property that is owned by or ground leased to a Subsidiary of the Borrower, the Subsidiary of the Borrower that directly owns or ground leases such Unencumbered Property and (ii) as to any Unencumbered First Mortgage Receivable held by a Subsidiary of the Borrower, the Subsidiary of the Borrower that directly holds such Unencumbered First Mortgage Loan Receivable.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith and including any disposition of property to a Division Successor pursuant to a Division.

"Dividing Person" has the meaning given that term in the definition of "Division."

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons (whether pursuant to a "plan of division" or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

"Division Successor" means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

"Disqualified Institution" means (a) any competitor of the REIT and its Affiliates that has been specifically identified by name on the DQ List and (b) an Affiliate of any such identified Person that (i) has been specifically identified to the Administrative Agent in writing by the

Borrower or (ii) is clearly identifiable on the basis of such Affiliate's name; provided that "Disqualified Institutions" shall exclude any Person that the Borrower has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent and the Lenders from time to time until such time as Borrower has, in accordance with the terms of this Agreement, re-designated such Person as a "Disqualified Institution".

"Dollar" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of any political subdivision of the United States.

"DQ List" means the list of Disqualified Institutions provided by the Borrower to the Administrative Agent prior to the Closing Date, as the same may be updated in writing from time to time after the Closing Date upon notice from the Borrower to the Administrative Agent; provided that no such update shall become effective until the second Business Day after it is provided by the Borrower to the Administrative Agent for dissemination to the Lenders.

~~"Early Opt-in Effective Date" means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.~~

~~"Early Opt-in Election" means the occurrence of:~~

~~(1) a determination by the Administrative Agent, or a notification by the Borrower to the Administrative Agent that the Borrower has made a determination, that U.S. dollar-denominated syndicated credit facilities currently being executed, or that include language similar to that contained in Section 3.03(c), are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, and~~

~~(2) the joint election by the Administrative Agent and the Borrower to replace LIBOR with a Benchmark Replacement and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

"EBITDA" means, with respect to the Consolidated Group for any period, the sum of (a) Net Income for such period, in each case, excluding, without duplication, (i) any non-recurring or extraordinary gains and losses for such period, (ii) any income or gain and any loss in each case resulting from the early extinguishment of indebtedness during such period and (iii) any net income or gain or any loss resulting from a Swap Contract (including by virtue of a termination thereof) during such period, plus (b) an amount which, in the determination of Net Income for such period pursuant to clause (a) above, has been deducted for or in connection with: (i) Interest Expense (plus, amortization of deferred financing costs, to the extent included in the determination of Interest Expense per GAAP), (ii) income taxes, (iii) depreciation and amortization, all as determined in accordance with GAAP for such period, (iv) adjustments as a result of the straight lining of rents, (v) non-cash charges and (vi) transaction costs incurred in connection with the Loan Documents (and any amendment, consent, supplement or waiver thereto), plus (c) the Consolidated Group Pro

Rata Share of the foregoing items attributable to the Consolidated Group's interests in Unconsolidated Affiliates; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary for such period shall be included in the calculation of EBITDA.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Electronic Copy" shall have the meaning specified in Section 11.17.

"Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)). For the avoidance of doubt, no Disqualified Institution shall be an Eligible Assignee.

"Eligible Ground Lease" means a ground lease that on the date of determination (a) has a minimum remaining term of thirty (30) years, including extension options controlled exclusively by the tenant, (b) permits the Loan Party party thereto to grant a Lien thereon to secure the Obligations without the consent of any Person (other than any consent that has been obtained), (c) no default has occurred and is continuing, and no terminating event has occurred by any Loan Party or Subsidiary thereof, thereunder, (d) is not encumbered by any Liens, negative pledges and/or encumbrances, (e) no party thereto is subject to a proceeding under any Debtor Relief Law and (f) is otherwise reasonably acceptable to the Administrative Agent.

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use,

handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"ESA" has the meaning specified in Section 6.17.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

~~"Eurodollar Rate" means:~~

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for U.S. Dollars for a period equal in length to such Interest Period) ("LIBOR") as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at approximately 11:00 a.m., London time determined two London Banking Days prior to such date for Dollar deposits with a term of one month commencing that day; and

(c) if the Eurodollar Rate as determined in accordance with the foregoing is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Eurodollar Rate Loan" means a Committed Loan that bears interest at a rate based on clause (a) of the definition of "Eurodollar Rate."

"Event of Default" has the meaning specified in Section 8.01.

"Excepted Unencumbered Property" means any Unencumbered Property the occupancy rate with respect to which is less than 75% and that is designated as a Excepted Unencumbered Property by Borrower in any calculation of the covenant set forth in clause (ii) of Section 6.18.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), (a)(iii) or (c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" has the meaning specified in the second introductory paragraph hereto.

"Existing Letter of Credit" means a "Letter of Credit" issued pursuant to the terms of, and as defined in, the Existing Credit Agreement and outstanding on the Closing Date and described on Schedule 1.01(B).

"Existing Maturity Date" has the meaning specified in Section 2.14(a).

"Existing Revolving Credit Note" means a "Revolving Credit Note" as defined in the Existing Credit Agreement.

"Existing Term Loan" has the meaning specified in Section 2.01(b).

"Existing Term Note" means a "Term Note" as defined in the Existing Credit Agreement.

"Extension Notice" has the meaning specified in Section 2.14(a).

"Facility" means the Term Facility, the Revolving Credit Facility and/or any Incremental Term Loan Facility, as the context may require.

"Facility Fee" has the meaning specified in Section 2.09(a)(ii).

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with)~~,~~ and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471 (b) (1) of the Code ~~and any~~, as of the Second Amendment Effective Date (or any amended or successor version described above) and any intergovernmental agreement (and related fiscal or regulatory legislation, or related official rules or practices ~~adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with the implementation of~~) implementing the foregoing.

"Federal Funds Rate" means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of the Loan Documents.

"Fee Letters" means, collectively, the several letter agreements, each dated on or after April 26, 2021 and prior to the Closing Date, among the Borrower and an Arranger and any other parties thereto, that are identified therein as a "fee letter", and "Fee Letter" means any of them individually.

"First Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Fixed Charges" means, with respect to the Consolidated Group, as of any date of determination, an amount equal to the sum, without duplication, of (i) Interest Expense for the most recently ended period of four consecutive fiscal quarters, (ii) scheduled payments of principal on Total Indebtedness made or required be made during the most recently ended fiscal quarter (excluding any balloon payments payable on maturity of any such Total Indebtedness), (iii) the amount of dividends or distributions paid or required to be paid by any member of the Consolidated Group to any Person that is not a member of the Consolidated Group during the most recently ended period of four consecutive fiscal quarters in respect of its preferred Equity Interests and (iv) the Consolidated Group Pro Rata Share of the foregoing items attributable to the Consolidated Group's interests in Unconsolidated Affiliates. For the avoidance of doubt, with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Fixed Charges.

"Foreign Lender" means a Lender that is not a U.S. Person.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender such Defaulting Lender's Applicable Revolving Credit Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"Funds From Operations" means, with respect to any period and without double counting, an amount equal to the Net Income for such period, excluding gains (or losses) from sales of property, plus depreciation and amortization and after adjustments for unconsolidated partnerships and joint ventures; provided that "Funds From Operations" shall exclude impairment charges, charges from the early extinguishment of indebtedness and other non-cash charges as evidenced by a certification of a Responsible Officer of the REIT containing calculations in reasonable detail satisfactory to the Administrative Agent. Adjustments for unconsolidated partnerships and joint ventures will be calculated to reflect "Funds From Operations" on the same basis. In addition, "Funds from Operations" shall be adjusted to remove any impact of the expensing of acquisition costs pursuant to FAS 141 (revised), as issued by the Financial Accounting Standards Board in December of 2007, and effective January 1, 2009, including, without limitation, (i) the addition to Net Income of costs and expenses related to ongoing consummated acquisition transactions during such period; and (ii) the subtraction from Net Income of costs and expenses related to acquisition transactions terminated during such period.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the

accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantor Release Notice" has the meaning specified in Section 10.12(b).

"Guarantors" means, collectively, the REIT and each Subsidiary Guarantor.

"Guaranty" means the Guaranty made by the Guarantors under Article X in favor of the Creditor Parties.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

~~"Impacted Loans" has the meaning specified in Section 3.03(a).~~

"Increase Effective Date" has the meaning specified in Section 2.15(a).

"Incremental Commitments" has the meaning specified in Section 2.15(a).

"Incremental Revolving Commitment" has the meaning specified in Section 2.15(a).

"Incremental Term Commitment" has the meaning specified in Section 2.15(a).

"Incremental Term Loan" means an advance made by an Incremental Term Loan Lender under an Incremental Term Loan Facility.

"Incremental Term Loan Borrowing" means, with respect to any Incremental Term Loan Facility a borrowing consisting of simultaneous Incremental Term Loans of the same Type and, in the case of ~~Eurodollar Rate~~Term SOFR Loans, having the same Interest Period made by each of the Incremental Term Loan Lenders with respect to such Incremental Term Loan Facility pursuant to the applicable Commitment Increase Amendment.

"Incremental Term Loan Facility" has the meaning specified in Section 2.15(a).

"Incremental Term Loan Lender" means, at any time, any Lender that holds an Incremental Term Loan.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(k) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(l) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances and similar instruments (including bank guaranties, surety bonds, comfort letters, keep-well agreements and capital maintenance agreements) to the extent such instruments or agreements support financial, rather than performance, obligations;

(m) net obligations under any Permitted Swap Contract not entered into as a hedge against interest rate risk in respect of term Indebtedness existing at the time such Permitted Swap Contract is entered into, in an amount equal to the Swap Termination Value thereof;

(n) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days after the date on which such trade account payable was created);

(o) capital leases, Synthetic Lease Obligations~~,~~ and Synthetic Debt ~~and Off-Balance Sheet Arrangements~~;

(p) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(q) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and

(r) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof: (a) the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person**,** (b) the Indebtedness of the Consolidated Group shall include, with respect to the foregoing items and components thereof attributable to Indebtedness of Non-Wholly Owned Consolidated Subsidiaries, only the Consolidated Group Pro Rata Share thereof, (c) the Indebtedness of the Consolidated Group shall include the Consolidated Group Pro Rata Share of the foregoing items and components thereof attributable to Indebtedness of Unconsolidated Affiliates, (d) the amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date and (e) the amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" has the meaning specified in Section 11.04(b).

"Indirect Owner" means, (a) as to any Unencumbered Property owned by or ground leased to a Subsidiary of the Borrower, each other Subsidiary of the Borrower that owns a direct or indirect interest in the Direct Owner of such Unencumbered Property and (b) as to any Unencumbered First Mortgage Receivable held by a Subsidiary of the Borrower, each other Subsidiary of the Borrower that owns a direct or indirect interest in the Direct Owner of such Unencumbered First Mortgage Receivable.

"Information" has the meaning specified in Section 11.07.

"Interest Expense" means, for any period, without duplication, total interest expense of the Consolidated Group for such period (including the Consolidated Group Pro Rata Share of total interest expense attributable to the Consolidated Group's ownership interests in Unconsolidated Affiliates and, for the avoidance of doubt, capitalized interest); provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the total interest expense of such Non-Wholly Owned Consolidated Subsidiary for such period shall be included in Interest Expense.

"Interest Payment Date" means, (a) as to any Loan other than a Base Rate Loan or a ~~LIBOR Floating Rate~~Daily SOFR Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a ~~Eurodollar Rate~~Term SOFR Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment

Dates and (b) as to any Base Rate Loan and any ~~LIBOR Floating Rate~~Daily SOFR Loan, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

"Interest Period" means as to each ~~Eurodollar Rate~~Term SOFR Loan, the period commencing on the date such ~~Eurodollar Rate~~ Loan is disbursed or converted to or continued as a ~~Eurodollar Rate~~Term SOFR Loan and ending on the date one or three months thereafter (in each case, subject to availability), as selected by the Borrower in ~~its~~the applicable Committed Loan Notice, or such other period that is six months or less requested by the Borrower and consented to by all the Appropriate Lenders; provided that:

(a) ~~(i)~~ any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a ~~Eurodollar Rate~~Term SOFR Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) ~~(ii)~~ any Interest Period ~~pertaining to a Eurodollar Rate Loan~~ that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(i) ~~(iii)~~ no Interest Period shall extend beyond the applicable Maturity Date ~~of the Facility under which such Loan was made~~.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Grade Credit Rating" means receipt of a Debt Rating of Baa3 or better from Moody's or BBB- or better from S&P.

"Investment Grade Pricing Effective Date" means the first Business Day following the date on which (i) the REIT has obtained an Investment Grade Credit Rating and (ii) the Borrower has delivered to the Administrative Agent a certificate executed by a Responsible Officer of the Borrower (i) certifying that an Investment Grade Credit Rating has been obtained by the REIT and is in effect (which certification shall also set forth the Debt Rating(s) received, if any, from each Rating Agency as of such date) and (ii) notifying the Administrative Agent that the Borrower has irrevocably elected to have the Ratings-Based Applicable Rate apply to the pricing of the Facilities.

"Investment Grade Release" has the meaning specified in Section 10.12.

"IRS" means the United States Internal Revenue Service.

"ISDA Definitions" means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

"ISP" means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

"Issuer Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the applicable L/C Issuer and the Borrower (or any Subsidiary) or in favor of such L/C Issuer and relating to such Letter of Credit.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law. For purposes of Section 3.01, the term "Laws" includes FATCA.

"L/C Advance" means, with respect to each Revolving Credit Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuers" means, collectively, (i) Bank of America and (ii) Wells Fargo, in each case in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder; provided that for so long as any Existing Letter of Credit remains outstanding hereunder, the issuer of such Existing Letter of Credit shall continue to be the L/C Issuer with respect to such Existing Letter of Credit. Any L/C Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such L/C Issuer, in which case the term "L/C Issuer" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate. Each reference herein to the "L/C Issuer" in connection with a Letter of Credit or other matter shall be deemed to be a reference to the relevant L/C Issuer with respect thereto.

"L/C Obligations" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, including any automatic or scheduled increases provided for by the terms of such Letters of Credit, determined without regard to whether any conditions to drawing could be met at that time, plus (b) the aggregate amount of all Unreimbursed Amounts,

including all L/C Borrowings. The L/C Obligations of any Revolving Credit Lender at any time shall be its Applicable Revolving Credit Percentage of the total L/C Obligations at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Article 29(a) of the UCP or Rule 3.13 or Rule 3.14 of the ISP or similar terms of the Letter of Credit itself, or if compliant documents have been presented but not yet honored, such Letter of Credit shall be deemed to be "outstanding" and "undrawn" in the amount so remaining available to be paid, and the obligations of the Borrower and each Revolving Credit Lender shall remain in full force and effect until the L/C Issuers and the Revolving Credit Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

"Lender" and "Lenders" have the meanings specified in the first introductory paragraph hereto.

"Lender Party" and "Lender Recipient Party" means collectively, the Lenders and the L/C Issuers.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

"Letter of Credit" means any standby letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"Letter of Credit Fee" has the meaning specified in Section 2.03(h).

"Letter of Credit Subfacility" means, at any time, an amount equal to the lesser of (a) the aggregate amount of the L/C Issuers' Letter of Credit Sublimits at such time and (b) the Revolving Credit Facility at such time. The Letter of Credit Subfacility is part of, and not in addition to, the Revolving Credit Facility. On the Closing Date, the amount of the Letter of Credit Subfacility is $60,000,000.

"Letter of Credit Sublimit" means, as to each L/C Issuer, its agreement as set forth in Section 2.03 to issue, amend and extend Letters of Credit in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such L/C Issuer's name on Schedule 2.01, or in the Assignment and Assumption, New Lender Joinder Agreement or other documentation, which other documentation shall be in form and substance satisfactory to the Administrative Agent, pursuant to which such L/C Issuer becomes an L/C Issuer hereunder, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Leverage-Based Applicable Rate" means the applicable percentages per annum set forth below determined by reference to the ratio of Total Indebtedness to Total Asset Value as set forth in the most recent Compliance Certificate received by the Administrative Agent and the Lenders pursuant to Section 6.02(b):

Leverage-Based Applicable Rate						
		Revolving Credit Facility			**Term Facility**	
Pricing Level	**Ratio of Total Indebtedness to Total Asset Value**	**~~Eurodollar Rate~~Term SOFR Loans, ~~LIBOR~~ Daily ~~Floating Rate~~SOFR Loans and Letters of Credit**	**Base Rate Loans**	**Facility Fee**	**~~Eurodollar Rate~~Term SOFR Loans and Daily SOFR Loans**	**Base Rate Loans**
I	< 35%	1.250%	0.250%	0.200%	1.400%	0.400%
II	≥ 35% but < 40%	1.350%	0.350%	0.200%	1.500%	0.500%
III	≥ 40% but < 45%	1.400%	0.400%	0.200%	1.550%	0.550%
IV	≥ 45% but < 50%	1.450%	0.450%	0.250%	1.650%	0.650%
V	≥ 50% but < 55%	1.550%	0.550%	0.300%	1.800%	0.800%
VI	≥ 55%	1.700%	0.700%	0.350%	2.000%	1.000%

Any increase or decrease in the Leverage-Based Applicable Rate resulting from a change in the ratio of Total Indebtedness to Total Asset Value shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level VI shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered.

Notwithstanding anything to the contrary contained in this definition, (a) from the Closing Date through the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b) for the fiscal quarter ending ~~June 30~~December 31, ~~2021~~2022 the Leverage-Based Applicable Rate in effect shall be ~~at Pricing Level II~~the same as in effect under the Original Credit Agreement on the Second Amendment Effective Date, immediately prior to giving effect to the Second Amendment and (b) the determination of the Leverage-Based Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

~~"LIBOR" has the meaning specified in the definition of Eurodollar Rate.~~

~~"LIBOR Daily Floating Rate" for any day, a fluctuating rate of interest per annum equal to LIBOR as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by Administrative Agent from time to time), at approximately 11:00 a.m., London time, two (2) London Banking Days prior to such day, for Dollar deposits with a term of one (1) month commencing that day; provided that (x) to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate will be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate will be applied in a manner as otherwise reasonably determined by the Administrative Agent and (y) if the LIBOR Daily Floating Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.~~

~~"LIBOR Floating Rate Loan" means a Revolving Credit Loan that bears interest at a rate based on the LIBOR Daily Floating Rate.~~

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, negative pledge, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan.

"Loan Documents" means this Agreement, including schedules and exhibits hereto, each Note, each Issuer Document, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this Agreement, the Fee Letters and any amendments, modifications or supplements hereto or to any other Loan Document or waiver hereof or to any other Loan Document.

"Loan Parties" means, collectively, (a) at any time prior to the Investment Grade Release, the Borrower and the Guarantors and (b) upon and at any time following the Investment Grade Release, the Borrower, the Guarantors (if any) and the Owners.

~~"London Banking Day" means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.~~

"Material Acquisition" means any acquisition or series of acquisitions by a member of the Consolidated Group in which the aggregate purchase price of all assets (including any Equity Interests) acquired pursuant thereto exceeds ten percent (10%) of the Total Asset Value as of the last day of the then most recently ended fiscal quarter of the REIT for which financial statements are publicly available.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the REIT or the Borrower and its Subsidiaries taken as a whole; (b) a material adverse effect on the rights and remedies of the Administrative Agent or any Lender under

any Loan Document or of the ability of the Loan Parties taken as a whole to perform their obligations under any Loan Document; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party involving aggregate consideration payable to or by such Person of $5,000,000 or more in any year or that is otherwise material to the business, condition (financial or otherwise), operations, performance, properties or prospects of such Person.

"Maturity Date" means (a) with respect to the Revolving Credit Facility, the later of (i) fourth anniversary of the Closing Date and (ii) if maturity is extended pursuant to Section 2.14, such extended maturity date as determined pursuant to such Section and (b) with respect to the Term Facility, the fifth anniversary of the Closing Date; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

"Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Minimum Collateral Amount" means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances an amount equal to 105% of the Fronting Exposure of all L/C Issuers with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the L/C Issuers in their sole discretion.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage Loan Receivable" means any loan or other note receivable owned by or held by the Borrower or a Wholly Owned Subsidiary of the Borrower that is a Domestic Subsidiary, in each case, secured by a mortgage or deed of trust on Real Property.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means, with respect to any issuance or sale by the REIT of any of its Equity Interests, the excess of (i) the sum of the cash and Cash Equivalents received by the REIT in connection with such issuance or sale, less (ii) underwriting discounts and commissions, and other reasonable out-of-pocket expenses, incurred by the REIT in connection with such issuance or sale, other than any such amounts paid or payable to an Affiliate of the REIT.

"Net Income" means, for any period, the sum, without duplication, of (i) the net income (or loss) of the REIT and its Wholly Owned Subsidiaries for such period and (ii) the aggregate amount of cash actually distributed by Non-Wholly Owned Subsidiaries and Unconsolidated Affiliates during such period to the REIT or its Wholly Owned Subsidiary as a dividend or other distribution;

provided, however, that Net Income shall exclude (a) extraordinary gains and extraordinary losses for such period and (b) the net income of any Wholly Owned Subsidiary of the REIT during such period to the extent that the declaration or payment of dividends or similar distributions by such Wholly Owned Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Wholly Owned Subsidiary during such period, except that the REIT's equity in any net loss of any such Wholly Owned Subsidiary for such period shall be included in determining Net Income, and (and in the case of a dividend or other distribution to a Wholly Owned Subsidiary of the REIT, such Wholly Owned Subsidiary is not precluded from further distributing such amount to the REIT as described in clause (b) of this proviso).

"Net Operating Income" means, with respect to any Property for any period, an amount equal to (a) the aggregate gross revenues from the operation of such Property during such period from tenants (as determined in accordance with GAAP), minus (b) the sum of all expenses and other proper charges incurred in connection with the operation of such Property during such period (including management fees (which deduction for management fees shall be an amount equal to the greater of (x) three percent (3.00%) of the aggregate base rent and percentage rent due and payable with respect to such Property during such period and (y) the aggregate amount of any actual management, advisory or similar fees paid during such period) and accruals for real estate taxes and insurance, but excluding debt service charges, income taxes, depreciation, amortization and other non-cash expenses), which expenses and accruals shall be calculated in accordance with GAAP.

"New Lender Joinder Agreement" means a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel pursuant to which an Eligible Assignee becomes a Lender.

"Newly Acquired Property" means, as of any date, a Property (other than a Development Property) that has been owned or ground leased for less than four full fiscal quarters as of such date.

"Newly Stabilized Property" means as of any date a Property that as of such date is not a Development Property, but was a Development Property at some time during the most recently ended period of four full fiscal quarters.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders, all Lenders of a Facility or all affected Lenders in accordance with the terms of Section 11.01 and (ii) has been approved by the Required Lenders or the Required Term Lenders or Required Revolving Lenders, as applicable.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-Recourse Indebtedness" means, with respect to a Person, (a) Indebtedness in respect of which recourse for payment (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability) is contractually limited to specific assets of such Person encumbered by a Lien securing such Indebtedness, (b) if such Person is a Single Asset

Entity, any Indebtedness of such Person (other than Indebtedness described in the immediately following clause (c)), or (c) if such Person is a Single Asset Holding Company, any Indebtedness ("Holdco Indebtedness") of such Single Asset Holding Company resulting from a Guarantee of, or Lien securing, Indebtedness of a Single Asset Entity that is a Subsidiary of such Single Asset Holding Company, so long as, in each case, either (i) recourse for payment of such Holdco Indebtedness (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability) is contractually limited to the Equity Interests held by such Single Asset Holding Company in such Single Asset Entity or (ii) such Single Asset Holding Company has no assets other than Equity Interests in such Single Asset Entity and cash and other assets of nominal value incidental to the ownership of such Single Asset Entity.

"Non-Recourse Subsidiary" means a Subsidiary that (a) is not a Loan Party and (b) is not a Specified Subsidiary, (c) has no Indebtedness other than Non-Recourse Indebtedness and (d) has no assets other than (i) *de minimis* amounts of cash and (ii) assets securing Non-Recourse Indebtedness.

"Non-Recourse Threshold Amount" means $90,000,000.

"Non-Wholly Owned Consolidated Subsidiary" means a Consolidated Subsidiary of the REIT that is not a Wholly Owned Subsidiary of the REIT.

"Note" means a Term Note, a Revolving Credit Note or a promissory note made by the Borrower in favor of an Incremental Term Loan Lender under an Incremental Term Loan Facility evidencing the Incremental Term Loans made by such Incremental Term Loan Lender under such Incremental Term Loan Facility substantially in a form agreed among the ~~Borrowers~~Borrower, the Administrative Agent and such Incremental Term Loan Lenders, as the context may require.

"Notice of Loan Prepayment" means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit F or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"~~Off-Balance Sheet Arrangement~~" ~~means any transaction, agreement or other contractual arrangement to which a Non-Wholly Owned Subsidiary or an Unconsolidated Affiliate is a party, under which any member of the Consolidated Group has:~~

~~(a) any obligation under a guarantee contract that has any of the characteristics identified in FASB ASC 460-10-15-4;~~

~~(b) a retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;~~

~~(c) any obligation, including a contingent obligation, under a contract that would be accounted for as a derivative instrument, except that it is both indexed to the REIT's stock and classified in stockholders' equity in the REIT's statement of financial position, as described in FASB ASC 815-10-15-74; or~~

~~(d) any obligation, including a contingent obligation, arising out of a variable interest (as defined in the FASB ASC Master Glossary) in an unconsolidated entity that is held by, and material to, any member of the Consolidated Group, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, any member of the Consolidated Group~~Original Credit Agreement" means this Agreement, as in effect immediately prior to the Second Amendment becomes effective on the Second Amendment Effective Date.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

~~"Other Rate Early Opt-in" means the Administrative Agent and the Borrower have elected to replace LIBOR with a Benchmark Replacement other than a SOFR-based rate pursuant to (1) an Early Opt-in Election and (2) Section 3.03(c)(ii) and paragraph (2) of the definition of "Benchmark Replacement".~~

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution,

delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

"Outstanding Amount" means (i) with respect to Committed Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Committed Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

"Owner" means, as to any Unencumbered Property or Unencumbered First Mortgage Receivable, the Direct Owner of such Unencumbered Property or Unencumbered First Mortgage Receivable, as the case may be, or any Indirect Owner of such Direct Owner.

"Pari Passu Obligations" means Unsecured Indebtedness of any Loan Party (exclusive of the Obligations) owing to a Person that is not a member of the Consolidated Group or an Affiliate thereof.

"Participant" has the meaning specified in Section 11.06(d).

"Participant Register" has the meaning specified in Section 11.06(d).

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

"Permitted Equity Encumbrances" means

(s) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(t) Liens imposed by law for taxes, assessments, governmental charges or levies that are not yet due or are being contested in compliance with Section 6.04; and

(u) Permitted Pari Passu Provisions.

"Permitted Pari Passu Provisions" means provisions that are contained in documentation evidencing or governing Pari Passu Obligations which provisions are the result of (a) limitations on the ability of a Loan Party or any of its Subsidiaries to make Restricted Payments or transfer property to the Borrower or any Guarantor which limitations, taken as a whole, are substantially the same as or less restrictive than those contained in this Agreement, (b) limitations on the creation of any Lien on any assets of a Loan Party that, taken as a whole, are substantially the same as or less restrictive than those contained in this Agreement or (c) any requirement that Pari Passu Obligations be secured on an "equal and ratable basis" to the extent that the Obligations are secured.

"Permitted Property Encumbrances" means:

(v) Liens for taxes or condo or other similar assessments and fees, in each case not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted (which actions or proceedings have the effect of preventing the forfeiture or sale of the property or assets subject to any such Lien), if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(w) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted (which proceedings have the effect of preventing the forfeiture or sale of the property or assets subject to any such Lien), if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(x) easements, zoning restrictions, rights of way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(y) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(z) the rights of tenants under leases and subleases entered into in the ordinary course of business; provided that (i) such leases and subleases contain market terms and conditions (excluding rent), (ii) such rights of tenants constituting Liens do not secure any Indebtedness and (iii) such leases and subleases do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of business of the applicable Person;

(aa) rights of lessors under Eligible Ground Leases; and

(bb) Permitted Pari Passu Provisions.

"Permitted Swap Contract" means shall mean any Swap Contract entered into in accordance with the terms and provisions of Section 7.17.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any ERISA Affiliate or any such Plan to which the Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

"Platform" has the meaning specified in Section 6.02.

"Pricing Grid" means (i) prior to the Investment Grade Pricing Effective Date, the pricing grid set forth in the definition of "Leverage-Based Applicable Rate" and (ii) on and after the Investment Grade Pricing Effective Date, the pricing grid set forth in the definition of "Ratings-Based Applicable Rate".

"Property" means any real property assets owned or leased or acquired by one or more of the Borrower and its Subsidiaries.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Lender" has the meaning specified in Section 6.02.

"Rating Agency" means any of S&P or Moody's.

"Ratings-Based Applicable Rate" means the applicable percentages per annum determined, at any time, based on the range into which the Debt Ratings then fall, in accordance with the following table:

Ratings-Based Applicable Rate						
		Revolving Credit Facility			Term Facility	
Pricing Level	Debt Ratings (Moody's/S&P)	~~Eurodollar Rate~~Term SOFR Loans, ~~LIBOR~~ Daily ~~Floating Rate~~SOFR Loans and Letters of Credit	Base Rate Loans	Facility Fee	~~Eurodollar Rate~~Term SOFR Loans and Daily SOFR Loans	Base Rate Loans
I	≥ A- / A3	0.725%	0.000%	0.125%	0.800%	0.000%
II	BBB+ / Baa1	0.775%	0.000%	0.150%	0.850%	0.000%
III	BBB / Baa2	0.850%	0.000%	0.200%	1.000%	0.000%
IV	BBB- / Baa3	1.050%	0.050%	0.250%	1.250%	0.250%
V	< BBB- / Baa3 (or unrated)	1.400%	0.400%	0.300%	1.650%	0.650%

If at any time the REIT has two (2) Debt Ratings, and such Debt Ratings are not equivalent, then: (A) if the difference between such Debt Ratings is one ratings category (e.g. Baa2 by Moody's and BBB- by S&P), the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the higher of the Debt Ratings were used; and (B) if the difference between such Debt Ratings is two ratings categories (e.g. Baa1 by Moody's and BBB- by S&P) or more, the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the rating that is one higher than the lower of the applicable Debt Ratings were used.

Initially, the Ratings-Based Applicable Rate shall be determined based upon the Debt Rating(s) specified in the certificate delivered pursuant to clause (ii) of the definition of "Investment Grade Pricing Effective Date". Thereafter, each change in the Ratings-Based Applicable Rate resulting from a publicly announced change in a Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of delivery by the REIT to the Administrative Agent of notice thereof pursuant to Section 6.03(e) and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change.

"Real Property" means real property assets that are (a) owned or acquired by one or more Persons that are not members of the Consolidated Group, (b) located in the United States of America and (c) either (i) a retail facility or (ii) a mixed-use facility with respect to which at least 75% of gross income is expected to be generated by the retail component of such facility.

"Recipient" means the Administrative Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recourse Indebtedness" means Indebtedness for borrowed money (other than Indebtedness under the Loan Documents) in respect of which recourse for payment is to any Loan Party, excluding any Indebtedness in which recourse for payment to any Loan Party is limited solely for fraud, misrepresentation, misapplication of cash, waste, failure to pay taxes, environmental claims and liabilities and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate guaranty or indemnification agreements in non-recourse financings of real estate. For the avoidance of doubt, "Recourse Indebtedness" shall include Indebtedness arising under Guarantees by a Loan Party of Non-Recourse Indebtedness and Guarantees by a Loan Party of obligations under Swap Contracts to the extent that (x) such Guarantee provides for recourse to such Loan Party or any of its assets and (y) the guarantor's obligations under such Guarantee have become payable or cash collateral in respect thereof has been demanded. For purposes of Section 8.01(e) the amount of Recourse Indebtedness of such Loan Party arising under any such Guarantee shall be the maximum face amount payable by it thereunder.

"Register" has the meaning specified in Section 11.06(c).

"REIT" has the meaning specified in the first introductory paragraph hereto.

"REIT Status" means, with respect to any Person, (a) the qualification of such Person as a real estate investment trust under the provisions of Sections 856 et seq. of the Code and (b) the applicability to such Person and its shareholders of the method of taxation provided for in Sections 857 et seq. of the Code.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, consultants, service providers and representatives of such Person and of such Person's Affiliates.

"Relevant Governmental Body" means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

"Relevant Payment" has the meaning specified in Section 10.11.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice and (b) with respect to an L/C Credit Extension, a Letter of Credit Application.

"Required Lenders" means, as of any date of determination, two or more Lenders having greater than 50% of the sum of (a) the Total Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) the aggregate unused Commitments; provided that the unused Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes

of making a determination of Required Lenders; provided further that, Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Revolving Credit Lender shall be deemed to be held by the applicable L/C Issuer in making such determination.

"Required Revolving Lenders" means, as of any date of determination, two or more Revolving Credit Lenders having greater than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders; provided further that, the amount of any participation in any Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Revolving Credit Lender shall be deemed to be held by the applicable L/C Issuer in making such determination.

"Required Subsidiary Guarantor" means (a) at all times prior to an Investment Grade Release, each Owner with respect to any Property to be included as an Unencumbered Property, and (b) upon and at all times following an Investment Grade Release, each Owner with respect to any Property to be included as an Unencumbered Property (if any) that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities), but only for so long as such Subsidiary remains obligated in respect of such Unsecured Indebtedness, in each case under clauses (a) and (b), together with their successors and permitted assigns, in each case, to the extent such Subsidiary has not been released from its obligations hereunder in accordance with Section 10.12.

"Required Term Lenders" means, as of any date of determination, two or more Term Lenders having greater than 50% of the Term Facility on such date; provided that the portion of the Term Facility held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Term Lenders.

"Rescindable Amount" has the meaning specified in Section 2.12(b)(ii).

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means (a) in the case of the Borrower, (i) the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) designated as an "Authorized Signer" in Section I of the Borrower's Instruction Certificate, (ii) solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the Borrower (or if the Borrower does not have any officers, of the general partner of the Borrower) designated as an "Authorized Person" in Section II of the Borrower's Instruction Certificate, (b) in the case of any other Loan Party that has one or more officers, (i) the

chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the applicable Loan Party for whom the Administrative Agent has received an incumbency certificate, (ii) solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the applicable Loan Party and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent and for whom the Administrative Agent has received an incumbency certificate, and (c) in the case of any other Loan Party that does not have any officers, (i) the chief executive officer, president, chief financial officer, treasurer, chief accounting officer or controller of the general partner, manager, managing member or member, as applicable, of such Loan Party for whom the Administrative Agent has received an incumbency certificate, (ii) solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the general partner, manager, managing member or member, as applicable, of such Loan Party and (iii) solely for purposes of notices given pursuant to Article II, any officer or employee of the general partner, manager, managing member or member, as applicable, of such Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent and for whom the Administrative Agent has received an incumbency certificate. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party (or general partner, manager, managing member or member, as applicable, of such Loan Party) and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any Subsidiary thereof, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to such Person's stockholders, partners or members (or the equivalent Person thereof).

"Revolving Credit Borrowing" means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of ~~Eurodollar Rate~~Term SOFR Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(a).

"Revolving Credit Commitment" means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrower pursuant to Section 2.01(a) and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Revolving Credit Commitment" or opposite such caption in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Revolving Credit Exposure" means, as to any Revolving Credit Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Credit Loans and such Lender's participation in L/C Obligations at such time.

"Revolving Credit Facility" means, at any time, the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments at such time. On the Closing Date, the Revolving Credit Facility ~~is~~was $300,000,000.

"Revolving Credit Lender" means, at any time, any Lender that has a Revolving Credit Commitment at such time.

"Revolving Credit Loan" has the meaning specified in Section 2.01(a).

"Revolving Credit Note" means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans made by such Lender, substantially in the form of Exhibit C-1.

"S&P" means S&P Global Ratings, a division of S&P Global, and any successor to its rating agency business.

"Sanction(s)" means any sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, ~~Her~~His Majesty's Treasury or other relevant sanctions authority.

"Scheduled Unavailability Date" has the meaning specified in Section 3.03(b).

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Second Amendment" means that certain Second Amendment to Second Amended and Restated Credit Agreement, dated as of December [●], 2022, among the Borrower, the Guarantors, the Lenders, the Administrative Agent and certain other parties.

"Second Amendment Effective Date" means December [●], 2022.

"Second Maturity Date Extension" has the meaning specified in Section 2.14(a).

"Secured Indebtedness" means, with respect to any Person, all Indebtedness of such Person that is secured by a Lien on any asset (including without limitation any Equity Interest) owned or held by any Person or any Subsidiary thereof; provided that a negative pledge shall not, in and of itself, cause any Indebtedness to be considered to be Secured Indebtedness.

"Secured Recourse Indebtedness" means, with respect to any Person, Recourse Indebtedness of such Person that is secured by a Lien.

"Single Asset Entity" means a Person (other than an individual) that (a) only owns or leases pursuant to an Eligible Ground Lease a single real property and/or cash and other assets of nominal value incidental to such Person's ownership of such real property; (b) is engaged only in the business of owning, developing and/or leasing such real property; and (c) receives substantially all of its gross revenues from such real property. In addition, if the assets of a Person consist solely of (i) Equity Interests in one or more other Single Asset Entities and (ii) cash and other assets of nominal value incidental to such Person's ownership of the other Single Asset Entities, such Person

shall also be deemed to be a Single Asset Entity for purposes of this Agreement (such an entity, a "Single Asset Holding Company").

"Single Asset Holding Company" has the meaning specified in the definition of Single Asset Entity.

"SOFR" ~~has the meaning specified in the definition of Daily Simple SOFR.~~

~~"SOFR Early Opt-in" means the Administrative Agent and the Borrower have elected to replace LIBOR pursuant to (1) an Early Opt-in Election and (2) Section 3.03(c)(i) and paragraph (1) of the definition of "Benchmark Replacement"~~means, with respect to any applicable determination date, the Secured Overnight Financing Rate published on the fifth U.S. Government Securities Business Day preceding such date by the SOFR Administrator on the Federal Reserve Bank of New York's website (or any successor source); provided however that if such determination date is not a U.S. Government Securities Business Day, then SOFR means such rate that applied on the first U.S. Government Securities Business Day immediately prior thereto.

"SOFR Adjustment" means 0.10% (10 basis points).

"SOFR Administrator" means the Federal Reserve Bank of New York, as the administrator of SOFR, or any successor administrator of SOFR designated by the Federal Reserve Bank of New York or other Person acting as the SOFR Administrator at such time that is satisfactory to the Administrative Agent.

"SOFR Loan" means a Term SOFR Loan or a Daily SOFR Loan, as applicable.

"Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Solvency Certificate" means a Solvency Certificate of the chief financial officer or the chief accounting officer of the REIT, substantially in the form of Exhibit I.

"Specified Event of Default" means any Event of Default other than an Event of Default arising under (a) Section 8.01(b) solely from the Borrower's or another Loan Party's failure to perform or observe any term, covenant or agreement contained in any of Sections 6.01(c), 6.02(c),

(e) or (h), 6.05(a) (solely with respect to a Subsidiary that is not a Loan Party), (b) or (c), or 6.10 or (b) Section 8.01(c).

"Specified Subsidiary" means any Subsidiary that (a) is not a Loan Party, and (b) would not be a Subsidiary but for the governing body or management of such Subsidiary being controlled, directly, or indirectly through one or more intermediaries, or both, by the REIT or its Subsidiaries.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the REIT.

"Subsidiary Guarantor" means, at any time, a Subsidiary that at such time is a party to the Guaranty.

"Successor Rate" has the meaning specified in Section 3.03(b).

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"Synthetic Debt" means, with respect to any Person as of any date of determination thereof, all obligations of such Person in respect of transactions entered into by such Person that are intended

to function primarily as a borrowing of funds (including any minority interest transactions that function primarily as a borrowing) but are not otherwise included in the definition of "Indebtedness" or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Tangible Net Worth" means, for the Consolidated Group as of any date of determination, (a) total equity of the Consolidated Group, minus (b) all intangible assets of the Consolidated Group (other than lease intangibles), plus (c) all accumulated depreciation and amortization of the Consolidated Group, in each case on a consolidated basis determined in accordance with GAAP; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Tangible Net Worth.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Borrowing" means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of ~~Eurodollar Rate~~Term SOFR Loans, having the same Interest Period made by each of the Term Lenders pursuant to Section 2.01(b).

"Term Commitment" means, as to each Lender, its obligation to make and/or hold Term Loans to the Borrower pursuant to Section 2.01(b) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender's name on Schedule 2.01 under the caption "Term Commitment" or opposite such caption in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Term Facility" means, (a) at any time on or prior to the Closing Date, the aggregate amount of the Term Lenders' Term Commitments at such time and (b) at any time after the Closing Date, the aggregate amount of Term Loans of all Term Lenders outstanding at such time. On the Closing Date, the Term Facility ~~is~~was $400,000,000.

"Term Lender" means (a) at any time on or prior to the Closing Date, any Lender that has a Term Commitment at such time and (b) at any time after the Closing Date, any Lender that holds a Term Loan at such time.

"Term Loan" means an advance made by a Term Lender under the Term Facility.

"Term Note" means a promissory note made by the Borrower in favor of a Term Lender evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit C-2.

"Term SOFR" means~~, for the applicable corresponding tenor (or if any Available Tenor of a Benchmark does not correspond to an Available Tenor for the applicable Benchmark Replacement, the closest corresponding Available Tenor and if such Available Tenor corresponds equally to two Available Tenors of the applicable Benchmark Replacement, the corresponding tenor of the shorter duration shall be applied), the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.~~ :

(a) for any Interest Period with respect to a Term SOFR Loan, the rate per annum equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to the commencement of such Interest Period with a term equivalent to such Interest Period; provided that if the rate is not published prior to 11:00 a.m. on such determination date then Term SOFR means the Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case plus the SOFR Adjustment; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the Term SOFR Screen Rate with a term of one month commencing that day;

provided, that if Term SOFR determined in accordance with either of the foregoing provisions (a) or (b) of this definition would otherwise be less than zero, Term SOFR shall be deemed zero for purposes of the Loan Documents.

"Term SOFR Loan" means a Committed Loan that bears interest at a rate based on clause (a) of the definition of Term SOFR.

"Term SOFR Screen Rate" means the forward-looking SOFR term rate administered by CME (or any successor administrator reasonably satisfactory to the Administrative Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

"Threshold Amount" means $30,000,000.

"Total Asset Value" means, with respect to the Consolidated Group as at any date of determination, without duplication, the sum of the following:

(cc) for each Property other than any Property that as of such date (i) was sold or otherwise disposed of during the then most recently ended fiscal quarter or (ii) is either (x) a Newly Acquired Property, (y) a Newly Stabilized Property or (z) a Development Property, an amount equal to the Net Operating Income from such Property for the then most recently ended period of four consecutive fiscal quarters, *divided by* the Capitalization Rate, plus

(dd) for (i) each Newly Acquired Property that has been owned or ground leased for less than one full fiscal quarter as of such date, the acquisition cost of such Property, and (ii) (x) each Newly Stabilized Property that has been a Newly Stabilized Property for less than one full fiscal quarter as of such date and (y) each Development Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, plus

(ee) for (i) each Newly Acquired Property that has been owned or ground leased for at least one full fiscal quarter but less than four full fiscal quarters as of such date and (ii) each Newly Stabilized Property that has been a Newly Stabilized Property for at least one full fiscal quarter but less than four full fiscal quarters as of such date, in each case under clauses (i) and (ii), excluding any such Property that was sold or otherwise disposed of during the then most recently ended fiscal quarter, either

(A) in the case of a Newly Acquired Property, the acquisition cost of such Property and, in the case of a Newly Stabilized Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, or

(B) if the Borrower has made an irrevocable election to value such Property in accordance with this clause (c)(B), then

(II) if such Property has been a Newly Stabilized Property for at least one full fiscal quarter but less than two full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such fiscal quarter, *multiplied by* 4, *divided by* the Capitalization Rate,

(III) if such Property has been owned or ground leased (in the case of a Newly Acquired Property) or has been a Newly Stabilized Property (in the case of a Newly Stabilized Property) for at least two full fiscal quarters but less than three full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such two fiscal quarter period, multiplied by 2, divided by the Capitalization Rate,

(IV) if such Property has been owned or ground leased (in the case of a Newly Acquired Property) or has been a Newly Stabilized Property (in the case of a Newly Stabilized Property) for at least three full fiscal quarters but less than four full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such three fiscal quarter period, *multiplied by* 4/3, *divided by* the Capitalization Rate; plus

(ff) fee income generated by the Consolidated Group from (i) asset and property management fees, (ii) development fees, (iii) construction fees and (iv) leasing fees, in each case for the then most recently ended period of four consecutive fiscal quarters, then *multiplied by* five, provided that if at any time the amount under this clause (d) exceeds 15% of Total Asset Value at such time, such excess fee income shall be excluded from the calculation of Total Asset Value at such time, plus

(gg) the aggregate book value of all unimproved land holdings, mortgage or mezzanine loans and/or notes receivable owned by the Consolidated Group on such date, plus

(hh) all Unrestricted Cash of the Consolidated Group existing on such date, plus

(ii) the Consolidated Group Pro Rata Share of the foregoing items and components attributable to the Consolidated Group's interests in Unconsolidated Affiliates on such date;

provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of clauses (a) through (f) attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Asset Value.

Notwithstanding the foregoing, for purposes of calculating Total Asset Value at any time the contribution for certain types of Investments shall be limited, without duplication, as follows (in each case, calculated on the basis of the Consolidated Group Pro Rata Share of such Investment consistent with the foregoing) with any excess over such limit being excluded from Total Asset Value:

(i) not more than 5% of the Total Asset Value at any time may be attributable to Investments in unimproved land holdings (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns unimproved land holdings);

(ii) not more than 15% of the Total Asset Value at any time may be attributable to Investments (whether originated or acquired by the REIT or a Subsidiary thereof) consisting of commercial mortgage or mezzanine loans and commercial real estate-related notes receivable;

(iii) not more than 15% of the Total Asset Value at any time may be attributable to Investments in respect of Development Properties, excluding for purposes of this clause (iii) the Property located at 2675 Geary Blvd, San Francisco, California ("City Center");

(iv) not more than 10% of the Total Asset Value at any time may be attributable to Investments in any Unconsolidated Affiliates (including through the purchase or other acquisition of Equity Interests of any Unconsolidated Affiliate);

(v) not more than 5% of the Total Asset Value at any time may be attributable to Investments in real property assets that are not retail properties (including through the purchase or other acquisition of all of the Equity Interests of any Person that owns real property assets that are not retail properties); and

(vi) not more than 25% of the Total Asset Value at any time may be attributable to the aggregate of Investments of the types set forth in clauses (i) though (v) above.

"Total Credit Exposure" means, as to any Lender at any time, the Applicable Percentage of the Term Facility, the unused Revolving Credit Commitment and Revolving Credit Exposure of such Lender at such time.

"Total Indebtedness" means, as at any date of determination, the aggregate amount of all Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Indebtedness.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"Total Revolving Credit Outstandings" means the aggregate Outstanding Amount of all Revolving Credit Loans and L/C Obligations.

"Total Secured Indebtedness" means, as at any date of determination, the aggregate amount of all Secured Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Secured Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Secured Indebtedness.

"Total Unsecured Indebtedness" means, as at any date of determination, the aggregate amount of all Unsecured Indebtedness of the Consolidated Group on such date determined on a consolidated basis; provided that with respect to any Non-Wholly Owned Consolidated Subsidiary, only the Consolidated Group Pro Rata Share of Unsecured Indebtedness attributable to the Consolidated Group's interests in such Non-Wholly Owned Consolidated Subsidiary shall be included in the calculation of Total Unsecured Indebtedness.

"Type" means, with respect to a Committed Loan, its character as a Base Rate Loan, ~~LIBOR~~ Daily ~~Floating Rate~~SOFR Loan or a ~~Eurodollar Rate~~Term SOFR Loan.

"UCP" means the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (or such later version thereof as may be in effect at the applicable time).

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unconsolidated Affiliate" means, at any date, an Affiliate of the REIT whose financial results are not required to be consolidated with the financial results of the REIT in accordance with GAAP.

"Unencumbered Asset Value" means, at any time for the Consolidated Group, without duplication, the sum of the following:

(jj) Unencumbered NOI of all Unencumbered Properties (other than Development Properties, Newly Acquired Properties and Unencumbered Properties that were acquired during the then most recently ended period of four fiscal quarters) *divided by* the Capitalization Rate, plus

(kk) the aggregate acquisition cost of all Unencumbered Properties acquired during the then most recently ended period of four fiscal quarters, plus

(ll) for each Unencumbered Property that is (i) a Newly Stabilized Property that has been a Newly Stabilized Property for less than one full fiscal quarter as of such date and (ii) a Development Property, the undepreciated cost of such Property (after any impairments) in accordance with GAAP, plus

(mm) for each Unencumbered Property that is a Newly Stabilized Property that has been a Newly Stabilized Property for at least one full fiscal quarter but less than four full fiscal quarters as of such date, excluding any such Property that was sold or otherwise disposed of during the then most recently ended fiscal quarter, either

(A) the undepreciated cost of such Property (after any impairments) in accordance with GAAP, or

(B) if the Borrower has made an irrevocable election to value such Property in accordance with this clause (d)(B), then

(II) if such Unencumbered Property has been a Newly Stabilized Property for at least one full fiscal quarter but less than two full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such fiscal quarter, *multiplied by* 4, *divided by* the Capitalization Rate,

(III) if such Unencumbered Property has been a Newly Stabilized Property for at least two full fiscal quarters but less than three full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such two fiscal quarter period, multiplied by 2, divided by the Capitalization Rate, or

(IV) if such Property has been a Newly Stabilized Property for at least three full fiscal quarters but less than four full fiscal quarters on such date, an amount equal to the Net Operating Income from such Property for such three fiscal quarter period, *multiplied by* 4/3, *divided by* the Capitalization Rate, plus

(nn) the aggregate book value of all Unencumbered First Mortgage Receivables.

Notwithstanding the foregoing, for purposes of calculating Unencumbered Asset Value at any time, the contribution for certain types of Investments shall be limited, without duplication, as follows (in each case, calculated on the basis of the Consolidated Group Pro Rata Share of such Investment consistent with the foregoing) with any excess over such limit being excluded from Unencumbered Asset Value:

(i) not more than 10% of Unencumbered Asset Value at any time may be attributable to Development Properties and Newly Stabilized Properties, other than (x) City Center and (y) Newly Stabilized Properties with an occupancy rate of at least 75% for which the Borrower has made the irrevocable election pursuant to clause (d)(B) above;

(ii) not more than 10% of Unencumbered Asset Value at any time may be attributable to Unencumbered First Mortgage Receivables;

(iii) not more than 5% of Unencumbered Asset Value at any time may be attributable to Unencumbered Properties owned by a Controlled Joint Venture; and

(iv) not more than 15% of Unencumbered Asset Value at any time may be attributable to the aggregate of assets of the types set forth in clauses (i) through (iii) above.

"Unencumbered First Mortgage Receivable" means any Mortgage Loan Receivable that meets each of the following criteria:

(oo) such Mortgage Loan Receivable is secured by a first mortgage or a first deed of trust on Real Property;

(pp) (i) prior to the Investment Grade Release, each Owner of such Mortgage Loan Receivable is a Subsidiary Guarantor and (ii) following the Investment Grade Release, each Owner of such Mortgage Loan Receivable that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities) is a Subsidiary Guarantor;

(qq) none of the Equity Interests of any Owner of such Mortgage Loan Receivable are subject to any Liens (including, without limitation, any restriction contained in the organizational documents of any such Subsidiary that limits the ability to create a Lien thereon as security for indebtedness) other than Permitted Equity Encumbrances;

(rr) such Mortgage Loan Receivable (and the income therefrom and proceeds thereof) is not subject to any negative pledge and/or other encumbrance or restriction on the ability of any Owner thereof to Dispose of, pledge, transfer or otherwise encumber such Mortgage Loan Receivable or any income therefrom or proceeds thereof (other than Permitted Pari Passu Provisions);

(ss) no Owner of such Mortgage Loan Receivable is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness (other than (i) Indebtedness under the Loan Documents and (ii) other Unsecured Indebtedness so long as such Person is also a Subsidiary Guarantor);

(tt) no Owner of such Mortgage Loan Receivable, nor any mortgagor or grantor with respect thereto, is subject to any proceedings under any Debtor Relief Law; and

(uu) the mortgagor or grantor with respect to such Mortgage Loan Receivable is not delinquent sixty (60) days or more in interest or principal payments due thereunder.

"Unencumbered NOI" means, at any time for the Consolidated Group, the sum of the Net Operating Income of all Unencumbered Properties for the then most recently ended period of four consecutive fiscal quarters, minus Net Operating Income attributable to Unencumbered Properties

that were Disposed of by the Consolidated Group during such period, minus the aggregate Annual Capital Expenditure Adjustment for such period with respect to all Unencumbered Properties.

"Unencumbered Property" means any Property that meets each of the following criteria:

(vv) such Property is either (i) a retail facility or (ii) a mixed-use facility with respect to which at least 75% of gross income is generated by the retail component of such facility;

(ww) such Property is located in the United States of America;

(xx) such Property is Wholly-Owned in fee simple directly by, or is ground leased pursuant to an Eligible Ground Lease directly to, a Wholly Owned Subsidiary of the Borrower or a Controlled Joint Venture;

(yy) (i) prior to the Investment Grade Release, each Owner of such Property is a Subsidiary Guarantor and (ii) following the Investment Grade Release, each Owner of such Property that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness (other than Indebtedness under the Facilities) is a Subsidiary Guarantor;

(zz) each Owner of such Property is organized in a state within the United States of America;

(aaa) none of the Equity Interests of any Owner of such Property owned by a Subsidiary of the Borrower are subject to any Liens (including, without limitation, any restriction contained in the organizational documents of any such Subsidiary that limits the ability to create a Lien thereon as security for indebtedness) other than Permitted Equity Encumbrances;

(bbb) such Property (and the income therefrom and proceeds thereof) is not subject to any negative pledge and/or other encumbrance or restriction on the ability of any Owner of such Property to Dispose of, pledge, transfer or otherwise encumber such Property or any income therefrom or proceeds thereof (other than Permitted Property Encumbrances) and is not subject to any ground lease (other than an Eligible Ground Lease);

(ccc) such Property is free of all title, survey and other defects that would interfere with the use of such property for its intended purpose in any material respect;

(ddd) such Property is free of Hazardous Materials except as would not materially affect the value of such Property;

(eee) no Owner of such Property is a borrower or guarantor of, or otherwise obligated in respect of, any Indebtedness (other than (i) Indebtedness under the Loan Documents and (ii) other Unsecured Indebtedness so long as such Person is also a Subsidiary Guarantor); and

(fff) no Owner of such Property is subject to any proceedings under any Debtor Relief Law.

"United States" and "U.S." mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unrestricted Cash" means, at any time, (a) the aggregate amount of cash and Cash Equivalents of a Person at such time that are not subject to any pledge, Lien or control agreement (excluding statutory Liens in favor of any depositary bank where such cash and Cash Equivalents are maintained), minus (b) amounts included in the foregoing clause (a) that are held by a Person other than a member of the Consolidated Group as a deposit or security for Contractual Obligations.

"Unsecured Indebtedness" means, with respect to any Person, all Indebtedness of such Person that is not Secured Indebtedness, including Indebtedness under the Loan Documents.

"Unsecured Interest Expense" means, for any period, the portion of Interest Expense for such period in respect of Total Unsecured Indebtedness determined in accordance with GAAP.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Government Securities Business Day" means any Business Day, except any Business Day on which any of the Securities Industry and Financial Markets Association, the New York Stock Exchange or the Federal Reserve Bank of New York is not open for business because such day is a legal holiday under the federal laws of the United States or the laws of the State of New York, as applicable.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(III).

"USA PATRIOT Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Usage" means, with respect to any day, the ratio (expressed as a percentage) of (a) the sum of (i) the Outstanding Amount of Revolving Credit Loans on such day and (ii) the Outstanding Amount of L/C Obligations on such day to (b) the Revolving Credit Commitments in effect on such day.

"Wells Fargo" means Wells Fargo Bank, National Association and its successors.

"Wholly-Owned" means, with respect to the ownership by any Person of any Property, that one hundred percent (100%) of the title to such Property is held in fee directly or indirectly by, or one hundred percent (100%) of such Property is ground leased pursuant to an Eligible Ground Lease directly or indirectly by, such Person.

"Wholly Owned Subsidiary" means, as to any Person, (a) any corporation 100% of whose Equity Interests (other than directors' qualifying shares) is at the time owned by such Person and/or one or more Wholly Owned Subsidiaries of such Person and (b) any partnership, association, joint

venture, limited liability company or other entity in which such Person and/or one or more Wholly Owned Subsidiaries of such Person have a 100% equity interest at such time; provided that, solely for purposes of clause (c) of the definition of "Unencumbered Property", the term Wholly Owned Subsidiary shall include a Controlled Joint Venture.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, amendments and restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions and all orders consolidating, amending, replacing or interpreting such law and any reference to any law, rule or regulation shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a Division as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of any member of the Consolidated Group shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the REIT and its Subsidiaries or to the determination of any amount for the REIT and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the REIT is required to consolidate pursuant to FASB ASC 810 as if such variable interest entity were a Subsidiary as defined herein.

1.04 Rounding. Any financial ratios required to be maintained by one or more Loan Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by

the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day~~; Rates~~. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable). ~~The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Eurodollar Rate" or "LIBOR Daily Floating Rate" or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Benchmark Replacement) or the effect of any of the foregoing, or of any Benchmark Replacement Conforming Changes.~~

1.06 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.07 Interest Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to any reference rate referred to herein or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or the effect of any of the foregoing, or of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or other action or omission related to or affecting the selection, determination, or calculation of any rate (or component thereof) provided by any such information source or service.

ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Committed Loans.

(a) Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Revolving Credit Loan") to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility and (ii) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(a), prepay under Section 2.05, and reborrow under this Section 2.01(a). Revolving Credit Loans may be Base Rate Loans, ~~LIBOR Floating Rate~~Daily SOFR Loans or ~~Eurodollar Rate~~Term SOFR Loans, as further provided herein.

(b) The Term Borrowing. Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a single loan to the Borrower on the Closing Date in an amount not to exceed such Term Lender's Term Commitment; provided, however, that after giving effect to any such Term Borrowing, (x) the aggregate Outstanding Amount of all Term Loans shall not exceed the Term Facility and (y) the Outstanding Amount of all Term Loans made by such Term Lender shall not exceed such Term Lender's Term Commitment. Term Loans that are repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans ~~or Eurodollar Rate~~, Term SOFR Loans or Daily SOFR Loans, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Committed Loans.

(a) Each Committed Borrowing, each conversion of Committed Loans from one Type to another, and each continuation of ~~Eurodollar Rate~~Term SOFR Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Committed Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such Committed Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of ~~Eurodollar Rate~~Term SOFR Loans or of any conversion of ~~Eurodollar Rate~~Term SOFR Loans to Base Rate Loans or ~~LIBOR~~ Daily ~~Floating~~SOFR Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans or conversion of Base Rate Loans to ~~LIBOR Floating Rate~~Daily SOFR Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans to Base Rate Loans; provided, however, that if the Borrower wishes to request ~~Eurodollar Rate~~Term SOFR Loans having an Interest Period other than one or three months in duration as provided in the definition of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the Appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to all of them. Not later than 11:00 a.m., three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower

(which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the Appropriate Lenders. Each Borrowing of, conversion to or continuation of ~~Eurodollar Rate~~Term SOFR Loans shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof. Except as provided in Section 2.03(c), each Borrowing of or conversion to Base Rate Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Committed Loan Notice shall specify (i) whether the Borrower is requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to another, or a continuation of ~~Eurodollar Rate~~Term SOFR Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, converted or continued, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice~~ for (i) a Revolving Credit Loan or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Revolving Credit Loan, then the applicable Revolving Credit Loans shall be made as, or converted to, LIBOR Floating Rate Loans, and (ii) a Term Loan or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Term Loan~~, then the applicable ~~Term~~Committed Loans shall be made as, or converted to, ~~Base Rate~~Daily SOFR Loans. Any such automatic conversion to ~~LIBOR Floating Rate~~Daily SOFR Loans~~ or Base Rate Loans, as the case may be,~~ shall be effective as of the last day of the Interest Period then in effect with respect to the applicable ~~Eurodollar Rate~~Term SOFR Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of ~~Eurodollar Rate~~Term SOFR Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Appropriate Lender of the details of any automatic conversion to ~~LIBOR Floating Rate~~Daily SOFR Loans~~ or Base Rate Loans, as the case may be,~~ described in the preceding subsection. In the case of a Term Borrowing or a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Committed Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the Term Borrowing, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower in the Borrower Remittance Instructions; provided, however, that if, on the date the Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a ~~Eurodollar Rate~~Term SOFR Loan may be continued or converted only on the last day of an Interest Period for such ~~Eurodollar Rate~~Term SOFR Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as ~~Eurodollar Rate~~Term SOFR Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for ~~Eurodollar Rate~~Term SOFR Loans upon determination of such interest rate.

(e) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to another, and all continuations of Committed Loans as the same Type, there shall not be more than seven Interest Periods in effect with respect to Committed Loans.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent, and such Lender.

(g) With respect to SOFR or Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

(h) Notwithstanding anything to the contrary contained herein or elsewhere: (a) Each Eurodollar Rate Loan (as defined in the Original Credit Agreement) that is outstanding on the Second Amendment Effective Date shall continue to accrue interest at the per annum interest rate that would apply to such Eurodollar Rate Loan under the Original Credit Agreement, and such interest shall be payable on the dates that such interest would be payable under the Original Credit Agreement and otherwise in accordance with the terms thereof and (b) on the last day of the Interest Period (solely for purposes of this paragraph, as defined in the Original Credit Agreement) with respect to each Eurodollar Rate Loan outstanding on the Second Amendment Effective Date, each such Eurodollar Rate Loan shall, at the election of the Borrower made in accordance with Sections 2.01(a) and 2.02, be converted to a Term SOFR Loan, Daily SOFR Loan or Base Rate Committed Loan. In the event that the Borrower fails to provide a Committed Loan Notice with respect to the conversion of any such Eurodollar Rate Loan in accordance with Section 2.02(a), such Eurodollar Rate Loan shall be converted to a Daily SOFR Loan at the end of the relevant Interest Period.

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the Availability Period, to issue Letters

of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Subfacility. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued by the applicable L/C Issuer pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) No L/C Issuer shall issue any Letter of Credit, if, subject to Section 2.03(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless, subject to Section 2.03(b)(v), the Administrative Agent and the applicable L/C Issuer have approved such expiry date; provided that in no event will any Letter of Credit have an expiry date that is later than the first anniversary of the Maturity Date for the Revolving Credit Facility.

(iii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing the Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, the Letter of Credit is in an initial stated amount less than $500,000;

(D) the Letter of Credit is to be denominated in a currency other than Dollars;

(E) any Revolving Credit Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Borrower or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.17(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion; or

(F) after giving effect to any L/C Credit Extension with respect to such Letter of Credit, the L/C Obligations with respect to all Letters of Credit issued by such L/C Issuer would exceed such L/C Issuer's Letter of Credit Sublimit; provided that, subject to the limitations set forth in the proviso to the first sentence of Section 2.03(a)(i), any L/C Issuer in its sole discretion may issue Letters of Credit in excess of its Letter of Credit Sublimit.

(iv) No L/C Issuer shall amend or extend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) No L/C Issuer shall be under no obligation to amend or extend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and such L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to each L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letter of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, by a single L/C Issuer selected by the Borrower, upon the request of the Borrower delivered to such L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by such L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of

Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require. Additionally, the Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless such L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application in respect of a Letter of Credit, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by such L/C Issuer, the Borrower shall not be required to make a specific

request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) such L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the first anniversary of the Maturity Date for the Revolving Credit Facility, subject to the requirements of Section 2.03(b)(v); provided that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone (if promptly confirmed in writing) or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing such L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(v) If the expiry date of any Letter of Credit would occur after the Maturity Date for the Revolving Credit Facility, the Borrower hereby agrees that it will at least thirty (30) days prior to such Maturity Date (or, in the case of a Letter of Credit issued, amended or extended on or after thirty (30) days prior to the Maturity Date for the Revolving Credit Facility, on the date of such issuance, amendment or extension, as applicable) Cash Collateralize such Letter of Credit in an amount equal to 105% of the L/C Obligations arising or expected to arise in connection with such Letter of Credit.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof (such notification provided by an L/C Issuer to the Borrower and the Administrative Agent being referred to herein as an "L/C Draw Notice"). If an L/C Draw Notice with respect to a Letter of Credit is received by the Borrower (x) on or prior to 11:00 a.m. on the date of any payment by such L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), then, not later than 1:00 p.m. on the Honor Date, the Borrower shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing or (y) after 11:00 a.m. on the Honor Date, then, not later than 11:00 a.m. on the first Business Day following the Honor Date, the Borrower shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing (such date on which the Borrower, pursuant to clauses (x) and (y) of this sentence, is required to reimburse an L/C Issuer for a drawing under a Letter of Credit is referred to herein as the "L/C Reimbursement Date"); provided that if the L/C Reimbursement Date for a drawing under a Letter of Credit is the Business Day following the Honor Date pursuant to clause (y) of this sentence, the Unreimbursed Amount shall accrue interest from and including the Honor Date until such time as the applicable L/C Issuer is reimbursed in full therefor (whether through payment by the Borrower and/or through a Revolving Credit

Loan or L/C Borrowing made in accordance with paragraph (ii) or (iii) of this Section 2.03(c)) at a rate equal to (A) for the period from and including the Honor Date to but excluding the first Business Day to occur thereafter, the rate of interest then applicable to a Base Rate Revolving Credit Loan and (B) thereafter, at the Default Rate applicable to a Base Rate Revolving Credit Loan. Interest accruing on the Unreimbursed Amount pursuant to the proviso to the immediately preceding sentence shall be payable by the Borrower upon demand to the Administrative Agent, solely for the account of the applicable L/C Issuer. If the Borrower fails to so reimburse the applicable L/C Issuer for the full amount of the unreimbursed drawing (the "Unreimbursed Amount") in accordance with the preceding sentence on the applicable L/C Reimbursement Date, the Administrative Agent shall promptly notify each Lender that a payment was made on the Letter of Credit, the Honor Date, the L/C Reimbursement Date (if different from the Honor Date), the Unreimbursed Amount thereof, and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the L/C Reimbursement Date or, if the L/C Reimbursement Date is the Honor Date, the Business Day following the L/C Reimbursement Date, in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice) and upon the funding of such Revolving Credit Borrowing by the Lenders and remittance thereof to the applicable L/C Issuer together with any interest payable on the Unreimbursed Amount in accordance with the proviso to the second sentence of this Section 2.03(c)(i) (which interest shall be included in the amount of such Revolving Credit Borrowing unless the inclusion of such interest would result in such Revolving Credit Borrowing failing to comply with the proviso to the first sentence of Section 2.01(a)), the failure to pay such Unreimbursed Amount shall be cured. Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 3:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Revolving Credit Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and

payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of an L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing to such L/C Issuer under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after an L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of

such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse each L/C Issuer for each drawing under each Letter of Credit issued by such L/C Issuer and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), such L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by such L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of the Borrower or any waiver by such L/C Issuer which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by such L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents

must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by such L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any Subsidiary.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against such L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an L/C Issuer, and an L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, an L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice

or information to the contrary, and such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. An L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("**SWIFT**") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the applicable L/C Issuer and the Borrower when a Letter of Credit is issued by it (including any such agreement applicable to an Existing Letter of Credit), the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Borrower for, and no L/C Issuer's rights and remedies against the Borrower shall be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance, subject to Section 2.17, with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate for the Revolving Credit Facility times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the tenth ~~Business Day~~day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date for the Revolving Credit Facility and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate for the Revolving Credit Facility during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate for the Revolving Credit Facility separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers. The Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum equal to the percentage separately agreed upon between the Borrower and such L/C Issuer, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth ~~Business Day~~day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date for the Revolving Credit Facility and thereafter on demand. For

purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the applicable L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Revolving Lenders (or, if the maturity of the Loans has been accelerated, Revolving Credit Lenders with L/C Obligations representing at least 66-2/3% of the total L/C Obligations) demanding the deposit of cash collateral pursuant to this clause (j), the Borrower shall promptly (and in any event within one (1) Business Day of such notice) deposit into a non-interest bearing deposit account established and maintained on the books and records of the Administrative Agent (the "Collateral Account") an amount in cash equal to 105% of the total L/C Obligations as of such date plus any accrued and unpaid interest thereon, provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall be immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (f) of Section 8.01. Such deposit shall be held by the Administrative Agent in cash as collateral for the payment and performance of the obligations of the Borrower under this Agreement. In addition, and without limiting the foregoing or Section 2.03(a)(ii) or Section 2.03(b)(v), if any L/C Obligations remain outstanding after the expiration date specified in Section 2.03(a)(ii), the Borrower shall immediately deposit into the Collateral Account an amount in cash equal to 105% of such L/C Obligations as of such date plus any accrued and unpaid interest thereon.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Collateral Account. Moneys in the Collateral Account shall be applied by the Administrative Agent to reimburse each L/C Issuer for L/C Disbursements for which it has not been reimbursed, together with related fees, costs, and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the L/C Obligations at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Credit Lenders with L/C Obligations representing 66-2/3% of the total L/C Obligations), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(l) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse, indemnify (as and to the extent contemplated by this Agreement) and compensate (as and to the extent contemplated by this Agreement) the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit as if such Letter of Credit

had been issued solely for the account of the Borrower. The Borrower irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(m) L/C Issuer Reports to Administrative Agent. Unless otherwise agreed by the Administrative Agent, each L/C Issuer shall, in addition to its notification obligations set forth elsewhere in this Section, provide the Administrative Agent with written reports from time to time, as follows:

(i) reasonably prior to the time that such L/C Issuer issues, amends, renews, increases or extends a Letter of Credit, a written report that includes the date of such issuance, amendment, renewal, increase or extension and the stated amount and currency of the applicable Letters of Credit after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed);

(ii) on each Business Day on which such L/C Issuer makes a payment pursuant to a Letter of Credit, a written report that includes the date and amount of such payment;

(iii) on any Business Day on which the Borrower fails to reimburse a payment made pursuant to a Letter of Credit required to be reimbursed to such L/C Issuer on such day, a written report that includes the date of such failure and the amount of such payment;

(iv) on any other Business Day, a written report that includes such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such L/C Issuer; and

(v) (x) on the last Business Day of each calendar month and (y) on each date that (1) an L/C Credit Extension occurs or (2) there is any expiration, cancellation and/or disbursement, in each case, with respect to any Letter of Credit issued by such L/C Issuer, a written report that includes the information for every outstanding Letter of Credit issued by such L/C Issuer.

2.04 [Reserved].

2.05 Prepayments.

(a) Optional Prepayments. The Borrower may, upon ~~notice~~delivery of a Notice of Loan Repayment to the Administrative Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (A) such ~~notice~~Notice of Loan Repayment must be ~~in a form acceptable to the Administrative Agent and be~~ received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of ~~Eurodollar Rate~~Term SOFR Loans and (2) on the date of prepayment of Base Rate Committed Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans; (B) any prepayment of ~~Eurodollar Rate~~Term SOFR Loans shall be in a minimum principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof; and (C) any prepayment of Base Rate Committed

Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans shall be in a minimum principal amount of $500,000 or a whole multiple of $100,000 in excess thereof, or, in each case, if less, the entire principal amount thereof then outstanding. Each such ~~notice~~Notice of Loan Repayment shall specify the date and amount of such prepayment and the Type(s) of Committed Loans to be prepaid and, if ~~Eurodollar Rate~~Term SOFR Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such ~~notice~~Notice of Loan Repayment, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such ~~notice~~Notice of Loan Repayment is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such ~~notice~~Notice of Loan Repayment shall be due and payable on the date specified therein; provided that the Notice of Loan Repayment may be conditional upon the occurrence or closing of another transaction or financing. Any prepayment of a ~~Eurodollar Rate~~Term SOFR Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.17, each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages in respect of the relevant Facilities.

(b) Mandatory Prepayments.

(i) If for any reason the Total Revolving Credit Outstandings exceed the Revolving Credit Facility then in effect, the Borrower shall immediately (x) prepay Loans (including L/C Borrowings) and/or (y) Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount necessary to cause Total Revolving Credit Outstandings to equal or be less than the Revolving Credit Facility then in effect; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b) unless after the prepayment in full of the Revolving Credit Loans the Total Revolving Credit Outstandings exceed the Revolving Credit Facility then in effect.

(ii) Prepayments made pursuant to this Section 2.05(b)(i), first, shall be applied ratably to the L/C Borrowings, second, shall be applied ratably to the outstanding Revolving Credit Loans, and third, shall be deposited into the Collateral Account and used to Cash Collateralize the remaining L/C Obligations. Upon a drawing under any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any other Loan Party) to reimburse the L/C Issuers or the Revolving Credit Lenders, as applicable.

2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Facility or the Letter of Credit Subfacility, or from time to time permanently reduce the Revolving Credit Facility or the Letter of Credit Subfacility; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $10,000,000 or any whole multiple of $1,000,000 in excess thereof and (iii) the Borrower shall not terminate or reduce (x) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the

Revolving Credit Facility or (y) the Letter of Credit Subfacility if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Subfacility. The Administrative Agent will promptly notify the Revolving Credit Lenders of any such notice of termination or reduction of the Revolving Credit Facility or Letter of Credit Subfacility. Any reduction of the Revolving Credit Facility shall be applied to the Revolving Credit Commitment of each Revolving Credit Lender according to its Applicable Revolving Credit Percentage, and upon any resulting reduction of the Letter of Credit Subfacility, the Letter of Credit Sublimit of each L/C Issuer shall be reduced on a pro rata basis. All fees accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination. Following any such termination or reduction, the Administrative Agent may in its discretion replace the existing Schedule 2.01 with an amended and restated schedule that reflects all such terminations and reductions.

(b) Mandatory. The aggregate Term Commitments shall be automatically and permanently reduced to zero on the date of the Term Borrowing after giving effect thereto.

2.07 Repayment of Loans.

(a) The Borrower shall repay to the Revolving Credit Lenders on the Maturity Date of the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(b) The Borrower shall repay to the Term Lenders on the Maturity Date of the Term Facility the aggregate principal amount of all Term Loans outstanding on such date.

2.08 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each ~~Eurodollar Rate~~Term SOFR Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the ~~Eurodollar Rate~~Term SOFR for such Interest Period plus the Applicable Rate for such Facility; (ii) each ~~LIBOR Floating Rate~~Daily SOFR Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to ~~the LIBOR~~ Daily ~~Floating Rate~~Simple SOFR plus the Applicable Rate for ~~the Revolving Credit~~such Facility; and (iii) each Base Rate Committed Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Facility.

(b) (i) While any Event of Default exists under Section 8.01(a)(i) or Section 8.01(f), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by ~~applicable~~Applicable Laws.

(ii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clause (b)(i) above), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by ~~applicable~~Applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.03 and in Sections 2.14(b)(iii) and 2.15(b)(iv):

(a) Revolving Credit Facility Fee. The Borrower shall pay to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a facility fee (the "Facility Fee") equal to the "Facility Fee" component of the Applicable Rate times the actual daily amount of the Revolving Credit Facility (or, if the Revolving Credit Commitments have terminated, the Total Revolving Credit Outstandings). For the avoidance of doubt, the Facility Fee shall accrue at all times during the Availability Period (and thereafter so long as any Revolving Credit Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, on the last day of the Availability Period and, if applicable, thereafter on demand. The Facility Fee shall be calculated quarterly in arrears, and if there is any change in the "Facility Fee" component of the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the "Facility Fee" component of the Applicable Rate separately for each period during such quarter that such "Facility Fee" component of the Applicable Rate was in effect.

(b) Other Fees. The Borrower shall pay to the Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letters. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to ~~the Eurodollar Rate~~Term SOFR) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which such Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the REIT or for any other reason, the Borrower, the Administrative Agent or the Required Lenders determine that (i) the ratio of Total Indebtedness to Total Asset Value as calculated by the

Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the ratio of Total Indebtedness to Total Asset Value would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the L/C Issuers, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or any L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or any L/C Issuer, as the case may be, under Section 2.03(c)(iii), 2.03(h) or 2.08(b) or under Article VIII. The Borrower's obligations under this paragraph shall survive the termination of the Facilities and the repayment of all other Obligations hereunder.

2.11 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender in the ordinary course of business. The Administrative Agent shall maintain the Register in accordance with Section 11.06(c). The accounts or records maintained by each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Credit Note and/or a Term Note, as applicable, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note(s) and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a) above, each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided

herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Committed Borrowing of ~~Eurodollar Rate~~Term SOFR Loans (or, in the case of any Committed Borrowing of Base Rate Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans, prior to 12:00 noon on the date of such Committed Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Committed Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Committed Borrowing of Base Rate Loans or ~~LIBOR Floating Rate~~Daily SOFR Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans under the applicable Facility. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable L/C Issuer, as the case may be, the amount due. With respect to any payment that the Administrative Agent makes for the account of the Lenders or any L/C Issuer hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrower has not in fact made such payment; (2) the

Administrative Agent has made a payment in excess of the amount so paid by the Borrower (whether or not then owed); or (3) the Administrative agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the applicable L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or such L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(iii) Notice. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 11.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Committed Loans made by it, or the participations in L/C Obligations held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Committed Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Committed Loans and subparticipations in L/C Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Committed Loans and other amounts owing them in respect of the Facilities, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall

be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under ~~applicable law~~Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Extension of Maturity Date **in** respect of Revolving Credit Facility.

(a) Request for Extension. The Borrower may, by written notice to the Administrative Agent (such notice, an "Extension Notice") not earlier than 90 days and not later than 30 days prior to the Maturity Date then in effect hereunder for the Revolving Credit Facility (the "Existing Maturity Date"), request that the Revolving Credit Lenders extend the Maturity Date for the Revolving Credit Facility for an additional six (6) month period from such Existing Maturity Date (the "First Maturity Date Extension"), and (if so extended) for an additional six (6) month period to the fifth anniversary of the Closing Date (the "Second Maturity Date Extension" and together with the First Maturity Date Extension, each a "Maturity Date Extension"). The Administrative Agent shall distribute any such Extension Notice to the Revolving Credit Lenders promptly following its receipt thereof.

(b) Conditions Precedent to Effectiveness of each Maturity Date Extension. As conditions precedent to the effectiveness of each Maturity Date Extension, each of the following requirements shall be satisfied:

(i) The Administrative Agent shall have received an Extension Notice within the period required under subsection (a) above;

(ii) On the date of such Extension Notice and both immediately before and immediately after giving effect to such Maturity Date Extension, no Default or Event of Default shall have occurred and be continuing;

(iii) The Borrower shall have paid to the Administrative Agent, for the pro rata benefit of the Revolving Credit Lenders based on their Applicable Revolving Credit Percentages as of the applicable Existing Maturity Date, an extension fee in an amount equal to 0.075% of the Revolving Credit Facility in effect on such Existing Maturity Date, it being agreed that such fee shall be fully earned when paid and shall not be refundable for any reason; and

(iv) The Administrative Agent shall have received a certificate of the Borrower dated as of the applicable Existing Maturity Date signed by a Responsible Officer of the Borrower certifying that, before and after giving effect to such extension, (A) the representations and warranties ~~made or deemed made by the Loan Parties in~~contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects on and as of the Existing Maturity Date (without duplication of materiality qualifiers set forth in such representations and warranties), except (i) with respect to the representations and warranties set forth in Section 5.19, in which case they are true and correct in all respects, (ii) to the extent that such representations and warranties expressly relate ~~solely~~ to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and ~~except~~(iii) that for purposes of this Section 2.14, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists.

2.15 Increase in Facilities.

(a) Request for Increase. The Borrower may by written notice to the Administrative Agent request, from time to time, to increase the aggregate principal amount of the Facilities to an amount not exceeding $900,000,000 through one or more increases in the existing Revolving Credit Facility (each, an "Incremental Revolving Commitment") and/or increases in the principal amount of the Term Loan (each, an "Incremental Term Commitment") and/or the addition of one or more new pari passu tranches of term loans (each an "Incremental Term Loan Facility"; each Incremental Term Loan Facility, Incremental Revolving Commitment and Incremental Term Commitment are collectively referred to as "Incremental Commitments"); provided that (i) any such request for an increase shall be in a minimum amount of $50,000,000 (provided that such amount may be less than $50,000,000 if such amount represents all remaining availability under the aggregate limit in respect of the Facilities set forth above) and (ii) the Borrower may make a maximum of three such requests. Each notice from the Borrower pursuant to this Section 2.15 shall specify (i) the date on which the Borrower proposes that the Incremental Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent (the "Notice Period") and (ii) the identity of each Lender and each other Eligible Assignee to whom the Borrower proposes any portion of such Incremental Commitments be allocated and the amount of such Incremental Commitments being requested from each such Lender and Eligible Assignee; provided that any existing Lender approached to provide all or a portion of the Incremental Commitments may elect or decline, in its sole discretion, to provide such Incremental Commitment and any Lender not responding within the Notice Period shall be deemed to have declined to provide such Incremental Commitment. The Administrative Agent and the Borrower shall thereafter determine the effective date (each an "Increase Effective Date") and the final allocation of such Incremental Commitments among the Lenders and Eligible Assignees.

(b) Conditions. An Incremental Commitment shall become effective as of the Increase Effective Date; provided that:

(i) after giving pro forma effect to such Incremental Commitment and the use of proceeds, no Default shall exist;

(ii) the Borrower shall have delivered to the Administrative Agent a certificate dated as of the Increase Effective Date signed by a Responsible Officer of the Borrower (x) (A) certifying and attaching the resolutions adopted by or on behalf of the Borrower and each Guarantor (if any) approving or consenting to such increase, or (B) certifying that, as of such Increase Effective Date, the resolutions delivered to the Administrative Agent and the Lenders on the Closing Date (which resolutions include approval to increase the aggregate principal amount of the Facilities to an amount at least equal to $900,000,000) are and remain in full force and effect and have not been modified, rescinded or superseded since the date of adoption, and (y) certifying that, before and after giving effect to such Incremental Commitments and the Credit Extensions, if any to be made on such Increase Effective Date (A) the representations and warranties contained in Article V ~~and the~~or any other Loan ~~Documents~~Document, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects on and as of the Increase Effective Date~~, except~~ (without duplication of materiality qualifiers set forth in such representations and warranties), except (1) with respect to the representations and warranties set forth in Section 5.19, in which case they are true and correct in all respects, (2) to the extent that ~~(1)~~ such representations and warranties ~~specifically refer~~expressly relate to an earlier date~~,~~ (in which case ~~they~~such representations and warranties are true and correct in all material respects on and as of such earlier date~~, (2) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such date (including such earlier date set forth in the foregoing clause (1)) after giving effect to such qualification and (3)~~ without duplication of materiality qualifiers set forth in such representations and warranties) and (3) that for purposes of this Section 2.15, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists;

(iii) if requested by a new Lender participating in such Incremental Commitment, notes executed by the Borrower payable to such new Lender;

(iv) the Administrative Agent shall have received documentation from each Person providing such Incremental Commitment evidencing its share of the Incremental Commitments and its obligations under this Agreement in form and substance reasonably acceptable to the Administrative Agent, including, in the case of a new Lender, a New Lender Joinder Agreement, subject in each case to any requisite consents required under Section 11.06;

(v) the Borrower shall pay any applicable fees and expenses as are due and payable in connection with such Incremental Commitment;

(vi) the Borrower shall make any breakage payments in connection with any adjustment of Revolving Credit Loans pursuant to Section 2.15(d);

(vii) if requested by the Administrative Agent or any Lender or other Eligible Assignee participating in such Incremental Commitment, the Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, a customary opinion of counsel to the Loan Parties (which counsel shall be reasonably acceptable to the Administrative Agent), addressed to the Administrative Agent, the Lenders and the L/C Issuers;

(viii) upon the reasonable request of the Administrative Agent or any Lender participating in such Incremental Commitment made at least ten (10) days prior to such Increase Effective Date, the Borrower shall have provided to the Administrative Agent or such Lender, as applicable, all necessary information in connection with the USA PATRIOT Act, "know your customer" requirements, anti-money laundering requirements and the Beneficial Ownership Regulation (including a Beneficial Ownership Certification) and other customary requirements not later than five (5) days prior to such Increase Effective Date;

(ix) any Lender becoming a party hereto shall (1) execute such documents and agreements as the Administrative Agent may reasonably request and (2) in the case of any Lender that is organized under the laws of a jurisdiction outside of the United States of America, provide to the Administrative Agent, its name, address, tax identification number and/or such other information as shall be necessary for the Administrative Agent to comply with "know your customer" and anti-money laundering rules and regulations, including without limitation, the USA PATRIOT Act; and

(x) the Borrower shall have delivered or caused to be delivered such other assurances, certificates, documents, consents or opinions as the Administrative Agent, any of the Lenders or other Eligible Assignees providing such Incremental Commitment or, in the case of an Incremental Revolving Commitment, any L/C Issuer, reasonably may require.

(c) Terms of Incremental Commitments.

(i) Except in the case of a newly established Incremental Term Loan Facility, each such Incremental Commitment (including any existing Incremental Term Loan Facility) shall be on the same terms as the Facility being increased and all incremental commitments and loans provided as part of a newly established Incremental Term Loan Facility, subject to subsection (b) above, shall be on terms agreed to by the Borrower and the Lenders providing such Incremental Term Loan Facility; and

(ii) Each Incremental Term Loan Facility and the related Incremental Term Loans, subject to clause (ii) of the last proviso to Section 11.01, if applicable, will be on such terms (including as to amortization and maturity) as are agreed to by the Borrower and each Incremental Term Loan Lender with respect to such Incremental Term Loan Facility; provided that, if the terms of such Incremental Term Loan Facility and the related Incremental Term Loans (other than final maturity) are not the same as the terms of a then existing Incremental Term Loan Facility, the operational, technical and administrative provisions of such Incremental Term Loan Facility shall be reasonably acceptable to the Administrative Agent; provided, further that such Incremental Term Loans will not in any

event have a maturity date earlier than the latest Maturity Date (including any extension option) of any then existing Facility.

(d) Adjustment of Revolving Credit Loans. In the event that an Incremental Revolving Commitment results in any change to the Applicable Revolving Credit Percentage of any Lender, then on the Increase Effective Date, (i) subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Revolving Credit Lender and other Eligible Assignee that is providing such Incremental Revolving Commitment shall make a Revolving Credit Loan, the proceeds of which will be used to prepay the Revolving Credit Loans of the existing Revolving Credit Lenders immediately prior to such Increase Effective Date, so that, after giving effect thereto, the Revolving Credit Loans outstanding are held by the Revolving Credit Lenders pro rata based on their Revolving Credit Commitments after giving effect to such Incremental Revolving Commitment and (ii) the participation interests of the Lenders in any outstanding Letters of Credit shall be automatically reallocated among the Revolving Credit Lenders in accordance with their respective Applicable Revolving Credit Percentages after giving effect to such Incremental Revolving Commitment. If there is a new borrowing of Revolving Credit Loans on such Increase Effective Date, the Revolving Credit Lenders after giving effect to such Increase Effective Date shall make such Revolving Credit Loans in accordance with Section 2.01(a).

(e) Making of New Term Loans. On any Increase Effective Date on which an Incremental Term Commitment is effective, subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Lender and Eligible Assignee that has agreed to provide such Incremental Term Commitment shall make a Term Loan to the Borrower in an amount equal to its pro rata share of such Incremental Term Commitment.

(f) Incremental Term Loans. On any Increase Effective Date on which an Incremental Term Loan Facility is effective, subject to the satisfaction of the foregoing terms and conditions and the conditions set forth in Section 4.02, each Lender and Eligible Assignee that has agreed to provide such Incremental Term Loan Facility shall make an Incremental Term Loan to the Borrower in an amount equal to its pro rata share of such Incremental Term Loan Facility in accordance with the conditions and procedures set forth in Section 2.02 and any applicable Commitment Increase Amendment.

(g) Amendments. If any amendment to this Agreement or any other Loan Document is required to give effect to any Incremental Commitments or Loan made pursuant thereto in accordance with this Section 2.15, then such amendment shall be effective if executed by the Borrower, each Lender and Eligible Assignee providing such Incremental Commitments and the Administrative Agent (each such amendment is a "Commitment Increase Amendment"). Notwithstanding anything to the contrary in Section 11.01, the Commitment Increase Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.15.

(h) Equal and Ratable Benefit. The Loans and Commitments established pursuant to this Section 2.15 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents.

(i) Conflicting Provisions. This Section 2.15 shall supersede any provisions in Section 2.13 or 11.01 to the contrary.

2.16 Cash Collateral.

(a) Obligation to Cash Collateralize. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any L/C Issuer (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.05, 2.17 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 11.06(b)(vi))) or (ii) the determination by the Administrative Agent and the applicable L/C Issuer(s) that there exists excess Cash Collateral; provided, however, (x) Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default (and following application as provided in this Section 2.16 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash

Collateral and the applicable L/C Issuer(s) may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.17 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by ~~applicable~~Applicable Laws:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders", "Required Revolving Lenders", "Required Term Lenders" and Section 11.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to an L/C Issuer hereunder; *third*, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.16; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.16; *sixth*, to the payment of any amounts owing to the Lenders or the L/C Issuers as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations are held

by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.17(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any portion of such fee that otherwise would have been paid to that Defaulting Lender).

(B) Each Defaulting Lender that is a Revolving Credit Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Revolving Credit Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to the terms of this Agreement.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each applicable L/C Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations shall be reallocated among the Non-Defaulting Lenders that are Revolving Credit Lenders in accordance with their respective Applicable Revolving Credit Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. Subject to Section 11.20, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under ~~applicable~~Applicable Laws, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.16.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, and, with respect to any Defaulting Lender that is a Revolving Credit Lender, the L/C Issuers, agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Committed Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by ~~applicable~~Applicable Laws. If any ~~applicable~~Applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any ~~applicable~~Applicable Laws other than the Code to withhold or deduct any Taxes from any

payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with ~~applicable law~~Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Each Lender and each L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (*x*) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (*y*) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (*z*) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each L/C

Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or such L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by ~~applicable law~~Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BENE (or W-8BEN, as applicable); or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BENE (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by ~~applicable law~~Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by ~~applicable law~~Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or

times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by ~~applicable law~~Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by ~~applicable~~Applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an L/C Issuer, or have any obligation to pay to any Lender or any L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that such Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to any Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or an L/C Issuer, the termination of the Facilities and the repayment, satisfaction or discharge of all other Obligations.

Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to ~~perform any of its obligations hereunder or~~ make, maintain or fund ~~or charge~~Loans whose interest ~~with respect to any Credit Extension~~is determined by reference to SOFR, Daily Simple SOFR or Term SOFR, or to determine or charge interest rates based upon ~~the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market~~SOFR, Daily Simple SOFR or Term SOFR, then, ~~on~~upon notice thereof by such Lender to the Borrower (through the Administrative Agent), (~~i~~a) any obligation of such Lender to ~~issue, make, maintain, fund or charge interest with respect to any such Credit Extension~~ or continue ~~Eurodollar Rate~~SOFR Loans or to convert Base Rate Loans ~~or LIBOR Floating Rate Loans to Eurodollar Rate Loans or to convert Eurodollar Rate Loans or Base Rate Loans to LIBOR Floating Rate~~to SOFR Loans shall be suspended, and (~~ii~~b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the ~~Eurodollar Rate~~Term SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the ~~Eurodollar Rate~~Term SOFR component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (~~x~~i) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay all SOFR Loans of such Lender or~~, if applicable,~~ convert all ~~Eurodollar Rate Loans and LIBOR Floating Rate~~SOFR Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the ~~Eurodollar Rate~~Term SOFR component of the Base Rate), in each case, immediately ~~in the case of LIBOR Floating Rate Loans and~~, or, in the case of ~~Eurodollar Rate~~Term SOFR Loans, ~~either~~ on the last day of the Interest Period therefor~~,~~ if such Lender may lawfully continue to maintain such ~~Eurodollar Rate~~Term SOFR Loans to such day~~, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans~~ and (~~y~~ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon ~~the Eurodollar Rate~~Term SOFR, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the ~~Eurodollar Rate~~Term SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon ~~the Eurodollar Rate~~Term SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.05.

3.02 Inability to Determine Rates; Replacement of Successor Rates.

(a) Inability to Determine Rates. If in connection with any request for a ~~Eurodollar Rate Loan or LIBOR Floating Rate~~SOFR Loan, a conversion to a ~~Eurodollar Rate~~SOFR Loan ~~or LIBOR Floating Rate Loan~~, or a continuation of a ~~Eurodollar Rate~~Term SOFR Loan, (i) the Administrative Agent determines that (which determination shall be conclusive absent manifest error) that (A) ~~Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan or the applicable term with respect to any LIBOR Floating Rate Loan~~no Successor Rate has been determined in accordance with Section 3.03(b), and the circumstances under clause (i) of Section 3.03(b) or the Scheduled Unavailability Date has occurred, or (B) ~~(x)~~ adequate and reasonable means do not

otherwise exist for determining ~~the Eurodollar Rate~~Daily Simple SOFR or Term SOFR for any determination date(s) or requested Interest Period, as applicable, with respect to a proposed ~~Eurodollar Rate~~Term SOFR Loan or in connection with an existing or proposed Daily SOFR Loan or Base Rate Loan ~~or for determining the LIBOR Daily Floating Rate for any applicable term with respect to an existing or proposed LIBOR Floating Rate Loan and (y) the circumstances described in Section 3.03(c)(i) do not apply (in each case with respect to this clause (i), "Impacted Loans")~~, or (ii) the Administrative Agent or the Required Lenders determine that for any reason ~~the Eurodollar Rate~~that Daily Simple SOFR or Term SOFR with respect to a proposed Loan for any requested Interest Period ~~with respect to a proposed Eurodollar Rate Loan or the LIBOR Daily Floating Rate for any applicable term with respect to an existing or proposed LIBOR Floating Rate Loan, as the case may be,~~or determination date(s) does not adequately and fairly reflect the cost to such Lenders of funding such ~~Eurodollar Rate Loan or LIBOR Floating Rate~~ Loan, the Administrative Agent will promptly so notify the Borrower and each Lender.

Thereafter, (x) the obligation of the Lenders to make or maintain Daily SOFR Loans and/or Term SOFR Loans, as applicable, or to convert ~~to, Eurodollar Rate Loans and/or LIBOR Floating Rate Loans~~Base Rate Loans to SOFR Loans, shall be suspended ~~(~~in each case to the extent of the affected ~~Eurodollar Rate Loan, LIBOR Floating Rate Loan~~SOFR Loans or Interest ~~Periods)~~Period(s) or determination date(s), as applicable, and (y) in the event of a determination described in the preceding sentence with respect to the ~~Eurodollar Rate~~Term SOFR component of the Base Rate, the utilization of the ~~Eurodollar Rate~~Term SOFR component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice.

Upon receipt of such notice, (i) the Borrower may revoke any pending request for a Committed Borrowing of, or conversion to Daily SOFR Loans, or Committed Borrowing of, or conversion to, or continuation of ~~Eurodollar Rate~~Term SOFR Loans (to the extent of the affected ~~Eurodollar Rate Loan~~Term SOFR Loans or Interest Periods~~) or any pending request for a Borrowing of or conversion to LIBOR Floating Rate Loans (to the extent of the affected LIBOR Floating Rate Loans or periods)~~ or determination date(s), as applicable), or, failing that, will be deemed to have converted such request into a request for a ~~borrowing~~Committed Borrowing of Base Rate Loans in the amount specified therein and (ii) any outstanding ~~affected Eurodollar Rate Loan will~~SOFR Loans shall be deemed to have been converted ~~into a~~to Base Rate Loans immediately, in the case of a Daily SOFR Loan, or at the end of the applicable Interest Period ~~and any outstanding LIBOR Floating Rate Loan shall be deemed to have been converted to a Base Rate~~, in the case of a Term SOFR Loan ~~immediately~~.

~~(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (i) of Section 3.03(a), the Administrative Agent, in consultation with the Borrower and Required Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (i) of the first sentence of Section 3.03(a), (ii) the Administrative Agent or the Required Lenders notify the Administrative Agent and the Borrower that such alternative interest~~

rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (iii) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document:

(b) Replacement of Term SOFR and SOFR or Successor Rate. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify(ies) the Administrative Agent (with, in the case of the Required Lenders, a copy to the Borrower) that the Borrower or Required Lenders (as applicable) have determined, that:

(i) On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12- month U.S. dollar LIBOR tenor settings. On the earliest of (A) the date that all Available Tenors of U.S dollar LIBOR have permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative, (B) June 30, 2023 and (C) the Early Opt-in Effective Date in respect of a SOFR Early Opt-in, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a monthly basis.adequate and reasonable means do not exist for ascertaining SOFR and one month and three month and six month interest periods of Term SOFR (for clarification, none of Daily Simple SOFR or Term SOFR for interest periods of one month, three months and six months are ascertainable), including, without limitation, because SOFR or the Term SOFR Screen Rate, as applicable, is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) (x) Upon (A) the occurrence of a Benchmark Transition Event or (B) a determination by the Administrative Agent that neither of the alternatives under clause (1) of the definition of Benchmark Replacement are available, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders (and any such objection shall be conclusive and

~~binding absent manifest error); provided that solely in the event that the then-current Benchmark at the time of such Benchmark Transition Event is not a SOFR-based rate, the Benchmark Replacement therefor shall be determined in accordance with clause (1) of the definition of Benchmark Replacement unless the Administrative Agent determines that neither of such alternative rates is available.~~ CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Term SOFR, or the SOFR Administrator or any Governmental Authority having jurisdiction over the Administrative Agent or the SOFR Administrator with respect to its publication of SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which SOFR, or one month and three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate, as applicable, shall or will no longer be made available, or permitted to be used for determining the interest rate of Dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide SOFR or such interest periods of Term SOFR, as applicable, after such specific date (the latest date on which SOFR or one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the "Scheduled Unavailability Date");

~~(y) On the Early Opt-in Effective Date in respect of an Other Rate Early Opt-in, the Benchmark Replacement will replace LIBOR for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document.~~

~~(iii) At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Borrower may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Borrower's receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans. During the period referenced in the foregoing sentence, the component of Base Rate based upon the Benchmark will not be used in any determination of Base Rate.~~

notwithstanding anything to the contrary contained herein, if the events or circumstances of the type described in Section 3.03(b)(i) or (ii) have occurred with respect to the Successor Rate then in effect, then, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing SOFR, Daily Simple SOFR and/or Term SOFR, or any then current Successor Rate, in accordance with this Section 3.03 with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S. and denominated in Dollars for such alternative benchmarks, and, in each case,

including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S. and denominated in Dollars for such benchmarks. For the avoidance of doubt, any such proposed rate, including for the avoidance of doubt, any adjustment thereto, shall constitute a "Successor Rate". Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

The Administrative Agent will promptly (in one or more notices) notify the Borrower and each Lender of the implementation of any Successor Rate.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero, the Successor Rate will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.

~~(iv)~~ In connection with the implementation ~~and administration~~ of a ~~Benchmark Replacement,~~Successor Rate the Administrative Agent will have the right to make ~~Benchmark Replacement~~ Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such ~~Benchmark Replacement~~ Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

~~(v) The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 3.03(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.03(c).~~

~~(vi) At any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (B) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.~~

3.03 Increased Costs~~; Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans~~.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by ~~Section 3.04(c)) or~~ any L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or ~~Eurodollar Rate~~SOFR Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to

the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

~~(e) Reserves on Eurodollar Rate Loans and LIBOR Floating Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan and LIBOR Floating Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of such notice.~~

3.04 Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan or a ~~LIBOR Floating Rate~~Daily SOFR Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert into any Loan other than a Base Rate Loan or a ~~LIBOR Floating Rate~~Daily SOFR Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a ~~Eurodollar Rate~~Term SOFR Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 11.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

~~For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.~~

3.05 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 11.13.

3.06 [Reserved]

3.07 Survival. All of the Borrower's obligations under this Article III shall survive the termination of the Facilities, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

ARTICLE IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Effectiveness. The effectiveness of this Agreement and the obligation of each Term Lender to make its Term Loan hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals, or e-mail (in a .pdf format) or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, the Borrower's

Instruction Certificate and the Borrower Remittance Instructions, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower;

(ii) a Revolving Credit Note executed by the Borrower in favor of each Revolving Credit Lender requesting a Revolving Credit Note and a Term Note executed by the Borrower in favor of each Term Lender requesting a Term Note;

(iii) a duly completed Borrower's Instruction Certificate executed by a Responsible Officer of the Borrower, together with such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in (A) its jurisdiction of organization and (B) each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(v) favorable opinions addressed and reasonably satisfactory to the Administrative Agent, the L/C Issuers and the Lenders, from counsel reasonably acceptable to the Administrative Agent, as to the matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(vi) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(vii) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied**,** (B) that there has been no event or circumstance since December 31, 2020 that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (C) that no action, suit, investigation or proceeding is pending or, to the knowledge of any Loan Party, threatened in any court or before any arbitrator or Governmental Authority that (1) relates to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or thereby, or (2) could reasonably be expected to have a Material Adverse Effect and (D) a calculation of the ratio of Total Indebtedness to Total Asset Value as of the last day of the fiscal quarter of the REIT ended March 31, 2021;

(viii) a Solvency Certificate from the REIT certifying that, after giving effect to the transactions to occur on the Closing Date (including, without limitation, all Credit Extensions to occur on the Closing Date), each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent;

(ix) a duly completed compliance certificate, giving pro forma effect to the transactions to occur on the Closing Date (including, without limitation, all Credit Extensions to occur on the Closing Date);

(x) duly completed Borrower Remittance Instructions signed by a Responsible Officer of the Borrower;

(xi) the financial statements referenced in Section 5.05(a) and (b);

(xii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, any L/C Issuer, the Required Lenders or the Required Term Lenders reasonably may require.

(b) Any fees required hereunder or under the Fee Letters to be paid on or before the Closing Date shall have been paid.

(c) Completion of all due diligence with respect to the REIT, the Borrower, and their respective Subsidiaries and properties in scope and determination satisfactory to the Administrative Agent, the Bookrunners, the Arrangers and the Lenders in their sole discretion.

(d) Unless waived by the Administrative Agent, the Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced (which invoice may be in summary form) prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(e) At least ten Business Days prior to the Closing Date, the Administrative Agent and each Lender shall have received documentation and other information with respect to each of the Loan Parties that is required, in the Administrative Agent's or such Lender's judgment, by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, the Beneficial Ownership Regulation (including a Beneficial Ownership Certification) and regulations implemented by the US Treasury's Financial Crimes Enforcement Network under the Bank Secrecy Act.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to another Type, or a continuation of ~~Eurodollar Rate~~Term SOFR Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such Credit Extension (without duplication of materiality qualifiers set forth in such representations and warranties), except (i) with respect to the representations and warranties set forth in Section 5.19, in which case they shall be true and correct in all respects, (ii) to the extent that such representations and warranties expressly relate to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties), and ~~except~~(iii) that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to another Type or a continuation of ~~Eurodollar Rate~~Term SOFR Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power. Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 **Authorization; No Contravention**. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized

by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms.

5.05 Financial Statements; No Material Adverse Effect.

(a) Each of the Audited Financial Statements and the audited consolidated balance sheet of the REIT for the fiscal year ended December 31, 2020, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the REIT, including the notes thereto (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the REIT and its Consolidated Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the REIT and its Consolidated Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The unaudited consolidated balance sheet of the REIT and its Consolidated Subsidiaries dated March 31, 2021, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the REIT and its Consolidated Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments. Schedule 5.05 sets forth all material indebtedness and other liabilities, direct or contingent, of the REIT and its Consolidated Subsidiaries not included in such financial statements, including liabilities for taxes, material commitments and Indebtedness.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) The consolidated forecasted balance sheet and statements of income and cash flows of the REIT and its Consolidated Subsidiaries delivered pursuant to Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the REIT's best estimate of its future financial condition and performance.

5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of any Loan Party after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) either individually or in the aggregate, if determined adversely, could reasonably be expected to have a Material Adverse Effect.

5.07 **No Default**. Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 **Ownership of Property**. Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.09 **Environmental Compliance**. The Loan Parties and their respective Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.10 Insurance. The properties of the REIT and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the REIT, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in each of the localities where the REIT or any of its Subsidiaries operates and/or owns properties.

5.11 **Taxes**. The REIT and each of its Subsidiaries has filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have

been provided in accordance with GAAP. There is no proposed tax assessment against the REIT or any Subsidiary thereof that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

5.12 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of each Loan Party, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the best knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred, and neither any Loan Party nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither any Loan Party nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither any Loan Party nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) Neither the Borrower or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Closing Date, those listed on Schedule 5.12(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement.

(e) No Loan Party is or will be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

5.13 Subsidiaries; Equity Interests. As of the Closing Date, all of the outstanding Equity Interests in each Subsidiary Guarantor are owned, directly or indirectly, by the Borrower as set forth on Part (a) of Schedule 5.13 free and clear of all Liens. All of the outstanding Equity Interests in each Loan Party have been validly issued and are fully paid and nonassessable. Set forth on Part (b) of Schedule 5.13 is a complete and accurate list of all Loan Parties, showing as of the Closing Date (as to each Loan Party) the jurisdiction of its incorporation or organization and the address of its principal place of business.

5.14 Margin Regulations; Investment Company Act.

(a) Such Loan Party is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of such Loan Party only or of the Loan Parties and their Subsidiaries on a consolidated basis) will be margin stock.

(b) None of the REIT, any Person Controlling the REIT, or any Subsidiary of the REIT is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 Disclosure. Each Loan Party has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, each Loan Party represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

5.16 Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.17 Taxpayer Identification Number. Each Loan Party's true and correct U.S. taxpayer identification number is set forth on Schedule 11.02 (or, in the case of a Subsidiary that becomes a Loan Party after the Closing Date, is set forth in the information provided to the Administrative Agent with respect to such Subsidiary pursuant to Section 6.12).

5.18 Intellectual Property; Licenses, Etc. Each Loan Party, and each of its Subsidiaries, owns, or possesses the right to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and the use thereof by the Loan Parties and their Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.19 OFAC. No Loan Party, nor, to the knowledge of any Loan Party, any Related Party, (i) is currently the subject of any Sanctions, or (ii) is located, organized or residing in any Designated Jurisdiction~~,~~ or (iii) is included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority ~~or (iv) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction~~. No Loan, nor the proceeds from any Credit Extension, has been used, directly or indirectly, to lend, contribute, provide or has otherwise made available to fund any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender, any Arranger, any Bookrunner, the Administrative Agent or any L/C Issuer) of Sanctions. The Loan Parties and their respective Subsidiaries have, within the previous five (5) years, conducted their businesses in compliance in all material respects with all applicable Sanctions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Sanctions.

5.20 Solvency. Each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent.

5.21 REIT Status; Stock Exchange Listing.

(a) The REIT is organized and operated in a manner that allows it to qualify for REIT Status.

(b) At least one class of common Equity Interests of the REIT is listed on the New York Stock Exchange or the NASDAQ Stock Market.

5.22 Subsidiary Guarantors. Each Required Subsidiary Guarantor is a Subsidiary Guarantor.

5.23 Anti-Corruption Laws; Anti-Money Laundering Laws.

(a) The Borrower and its Subsidiaries have conducted their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, as amended, and other applicable

anti-corruption laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) Neither the Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Borrower and its Subsidiaries, any Related Party thereof (i) has violated or is in violation of any applicable anti-money laundering law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of offenses designated in any ~~applicable law~~Applicable Law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering.

5.24 Affected Financial Institution. Neither the Borrower nor any Guarantor is an Affected Financial Institution.

5.25 Covered Entities. Neither the Borrower nor any Guarantor is a Covered Entity.

ARTICLE VI. AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, each Loan Party shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03, 6.11, and 6.15) cause each Subsidiary thereof to:

6.01 Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the REIT (or, if earlier, 15 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)), a consolidated balance sheet of the REIT and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the REIT (or, if earlier, 5 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) consolidated balance sheet of the REIT and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of the REIT's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity, and cash flows for the portion of the REIT's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable

detail, certified by the chief executive officer, chief financial officer, treasurer or controller of the REIT as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the REIT and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event at least 15 days before the end of each fiscal year of the REIT, forecasts prepared by management of the REIT, in form satisfactory to the Administrative Agent and the Required Lenders, of statements of income or operations and cash flows of the REIT and its Subsidiaries on a quarterly basis for the immediately following fiscal year (including the fiscal year in which the latest Maturity Date occurs) together with projected calculations of the financial covenants set forth in Section 7.11 as of the last day of each fiscal quarter during such fiscal year.

As to any information contained in materials furnished pursuant to Section 6.02(d), the Loan Parties shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Loan Parties to furnish the information and materials described in subsections (a) and (b) above at the times specified therein.

6.02 Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) [intentionally omitted];

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the REIT (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes), which shall, among other things, set forth calculations demonstrating compliance with the financial covenants set forth in Section 7.11 and either include or be accompanied by a list of each Property included in such calculations annotated to identify each Unencumbered Property, Newly Acquired Property and Newly Stabilized Property and, with respect to each Unencumbered Property, the Unencumbered Asset Value and Unencumbered NOI attributable to such Unencumbered Property (all of which shall be in form, substance and detail reasonably satisfactory to the Administrative Agent);

(c) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or similar governing body) (or the audit committee of the board of directors or similar governing body) of any Loan Party by independent accountants in connection with the accounts or books of the REIT or any Subsidiary, or any audit of any of them;

(d) promptly after the same are available, (i) copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders or other equity holders of the REIT, (ii) copies of each annual report, proxy or financial statement or other financial report sent to the limited partners of the Borrower and (iii) copies of all annual, regular, periodic and special reports and registration statements which any Loan Party or any Subsidiary thereof files

with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934 or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement that governs Indebtedness in an amount equal to or in excess of the Threshold Amount, and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(f) promptly, and in any event within five Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(g) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent, any L/C Issuer or any Lender for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the USA PATRIOT Act and the Beneficial Ownership Regulation; and

(h) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary thereof, any Property of any Loan Party or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the REIT posts such documents, or provides a link thereto on the REIT's website on the Internet at the website address listed on Schedule 11.02; or (ii) on which such documents are posted on the REIT's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that the REIT shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and each Lender shall be solely responsible for maintaining its copies of such documents.

Each Loan Party hereby acknowledges that (a) the Administrative Agent, the Bookrunners and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of any Loan Party hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material

non-public information with respect to the REIT or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Loan Party hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," each Loan Party shall be deemed to have authorized the Administrative Agent, the Bookrunners, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Loan Parties or their respective securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent, the Bookrunners and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

6.03 Notices. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of any Loan Party or any Subsidiary thereof; (ii) any dispute, litigation, investigation, proceeding or suspension between any Loan Party or any Subsidiary thereof and any Governmental Authority; (iii) the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Subsidiary thereof, including pursuant to any applicable Environmental Laws; or (iv) any noncompliance by any Loan Party or any of its Subsidiaries with any Environmental Law or Environmental Permit;

(c) of the occurrence of any ERISA Event;

(d) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof, including any determination by the Borrower referred to in Section 2.10(b); and

(e) of any announcement by Moody's or S&P of any change or possible change in a Debt Rating; provided, that the provisions of this clause (e) shall only apply on and after the Investment Grade Pricing Effective Date.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless (i) the same are being contested in good faith by appropriate proceedings

diligently conducted and adequate reserves in accordance with GAAP are being maintained by such Loan Party or such Subsidiary or (ii) solely in the case of a Specified Subsidiary or a Non-Recourse Subsidiary, the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect and any such tax liabilities, assessments and governmental charges or levies are solely upon such Specified Subsidiary or Non-Recourse Subsidiary or its respective properties or assets (and not upon any Loan Party or other Subsidiary thereof or any properties or assets of any Loan Party or other Subsidiary thereof); provided that in the case of real property tax liabilities, payment of such liabilities prior to the date such liabilities become delinquent shall for purposes of this covenant be deemed to have been paid when same are due and payable; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property (other than Permitted Equity Encumbrances, Permitted Property Encumbrances or, in the case of Specified Subsidiaries or Non-Recourse Subsidiaries, any Liens); and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except to the extent the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.05 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities; provided, in the case of clauses (a), (b) and (c) above, unless the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance. Maintain and cause each of its Subsidiaries to maintain and use commercially reasonable efforts to cause lessees and other Persons operating or occupying any of its Properties to maintain with financially sound and reputable insurance companies not Affiliates of the REIT, insurance with respect to its properties and its business against general liability, property casualty and such casualties and contingencies as shall be commercially reasonable and in accordance with the customary and general practices of businesses having similar operations and real estate portfolios in similar geographic areas and in amounts, containing such terms, in such forms and for such periods as may be reasonable and prudent for such businesses, including without limitation, insurance policies and programs sufficient to cover (a) the replacement value of the improvements on the subject Properties (less commercially reasonable deductible amounts) and (b) liability risks associated with such ownership (less commercially reasonable deductible amounts).

6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Loan Party or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions for general corporate purposes, including for working capital, capital expenditures, acquisitions, development and redevelopment, and other corporate purposes, in each case, not in contravention of any Law or of any Loan Document.

6.12 Additional Guarantors.

(a) Prior to the inclusion of a Property as an Unencumbered Property hereunder the Borrower shall:

(i) notify the Administrative Agent in writing of any Required Subsidiary Guarantor that is not at such time a Guarantor (each such Subsidiary being referred to hereinafter as a "Proposed Subsidiary Guarantor");

(ii) provide the Administrative Agent with the U.S. taxpayer identification for each Proposed Subsidiary Guarantor; and

(iii) provide the Administrative Agent and each Lender with all documentation and other information concerning each Proposed Subsidiary Guarantor that the Administrative Agent or such Lender requests in order to comply with its obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act;

(iv) if requested by the Administrative Agent, deliver to the Administrative Agent the items referenced in Section 4.01(a)(iii), (iv) and (vi) with respect to each Proposed Subsidiary Guarantor;

(v) if requested by the Administrative Agent, deliver to the Administrative Agent a favorable opinion of counsel, which counsel shall be reasonably acceptable to the Administrative Agent, addressed to the Administrative Agent and each Lender, as to such matters concerning the Proposed Subsidiary Guarantor and the Loan Documents as the Administrative Agent may reasonably request; and

(vi) cause each Proposed Subsidiary Guarantor to become a Guarantor under this Agreement by executing and delivering to the Administrative Agent a joinder agreement in substantially the form of Exhibit G or such other document as the Administrative Agent shall deem appropriate for such purpose.

(b) Notwithstanding anything to the contrary contained in this Agreement, in the event that the results of any such "know your customer" or similar investigation conducted by the Administrative Agent or any Lender with respect to any Proposed Subsidiary Guarantor are not reasonably satisfactory to the Administrative Agent and each Lender, such Subsidiary shall not be permitted to become a Guarantor, and for the avoidance of doubt no Property owned or ground leased, directly or indirectly, by such Proposed Subsidiary Guarantor shall be included as an Unencumbered Property, in each case without the prior written consent of the Administrative Agent and the Required Lenders.

6.13 Compliance with Environmental Laws. Comply, and cause all lessees and other Persons operating or occupying its properties to comply, in all material respects, with all applicable Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and properties; and conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws; provided, however, that neither the REIT nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

6.14 Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents and (ii) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Creditor Parties the rights granted or now or hereafter intended to be granted to the Creditor Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

6.15 Maintenance of REIT Status; Stock Exchange Listing. The REIT will, at all times (i) continue to be organized and operated in a manner that will allow it to qualify for REIT Status and (ii) remain publicly traded with securities listed on the New York Stock Exchange or the NASDAQ Stock Market.

6.16 Material Contracts. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Administrative Agent and, upon request of the Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so, except, in any case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.17 Preparation of Environmental Reports. At the request of the Required Lenders from time to time following a determination by the Required Lenders that there exists potential liability or responsibility of a Loan Party for a violation of any Environmental Law with respect to an Unencumbered Property or material risk of such potential liability or responsibility, provide to the Lenders within 60 days after such request, at the expense of the Borrower, an environmental site assessment complying with ASTM guidelines (an "ESA") for any Unencumbered Property owned, leased or operated by a Loan Party described in such request, prepared by an environmental consulting firm reasonably acceptable to the Administrative Agent, indicating the presence or absence of Hazardous Materials and the estimated cost of any compliance, response or other corrective action to address any Hazardous Materials on such Unencumbered Properties, together with a letter from such environmental consultant permitting the Administrative Agent and the Lenders to rely on such ESA as if addressed to and prepared for each of them; without limiting the generality of the foregoing, if the Administrative Agent determines at any time that a material risk exists that any such ESA will not be provided within the time referred to above, the Administrative Agent may retain an environmental consulting firm to prepare an ESA at the expense of the Borrower, and the Borrower hereby grants and agrees to cause any of its Subsidiaries that owns or leases any Unencumbered Property described in such request to grant at the time of such request to the Administrative Agent, the Lenders, such firm and any agents or representatives thereof an irrevocable non-exclusive license, subject to the rights of tenants or necessary consent of landlords, to enter onto their respective properties to undertake such an assessment. In the absence of a Default, the ~~Borrowers~~Borrower shall not be required to pay for more than one ESA per Unencumbered Property per year.

6.18 Minimum Amount and Occupancy of Unencumbered Properties. Cause (i) at least 50 Unencumbered Properties that are not Excepted Unencumbered Properties to be included in each calculation of Unencumbered Asset Value and Unencumbered NOI and (ii) the aggregate occupancy of all Unencumbered Properties (other than Development Properties and Excepted Unencumbered Properties) included in each calculation of Unencumbered Asset Value and Unencumbered NOI (determined on a percentage square foot occupied basis), based on tenants in occupancy and paying rent, to be at least 85%. (For the avoidance of doubt, any Unencumbered Property that is re-designated by the Borrower such that it is no longer an Unencumbered Property

pursuant to Section 10.12 shall not be counted for purposes of clause (i) or included in any calculation of the aggregate occupancy under clause (ii)).

6.19 Compliance with Terms of Leases. Make all payments and otherwise perform all obligations in respect of all leases of real property to which it is party, as lessee, keep such leases in full force and effect and not allow such leases to lapse or be terminated or any rights to renew such leases to be forfeited or cancelled, notify the Administrative Agent of any default by any party with respect to such leases and cooperate with the Administrative Agent in all respects to cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

6.20 Anti-Corruption Laws; Sanctions; Anti-Money Laundering Laws.

(a) ~~Each of the Borrower and its Subsidiaries will conduct~~Conduct their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, as amended, and other applicable anti-corruption laws and with all applicable Sanctions, and will maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

(b) ~~Each of the Borrower and its Subsidiaries will conduct~~Conduct their respective businesses in a manner that will not result in a violation of any ~~applicable law~~Applicable Law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering and any other applicable anti-money laundering law.

ARTICLE VII. NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, no Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien on (i) any Unencumbered Property other than Permitted Property Encumbrances, (ii) any Equity Interest of any Owner of any Unencumbered Property other than Permitted Equity Encumbrances or (iii) any income from or proceeds of any of the foregoing; or sign, file or authorize under the Uniform Commercial Code of any jurisdiction a financing statement that includes in its collateral description any portion of any Unencumbered Property.

7.02 Investments. Make any Investments, except:

(a) Investments held by the REIT or its Subsidiaries in the form of cash or Cash Equivalents;

(b) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors or lessees to the extent reasonably necessary in order to prevent or limit loss;

(c) Guarantees of Indebtedness permitted under clause (a), (b), (e) or (f) of Section 7.03;

(d) Guarantees of any Indebtedness permitted under clause (d) of Section 7.03 made by any Subsidiary of the REIT that is not a Loan Party;

(e) Investments by the REIT or any Subsidiary thereof in a Loan Party;

(f) Investments by any Subsidiary of the REIT that is not a Loan Party in any other Subsidiary of the REIT that is not a Loan Party;

(g) Investments by any Specified Subsidiary or Non-Recourse Subsidiary;

(h) Investments by the REIT or any Subsidiary in any Specified Subsidiary so long as (i) no Specified Event of Default has occurred and is continuing immediately before or immediately after giving effect to the making of such Investment and (ii) immediately after giving effect to the making of such Investment the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and

(i) other Investments so long as (i) no Event of Default has occurred and is continuing immediately before or immediately after giving effect to the making of such Investment and (ii) immediately after giving effect to the making of such Investment the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness except:

(a) Indebtedness arising under this Agreement (including pursuant to Section 2.15);

(b) Indebtedness owed to a Loan Party, to the extent that such Indebtedness constitutes an Investment permitted under clause (e) or (h) of Section 7.02;

(c) Indebtedness of any Subsidiary of the REIT that is not a Loan Party owed to any other Subsidiary of the REIT that is not a Loan Party;

(d) cash management obligations and other Indebtedness in respect of netting services, automatic clearing house arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts incurred in the ordinary course of business;

(e) Indebtedness of a Specified Subsidiary which is not Recourse Indebtedness, so long as (i) no Specified Event of Default has occurred and is continuing immediately before or immediately after the incurrence of such Indebtedness and (ii) immediately after giving effect to the incurrence of such Indebtedness the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and

(f) other Indebtedness, so long as (i) no Event of Default has occurred and is continuing immediately before or immediately after the incurrence of such Indebtedness and (ii) immediately after giving effect to the incurrence of such Indebtedness, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions and whether effected pursuant to a Division or otherwise) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary of the Borrower may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person or (ii) any one or more other Subsidiaries of the Borrower, provided that if any Subsidiary Guarantor is merging with another Subsidiary, a Subsidiary Guarantor party to such merger shall be the continuing or surviving Person;

(b) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets (upon voluntary liquidation, pursuant to a Division or otherwise) to the Borrower or to another Subsidiary of the Borrower; provided that if the transferor in such a transaction is a Subsidiary Guarantor, then the transferee must either be the Borrower or a Subsidiary Guarantor; and provided, further, that if any Subsidiary Guarantor consummates a Division, then, to the extent applicable, the Borrower must comply with the obligations set forth in Section 6.12 with respect to each Division Successor; and

(c) Dispositions permitted by Section 7.05(d) or (e) shall be permitted under this Section 7.04.

Notwithstanding anything to the contrary contained herein, in no event shall the Borrower be permitted to (i) merge, dissolve or liquidate or consolidate with or into any other Person unless after giving effect thereto the Borrower is the sole surviving Person of such transaction and no Change of Control results therefrom, (ii) consummate a Division or (iii) engage in any transaction pursuant to which it is reorganized or reincorporated in any jurisdiction other than a state of the United States or the District of Columbia.

7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, or, in the case of any Subsidiary of the REIT, issue, sell or otherwise Dispose of any of such Subsidiary's Equity Interests to any Person, except:

(a) Dispositions of obsolete or worn out equipment, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions by any Subsidiary of the Borrower to the Borrower or to another Subsidiary of the Borrower; provided that if the transferor is a Subsidiary Guarantor, the transferee thereof must either be the Borrower or a Subsidiary Guarantor; and provided, further, that if any Subsidiary Guarantor consummates a Division, then, to the extent applicable, the Borrower must comply with the obligations set forth in Section 6.12 with respect to each Division Successor;

(c) Dispositions permitted by Section 7.04(a) or (b);

(d) Dispositions of assets (other than Equity Interests of a Subsidiary) not constituting an Unencumbered Property;

(e) so long as no Default exists or would result therefrom, the issuance, sale or other Disposition of Equity Interests of any Subsidiary of the Borrower (other than an Owner of an Unencumbered Property);

(f) Dispositions not otherwise permitted under this Section 7.05, including the issuance, sale or other Disposition of Equity Interests of any Subsidiary of the Borrower that is an Owner of an Unencumbered Property; provided that:

(i) no Default exists or would result therefrom;

(ii) immediately upon giving effect thereto, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11; and

(iii) in the event of any Disposition of an Unencumbered Property for which an Owner is a Guarantor or a Disposition of any such Owner: (A) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of on and as of the date thereof and immediately after giving effect thereto (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 7.05, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 and (B) the provisions of Section 10.12(b) or (c), as applicable, shall be satisfied; and

(g) the issuance, sale or other Disposition of limited partnership interests of the Borrower as consideration for the purchase by a Subsidiary of the REIT of a Property, but solely to the extent that, after giving effect thereto, a Change of Control has not occurred.

For the avoidance of doubt, nothing in this Section 7.05 restricts the issuance, sale or other Disposition of Equity Interests of the REIT, to the extent that such issuance, sale or other Disposition does not result in Change of Control.

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that the following shall be permitted:

(a) each Subsidiary of the Borrower may make Restricted Payments pro rata to the holders of its Equity Interest;

(b) the REIT and each Subsidiary thereof may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) (i) the REIT and each Subsidiary thereof may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of

new shares of its or its direct or indirect parent's common stock or other common Equity Interests and (ii) the REIT and/or the Borrower may purchase, redeem or otherwise acquire limited partnership interests of the Borrower held by a limited partner thereof in exchange for Equity Interests of the REIT, so long as after giving effect to any such purchase, redemption or other acquisition, a Change of Control does not occur;

(d) the Borrower shall be permitted to declare and pay pro rata dividends on its Equity Interests or make pro rata distributions with respect thereto, in an amount for any fiscal year of the REIT equal to the greater of (i) 95% of Funds From Operations for such fiscal year and (ii) such amount that will result in the REIT receiving the necessary amount of funds required to be distributed to its equityholders in order for the REIT to (x) maintain its REIT Status and (y) avoid the payment of federal or state income or excise tax; provided, however, (1) if an Event of Default shall have occurred and be continuing or would result therefrom, the Borrower shall only be permitted to declare and pay pro rata dividends on its Equity Interests or make pro rata distributions with respect thereto in an amount that will result in the REIT receiving the minimum amount of funds required to be distributed to its equityholders in order for the REIT to maintain its REIT Status and (2) notwithstanding clause (1) of this proviso, no Restricted Payments shall be permitted under this clause (d) following an acceleration of the Obligations pursuant to Section 8.02 or following the occurrence of an Event of Default under Section 8.01(f) or (g);

(e) the REIT shall be permitted to make Restricted Payments with any amounts received by it from the Borrower pursuant to Section 7.06(d); and

(f) the REIT and the Borrower may purchase, redeem or otherwise acquire common stock of the REIT and/or limited partnership interests of the Borrower, as applicable; provided, that (i) the aggregate amount of cash paid for all such redemptions made pursuant to this clause (f) during the term of this Agreement shall not exceed $100,000,000 and (ii) after giving effect to any such purchase, redemption or other acquisition, (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11.

7.07 Change in Nature of Business. Engage in any material line of business other than the acquisition, ownership and leasing (as lessor) of income producing Properties and investments incidental thereto.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the REIT, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the REIT or a Subsidiary thereof as would be obtainable by the REIT or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restriction shall not apply to (i) transactions between or among the Loan Parties, (ii) transactions between or among Subsidiaries that are not Loan Parties and (iii) Investments and Restricted Payments expressly permitted hereunder.

7.09 Burdensome Agreements. Enter into any Contractual Obligation that limits the ability of (a) the REIT or any Subsidiary of the Borrower to Guarantee the Obligations, (b) the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on any Unencumbered

Property, or the Equity Interests of any Owner of any Unencumbered Property, or any income from or proceeds of any of the foregoing, in each case other than this Agreement or Pari Passu Provisions, or (c) any Subsidiary to make Restricted Payments to the REIT, the Borrower or any Subsidiary Guarantor or to otherwise transfer property to the REIT, the Borrower or any Subsidiary Guarantor, in each case other than this (1) Agreement, (2) Pari Passu Provisions and (3) limitations on the ability of a Subsidiary that is not an Owner of an Unencumbered Property to make Restricted Payments which limitations are contained in an agreement governing Secured Indebtedness that is permitted to exist under Section 7.03 and Section 7.11, in each case solely to the extent the relevant limitations contained in any such agreement (x) is limited to property financed by or the subject of such Indebtedness (in the case of transfer limitations) or (y) applies solely to the direct owner of such property and such direct owner owns no other material assets (in the case of limitations on Restricted Payments).

7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

7.11 Financial Covenants.

(a) Maximum Leverage Ratio. Permit Total Indebtedness to exceed 60% of the Total Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to sixty-five percent (65%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than sixty-five percent (65%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(b) Maximum Secured Leverage Ratio. Permit Total Secured Indebtedness to exceed 40% of the Total Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to forty-five percent (45%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than forty-five percent (45%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(c) Minimum Tangible Net Worth. Permit Tangible Net Worth at any time to be less than the sum of (i) an amount equal to 75% of the Tangible Net Worth as of the date of the most recent financial statements of the REIT that are publicly available as of the Closing Date plus (ii) an amount equal to 75% of the Net Cash Proceeds received by the REIT from issuances and sales of its Equity Interests to any Person that is not a member of the Consolidated Group occurring after the date of such financial statements (other than proceeds received within ninety (90) days before or after the redemption, retirement or repurchase of Equity Interests in the REIT up to the amount paid by the REIT in connection with such redemption, retirement or repurchase, in each case where, for the avoidance of doubt, the net effect is that the REIT shall not have increased its net worth as a result of any such proceeds).

(d) Minimum Fixed Charge Coverage Ratio. Permit the ratio, as of the last day of each fiscal quarter of the REIT, of Adjusted EBITDA to Fixed Charges to be less than 1.50:1.00.

(e) Minimum Unsecured Interest Coverage Ratio. Permit the ratio, as of the last day of each fiscal quarter of the REIT for the period of four consecutive quarters then ended, of Unencumbered NOI to Unsecured Interest Expense for such period to be less than 1.75:1.00.

(f) Maximum Unencumbered Leverage Ratio. Permit Total Unsecured Indebtedness to exceed 60% of the Unencumbered Asset Value as of the last day of each fiscal quarter of the REIT; provided that such maximum ratio may be increased at the election of the Borrower to sixty-five percent (65%) for any fiscal quarter in which a Material Acquisition is completed and for up to the next three subsequent consecutive fiscal quarters; provided further that in no event may such maximum ratio be higher than sixty-five percent (65%) for more than four consecutive fiscal quarters in any period of five consecutive fiscal quarters.

(g) Maximum Secured Recourse Indebtedness Ratio. Permit Secured Recourse Indebtedness of the REIT and its Subsidiaries to exceed 10% of the Total Asset Value at any time prior to the occurrence of the Investment Grade Release.

7.12 Accounting Changes. Make any change in (a) accounting policies or reporting practices, except as required or permitted by GAAP, or (b) fiscal year.

7.13 **Amendments of Organization Documents**. At any time cause or permit any of its Organization Documents to be modified, amended, amended and restated or supplemented in any respect whatsoever, without, in each case, the express prior written consent or approval of the Administrative Agent, if such changes would materially adversely affect the rights of the Administrative Agent, the L/C Issuers or the Lenders hereunder or under any of the other Loan Documents; provided that if such prior consent or approval is not required, such Loan Party shall nonetheless notify the Administrative Agent in writing promptly after any such modification, amendment, amendment and restatement, or supplement to the charter documents of such Loan Party.

7.14 **Sanctions**

7.10 . ~~Permit any Credit Extension or~~Directly or indirectly, use the proceeds of any Credit Extension, ~~directly or indirectly, (i) to be lent, contributed~~ lend, contribute or otherwise ~~made~~make available such proceeds to ~~fund~~ any ~~activity or business in any Designated Jurisdiction; (ii)~~Subsidiary, joint venture partner or other Person, to fund any ~~activity~~activities of or business ~~of~~with any Person ~~located, organized or residing in any Designated Jurisdiction or who~~that, at the time of such funding, is the subject of ~~any~~ Sanctions~~;~~ or ~~(iii)~~ in any other manner that will result in any violation by any Person (including any Lender, any Arranger, any Bookrunner, the Administrative Agent or any L/C Issuer) of any Sanctions.

7.15 **Subsidiaries of REIT**. Permit the REIT to have any Subsidiaries that are directly owned by the REIT, other than the Borrower.

7.16 Anti-Corruption Laws; Anti-Money Laundering Laws.

(a) Directly or indirectly use the proceeds of any Credit Extension for any purpose that would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions.

(b) Directly or indirectly, engage in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated in any ~~applicable law~~Applicable Law, regulation or other binding measure by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering or violate these laws or any other applicable anti-money laundering law or engage in these actions.

7.17 Swap Contracts. Enter into any Swap Contract, unless (i) such Swap Contract was entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation, (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party other than normal setoff or netting rights, and (iii) such Swap Contract (x) was entered into by such Person that is an "eligible contract participant" (as such term is defined in the Commodity Exchange Act and determined after giving effect to any applicable keepwell, support or other agreement for the benefit of such Person in accordance with the Commodity Exchange Act (7 U.S.C. § 1 et seq.) and applicable CFTC Regulations) and (y) is otherwise in compliance with all ~~applicable~~Applicable Laws, including, without limitation, the Commodity Exchange Act and all applicable CFTC Regulations.

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower or any other Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.07, 6.10, 6.11, 6.12, 6.15 or 6.18 or Article VII or Article X; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party

herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or

(e) Cross-Default. (i) One or more failures by any Loan Party or any Subsidiary thereof (other than any Specified Subsidiary or Non-Recourse Subsidiary) (A) to make any payment when due (after giving effect to any notice or grace periods applicable thereto), whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, shall have occurred in respect of (1) any Recourse Indebtedness or Guarantee of Recourse Indebtedness (other than Recourse Indebtedness hereunder or Guarantees thereof and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement), when taken together with all other Recourse Indebtedness or Guarantees of Recourse Indebtedness with respect to which such a failure exists, of more than the Threshold Amount or (2) any Non-Recourse Indebtedness or Guarantee of Non-Recourse Indebtedness (other than Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) (with respect to any amount owed by a Subsidiary that is not a Wholly-Owned Subsidiary, only the Consolidated Group Pro Rata Share of such amount attributable to the Consolidated Group's interest in such Subsidiary shall be included in any calculation under this clause (2)), when taken together with all other Non-Recourse Indebtedness or Guarantees of Non-Recourse Indebtedness with respect to which such a failure exists, of more than the Non-Recourse Threshold Amount or (B) to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract, and after giving effect to any notice or grace periods applicable thereto) resulting from (A) any event of default under such Swap Contract as to which any Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Loan Party or any Subsidiary thereof (other than any Specified Subsidiary or Non-Recourse Subsidiary) is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; provided that this clause (e) shall not apply to (i) Secured Indebtedness that becomes due and payable as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is assumed or repaid in full when required under the documents providing for such Indebtedness, or (ii) any early payment requirement or unwinding or termination with respect to any Swap Contract (A) not arising out of a default by any Loan Party or Subsidiary thereof and (B) to the extent that such Swap Termination Value owed has been paid in full by such Loan Party when due; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary thereof institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary thereof (other than (x) a Specified Subsidiary or (y) one or more Non-Recourse Subsidiaries) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person (other than (x) a Specified Subsidiary or (y) one or more Non-Recourse Subsidiaries) and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary (i) one or more final judgments or orders for the payment of money (other than a final judgment or order for the payment of money entered against any Specified Subsidiary or Non-Recourse Subsidiary or their respective properties) in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) REIT Status. The REIT shall, for any reason, fail to maintain its REIT Status, after taking into account any cure provisions set forth in the Code that are complied with by the REIT; or

(m) Stock Exchange Listing. The REIT shall fail to have at least one class of its common Equity Interests listed on the New York Stock Exchange or The NASDAQ Stock Market.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(c) require that the Borrower Cash Collateralize the L/C Obligations (by depositing into the Collateral Account an amount in cash equal to the Minimum Collateral Amount with respect thereto); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it, the Lenders and the L/C Issuers under the Loan Documents and ~~applicable~~Applicable Laws;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers (including fees and time charges for attorneys who may be employees of any Lender or any L/C Issuer) and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.16; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.16, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX. ADMINISTRATIVE AGENT

9.01 Appointment and Authority. Each Lender and each L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any ~~applicable~~Applicable Laws. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

9.02 **Rights as a Lender**. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may

exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Administrative Agent, Bookrunners or Arrangers, as applicable, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing or the provisions of Section 9.08, the Administrative Agent, Bookrunners or Arrangers, as applicable:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or ~~applicable law~~Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or any L/C Issuer, any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates, that is communicated to, obtained or in the possession of, the Administrative Agent, any Bookrunner, any Arranger or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or an L/C Issuer; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for any Loan Party), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a Lender or an Affiliate of a Lender, or if appointed by the Required Lenders after consultation with the Borrower, another bank with an office in the United States, or an Affiliate of any such bank with an office in the United

States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender or a Disqualified Institution. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof or if a court of competent jurisdiction has determined in a final and non-appealable judgment that such Person has acted with gross negligence or willful misconduct in performing its duties or exercising its rights and powers hereunder or under any other Loan Document, the Required Lenders may, to the extent permitted by ~~applicable law~~Applicable Law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer (as applicable) directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal

for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(d) Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it that are outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). Upon the appointment (if any) by the Borrower of a successor to Bank of America as an L/C Issuer hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, (b) the retiring L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by Bank of America, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

9.07 Non-Reliance **on Administrative Agent, Arrangers, Bookrunners and Other Lenders**. Each Lender and each L/C Issuer expressly acknowledges that none of the Administrative Agent nor any Bookrunner or Arranger has made any representation or warranty to it, and that no act by the Administrative Agent, any Bookrunner or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent, any Bookrunner or any Arranger to any Lender or each L/C Issuer as to any matter, including whether the Administrative Agent, any Bookrunner or any Arranger have disclosed material information in their (or their Related Parties') possession. Each Lender and each L/C Issuer represents to the Administrative Agent, the Bookrunners and the Arrangers that it has, independently and without reliance upon the Administrative Agent, any Bookrunner, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Bookrunner, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each L/C Issuer represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial

loans in the ordinary course and is entering into this Agreement as a Lender or L/C Issuer for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or L/C Issuer, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each L/C Issuer agrees not to assert a claim in contravention of the foregoing. Each Lender and each L/C Issuer represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agents or Managing Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

9.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 11.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of

reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or any L/C Issuer in any such proceeding.

9.10 Guaranty Matters. Without limiting the provisions of Section 9.09, each of the Lenders and each of the L/C Issuers irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any Guarantor from its obligations under the Guaranty if such Person (i) ceases to be a Subsidiary or (ii) ceases to be a Required Subsidiary Guarantor, in each case under clauses (i) and (ii), as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

9.11 Lender Representations Regarding ERISA.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Bookrunners and the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration

of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or,

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Bookrunners and the Arrangers and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, any Bookrunner or any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

9.12 Recovery of Erroneous Payments. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender Recipient Party, whether or not in respect of an Obligation due and owing by the Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Lender Recipient Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Lender Recipient Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender Recipient Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Lender Recipient Party promptly upon determining that any payment made to such Lender Recipient Party comprised, in whole or in part, a Rescindable Amount.

ARTICLE X. CONTINUING GUARANTY

10.01 Guaranty. Each Guarantor hereby absolutely and unconditionally guarantees, jointly and severally, as a guaranty of payment and performance and not merely as a guaranty of collection, prompt payment when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, and at all times thereafter, of any and all of the Obligations, whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise, of the Borrower to the Creditor Parties, and whether arising hereunder or under any other Loan Document (including all renewals, extensions, amendments, amendments and restatements, refinancings and other modifications thereof and all costs, attorneys' fees and expenses incurred by

the Creditor Parties in connection with the collection or enforcement thereof). The Administrative Agent's books and records showing the amount of the Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon each Guarantor, and conclusive for the purpose of establishing the amount of the Obligations absent demonstrable error. This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any instrument or agreement evidencing any Obligations, or by the existence, validity, enforceability, perfection, non-perfection or extent of any collateral therefor, or by any fact or circumstance relating to the Obligations which might otherwise constitute a defense to the obligations of any Guarantor under this Guaranty, and each Guarantor hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to any or all of the foregoing.

Anything contained in this Guaranty to the contrary notwithstanding, it is the intention of each Guarantor and the Creditor Parties that the obligations of each Guarantor (other than the REIT) hereunder at any time shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code (Title 11, United States Code) or any comparable provisions of any similar federal or state law. To that end, but only in the event and to the extent that after giving effect to Section 10.11, such Guarantor's obligations with respect to the Obligations or any payment made pursuant to such Obligations would, but for the operation of the first sentence of this paragraph, be subject to avoidance or recovery in any such proceeding under applicable Debtor Relief Laws after giving effect to Section 10.11, the amount of such Guarantor's obligations with respect to the Obligations shall be limited to the largest amount which, after giving effect thereto, would not, under applicable Debtor Relief Laws, render such Guarantor's obligations with respect to the Obligations unenforceable or avoidable or otherwise subject to recovery under applicable Debtor Relief Laws. To the extent any payment actually made pursuant to the Obligations exceeds the limitation of the first sentence of this paragraph and is otherwise subject to avoidance and recovery in any such proceeding under applicable Debtor Relief Laws, the amount subject to avoidance shall in all events be limited to the amount by which such actual payment exceeds such limitation, and the Obligations as limited by the first sentence of this paragraph shall in all events remain in full force and effect and be fully enforceable against such Guarantor. The first sentence of this paragraph is intended solely to preserve the rights of the Creditor Parties hereunder against such Guarantor in such proceeding to the maximum extent permitted by applicable Debtor Relief Laws and neither such Guarantor, the Borrower, any other Guarantor nor any other Person shall have any right or claim under such sentence that would not otherwise be available under applicable Debtor Relief Laws in such proceeding.

10.02 Rights of Lenders. Each Guarantor consents and agrees that the Creditor Parties may, at any time and from time to time, without notice or demand, and without affecting the enforceability or continuing effectiveness hereof: (a) amend, extend, renew, compromise, discharge, accelerate or otherwise change the time for payment or the terms of the Obligations or any part thereof; (b) take, hold, exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any security for the payment of this Guaranty or any Obligations; (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent and the Lenders in their sole discretion may determine; and (d) release or substitute one or more of any endorsers or other guarantors of any of the Obligations. Without limiting the generality of the foregoing, each Guarantor consents to the taking of, or failure to take, any action which might in any manner or to

any extent vary the risks of such Guarantor under this Guaranty or which, but for this provision, might operate as a discharge of such Guarantor.

10.03 Certain Waivers. Each Guarantor waives (a) any defense arising by reason of any disability or other defense of the Borrower or any other guarantor, or the cessation from any cause whatsoever (including any act or omission of any Creditor Party, but excluding satisfaction thereof by way of payment) of the liability of the Borrower; (b) any defense based on any claim that such Guarantor's obligations exceed or are more burdensome than those of the Borrower; (c) the benefit of any statute of limitations affecting such Guarantor's liability hereunder; (d) any right to proceed against the Borrower, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Creditor Party whatsoever; (e) any benefit of and any right to participate in any security now or hereafter held by any Creditor Party; and (f) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by ~~applicable law~~Applicable Law limiting the liability of or exonerating guarantors or sureties. Each Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Obligations.

10.04 Obligations Independent. The obligations of each Guarantor hereunder are those of a primary obligor, and not merely as surety, and are independent of the Obligations and the obligations of any other guarantor, and a separate action may be brought against each Guarantor to enforce this Guaranty whether or not the Borrower or any other Person or entity is joined as a party.

10.05 Subrogation. Each Guarantor shall not exercise any right of subrogation, contribution, indemnity, reimbursement or similar rights with respect to any payments it makes under this Guaranty until all of the Obligations and any amounts payable under this Guaranty have been indefeasibly paid in cash and performed in full, all Commitments and the Facilities have been terminated, and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. If any amounts are paid to any Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Creditor Parties and shall forthwith be paid to the Administrative Agent for the benefit of the Creditor Parties to reduce the amount of the Obligations, whether matured or unmatured.

10.06 Termination; Reinstatement. This Guaranty is a continuing and irrevocable guaranty of all Obligations now or hereafter existing and shall remain in full force and effect until all Obligations and any other amounts payable under this Guaranty are indefeasibly paid in cash and performed in full, all Commitments and Facilities have been terminated, and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. Notwithstanding the foregoing, this Guaranty shall continue in full force and effect or be revived, as the case may be, if any payment by or on behalf of the Borrower or any other Guarantor is made, or any of the Creditor Parties exercises its right of setoff, in respect of the Obligations and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into

by any of the Creditor Parties in their discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Laws or otherwise, all as if such payment had not been made or such setoff had not occurred and whether or not the Creditor Parties are in possession of or have released this Guaranty and regardless of any prior revocation, rescission, termination or reduction. The obligations of the Guarantors under this paragraph shall survive termination of this Guaranty.

10.07 Subordination. Each Guarantor hereby subordinates the payment of all obligations and indebtedness of the Borrower owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of the Borrower to such Guarantor as subrogee of the Creditor Parties or resulting from such Guarantor's performance under this Guaranty, to the indefeasible payment in full in cash of all Obligations. If the Creditor Parties so request, any such obligation or indebtedness of the Borrower to such Guarantor shall be enforced and performance received by such Guarantor as trustee for the Creditor Parties and the proceeds thereof shall be paid over to the Creditor Parties on account of the Obligations, but without reducing or affecting in any manner the liability of any Guarantor under this Guaranty.

10.08 Stay of Acceleration. If acceleration of the time for payment of any of the Obligations is stayed, in connection with any case commenced by or against any Guarantor or the Borrower under any Debtor Relief Laws, or otherwise, all such amounts shall nonetheless be payable by a Guarantor immediately upon demand by the Creditor Parties.

10.09 Condition of the Borrower. Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrower and any other guarantor such information concerning the financial condition, business and operations of the Borrower and any such other guarantor as such Guarantor requires, and that none of the Creditor Parties has any duty, and such Guarantor is not relying on the Creditor Parties at any time, to disclose to such Guarantor any information relating to the business, operations or financial condition of the Borrower or any other guarantor (each Guarantor waiving any duty on the part of the Creditor Parties to disclose such information and any defense relating to the failure to provide the same).

10.10 Limitations on Enforcement. If, in any action to enforce this Guaranty or any proceeding to allow or adjudicate a claim under this Guaranty, a court of competent jurisdiction determines that enforcement of this Guaranty against any Guarantor for the full amount of the Obligations is not lawful under, or would be subject to avoidance under, Section 548 of the Bankruptcy Code or any applicable provision of comparable state law, the liability of such Guarantor under this Guaranty shall be limited to the maximum amount lawful and not subject to avoidance under such law.

10.11 Contribution. At any time a payment in respect of the Obligations is made under this Guaranty, the right of contribution of each Guarantor (other than the REIT) against each other Guarantor (other than the REIT) shall be determined as provided in the immediately following sentence, with the right of contribution of each Guarantor to be revised and restated as of each date on which a payment (a "Relevant Payment") is made on the Obligations under this Guaranty. At any time that a Relevant Payment is made by a Guarantor (other than the REIT) that results in the aggregate payments made by such Guarantor in respect of the Obligations to and including the date

of the Relevant Payment exceeding such Guarantor's Contribution Percentage (as defined below) of the aggregate payments made by all Guarantors (other than the REIT) in respect of the Obligations to and including the date of the Relevant Payment (such excess, the "Aggregate Excess Amount"), each such Guarantor shall have a right of contribution against each other Guarantor (other than the REIT) which either has not made any payments or has made payments in respect of the Obligations to and including the date of the Relevant Payment in an aggregate amount less than such other Guarantor's Contribution Percentage of the aggregate payments made to and including the date of the Relevant Payment by all Guarantors (other than the REIT) in respect of the Obligations (the aggregate amount of such deficit, the "Aggregate Deficit Amount") in an amount equal to (x) a fraction the numerator of which is the Aggregate Excess Amount of such Guarantor and the denominator of which is the Aggregate Excess Amount of all Guarantors (other than the REIT) multiplied by (y) the Aggregate Deficit Amount of such other Guarantor. A Guarantor's right of contribution pursuant to the preceding sentences shall arise at the time of each computation, subject to adjustment at the time of each computation; provided, that no Guarantor may take any action to enforce such right until all of the Obligations and any amounts payable under this Guaranty have been indefeasibly paid and performed in full in immediately available funds, all Commitments are terminated and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit, it being expressly recognized and agreed by all parties hereto that any Guarantor's right of contribution arising pursuant to this Section 10.11 against any other Guarantor shall be expressly junior and subordinate to such other Guarantor's obligations and liabilities in respect of the Obligations and any other obligations owing under this Guaranty. As used in this Section 10.11, (i) each Guarantor's "Contribution Percentage" shall mean the percentage obtained by dividing (x) the Adjusted Net Worth (as defined below) of such Guarantor by (y) the aggregate Adjusted Net Worth of all Guarantors (other than the REIT); (ii) the "Adjusted Net Worth" of each Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Guarantor and (y) zero; and (iii) the "Net Worth" of each Guarantor shall mean the amount by which the fair saleable value of such Guarantor's assets on the date of any Relevant Payment exceeds its existing debts and other liabilities (including contingent liabilities, but without giving effect to any Obligations arising under this Guaranty) on such date. All parties hereto recognize and agree that, except for any right of contribution arising pursuant to this Section 10.11, each Guarantor which makes any payment in respect of the Obligations shall have no right of contribution or subrogation against any other Guarantor in respect of such payment until all of the Obligations have been indefeasibly paid and performed in full in cash, all Commitments are terminated and all Letters or Credit have been cancelled, have expired or terminated or have been collateralized to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit. Each of the Guarantors recognizes and acknowledges that the rights to contribution arising hereunder shall constitute an asset in favor of the party entitled to such contribution. In this connection, each Guarantor has the right to waive its contribution right against any Guarantor to the extent that after giving effect to such waiver such Guarantor would remain solvent, in the determination of the Required Lenders.

10.12 Release of Subsidiary Guarantors and Re-designation of Unencumbered Properties.

(a) Investment Grade Release. If at any time the REIT obtains an Investment Grade Credit Rating, the Administrative Agent shall (at the sole cost of the Borrower and pursuant to documentation reasonably satisfactory to the Administrative Agent) promptly release all of the

Subsidiary Guarantors (other than any Subsidiary that is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness) from their obligations under the Guaranty (the "Investment Grade Release"), subject to satisfaction of the following conditions:

(i) The Borrower shall have delivered to the Administrative Agent, on or prior to the date that is ten (10) Business Days (or such shorter period of time as agreed to by the Administrative Agent) before the date on which the Investment Grade Release is to be effected, an Officer's Certificate,

(i) certifying that the REIT has obtained an Investment Grade Credit Rating, and

(ii) notifying the Administrative Agent and the Lenders that it is requesting the Investment Grade Release, which notice shall include a list of the Subsidiary Guarantors that are to be released, and

(ii) The Borrower shall have submitted to the Administrative Agent and the Lenders, within one (1) Business Day prior to the date on which the Investment Grade Release is to be effected, an Officer's Certificate certifying to the Administrative Agent and the Lenders that (x) none of the Subsidiary Guarantors that are to be released is a borrower or guarantor of, or is otherwise obligated in respect of, any Unsecured Indebtedness and (y) immediately before and immediately after giving effect to the Investment Grade Release,

(i) no Default has occurred and is continuing or would result therefrom, and

(ii) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of the date of such release and immediately after giving effect to such release (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 10.12(a), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) Release and re-designation prior to the Investment Grade Release. At the request of the Borrower, the Administrative Agent shall release any Subsidiary Guarantor from its obligations under the Guaranty, or re-designate any Unencumbered Property such that it is no longer an Unencumbered Property, subject to satisfaction of the following conditions:

(i) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date of the proposed release or re-designation (or such shorter period of time as agreed to by the Administrative Agent in writing), a written request for such release or re-designation (a "Guarantor Release Notice") which shall identify the

Subsidiary or Property, as applicable, to which it applies and the proposed date of the release or re-designation,

(ii) the representations and warranties made or deemed made by the Loan Parties in any Loan Document are true and correct in all material respects on and as of the date of such release or re-designation and, both before and after giving effect to such release or re-designation (without duplication of materiality qualifiers set forth in such representations and warranties), except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties are true and correct in all material respects on and as of such earlier date without duplication of materiality qualifiers set forth in such representations and warranties) and except that for purposes of this Section 10.12(b), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01,

(iii) immediately after giving effect to such release or re-designation the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11,

(iv) no Default shall have occurred and be continuing or would result under any other provision of tl Agreement after giving effect to such release or re-designation, and

(v) the Borrower shall have delivered to the Administrative Agent an Officer's Certificate certifying that the conditions in clauses (ii) through (iv) above have been satisfied.

Upon the satisfaction of the conditions in clauses (i) through (v) above, each Unencumbered Property that is owned or ground leased directly or indirectly by a Subsidiary Guarantor that is the subject of a release pursuant to this Section 10.12(b) will immediately upon such release cease to be an Unencumbered Property.

The Administrative Agent will (at the sole cost of the Borrower) following receipt of such Guarantor Release Notice and Officer's Certificate, and each of the Lenders and each of the L/C Issuers irrevocably authorizes the Administrative Agent to, execute and deliver such documents as the Borrower or such Subsidiary Guarantor may reasonably request as is necessary or desirable to evidence the release of such Subsidiary Guarantor from its obligations under the Guaranty or the re-designation of such Property to no longer be an Unencumbered Property, as applicable, which documents shall be reasonably satisfactory to the Administrative Agent.

(c) Release and re-designation following the Investment Grade Release. At the request of the Borrower, the Administrative Agent shall release any Subsidiary Guarantor from its obligations under the Guaranty to the extent not already released under this Section 10.12, or re-designate any Unencumbered Property such that it is no longer an Unencumbered Property, subject to satisfaction of the following conditions:

(i) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date of the proposed release or re-designation (or such shorter period of time as agreed to by the Administrative Agent in writing), a Guarantor Release Notice,which notice shall identify the Subsidiary or Property, as applicable, to which it

applies, the proposed date of the release or re-designation, as applicable, and specify, in the case of a release of a Subsidiary Guarantor from its obligations under the Guaranty, whether the Subsidiary Guarantor to which such notice relates will be a borrower or guarantor of, or otherwise have payment obligations in respect of, any Unsecured Indebtedness,

(ii) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the effective date of such release or re-designation and, both before and after giving effect to such release or re-designation, except (A) to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, (B) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such applicable date (including such earlier date set forth in the foregoing clause (A)) after giving effect to such qualification and (C) for purposes of this Section 10.12(c), the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01,

(iii) immediately after giving effect to such release or re-designation, the Loan Parties shall be in compliance, on a pro forma basis, with the provisions of Section 7.11,

(iv) no Default shall have occurred and be continuing or would result under any other provision of tl Agreement after giving effect to such release or re-designation, and

(v) the Borrower shall have delivered to the Administrative Agent an Officer's Certificate certifying that the conditions in clauses (ii) through (iv) above have been satisfied.

For the avoidance of doubt, if a Subsidiary Guarantor is a borrower or guarantor of, or is otherwise obligated in respect of, any Indebtedness at the time that it is released from its obligations under the Guaranty, each Unencumbered Property that is owned or ground leased directly or indirectly by such Subsidiary Guarantor that is the subject of a release pursuant to this Section 10.12(c) will immediately upon such release cease to be an Unencumbered Property.

The Administrative Agent will (at the sole cost of the Borrower) following receipt of such Guarantor Release Notice and Officer's Certificate, and each of the Lenders and each of the L/C Issuers irrevocably authorizes the Administrative Agent to, execute and deliver such documents as the Borrower or such Subsidiary Guarantor may reasonably request as is necessary or desirable to evidence the release of such Subsidiary Guarantor from its obligations under the Guaranty or the re-designation of such Property to no longer be an Unencumbered Property, as applicable, which documents shall be reasonably satisfactory to the Administrative Agent.

(d) The Administrative Agent shall promptly notify the Lenders of any such release hereunder, and this Agreement and each other Loan Document shall be deemed amended to delete the name of any Subsidiary Guarantor released pursuant to this Section 10.12. For the avoidance of doubt, (i) any Owner (including any Owner that is released pursuant to this Section 10.12) that becomes a borrower or guarantor of, or is otherwise obligated in respect of, Unsecured Indebtedness

shall be required, in accordance with Section 6.12, to become a Subsidiary Guarantor within three (3) Business Days of becoming a borrower or guarantor of, or otherwise becoming obligated in respect of, Unsecured Indebtedness and remain a Subsidiary Guarantor for so long as such Subsidiary is so obligated and (ii) in no event shall the REIT be released from its obligations under the Guaranty pursuant to this Section 10.12.

ARTICLE XI. MISCELLANEOUS

11.01 Amendments, Etc**.** Subject to Section 2.02(g), Section 3.03 and clauses (ii) through (v) of the last paragraph of this Section 11.01, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that:

(a) the written consent of each Lender shall be required with respect to:

(i) the amendment or waiver of any condition set forth in Section 4.01(a) or, in the case of the initial Credit Extension, Section 4.02;

(ii) the adoption of any provision, amendment or waiver that subordinates or has the effect of subordinating all or any portion of the Obligations to any other Indebtedness or obligation; and

(iii) any change to any provision of this Section 11.01 or the definition of "Required Lenders" or the adoption of any provision, amendment or waiver of any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (b) of this proviso);

(b) the adoption of any provision, amendment or waiver that changes the definition of "Required Revolving Lenders" or "Required Term Lenders" shall require the written consent of each Lender under the applicable Facility;

(c) the written consent of the Required Revolving Lenders or Required Term Lenders, as the case may be, shall be required with respect to the amendment or waiver of any condition set forth in Section 4.02 as to any Credit Extension to be made after the Closing Date under a particular Facility;

(d) the adoption of any provision, amendment or waiver that changes (or has the effect of changing) Section 2.13 or Section 8.03 or any other provision governing pro rata payments, distributions, commitment reductions or sharing of payments in a manner that would have the effect of altering the ratable reduction of Lender Commitments or the pro rata sharing of payments otherwise required hereunder shall require the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(e) the adoption of any provision, amendment or waiver that releases the REIT or the Borrower from their respective obligations under this Agreement or any other Loan Document (other than in connection with the payment in full of all Obligations and any other amounts payable under this Agreement, the termination of all Commitments and Facilities, and the cancellation, expiration, termination or collateralization (to the satisfaction of the Administrative Agent and the L/C Issuers that issued such Letters of Credit) of all Letters or Credit), or release all or substantially all of the value of the Guaranty, in each case without the written consent of each Lender;

(f) the adoption of any provision, amendment or waiver that extends (except as provided in Section 2.14) or increases the Commitment of any Lender (or reinstating any Commitment terminated pursuant to Section 8.02) shall require the written consent of such Lender;

(g) the adoption of any provision, amendment or waiver that postpones any date fixed by this Agreement or any other Loan Document for any payment (including any mandatory prepayment required pursuant to Section 2.05) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document shall require the written consent of each Lender directly affected thereby;

(h) the adoption of any provision, amendment or waiver that reduces the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 11.01) any fees or other amounts payable hereunder or under any other Loan Document shall require the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(i) the adoption of any provision of any Loan Document in a manner that by its terms (i) adversely affects the rights of the Banks under one of the Facilities differently than such amendment, modification or waiver affects the rights of the Banks under another of the Facilities in respect of the right to or priority of payments or (ii) imposes any greater restriction on the ability of any Bank under one of the Facilities to assign any of its rights or obligations hereunder, in each case without the written consent of (x) if such Facility is the Term Facility, the Required Term Lenders and (y) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by ~~the~~an L/C ~~Issuers~~Issuer in addition to the Lenders required above, affect the rights or duties of ~~any~~such L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, (x) affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document or (y) ~~amend or~~modify, change, waive~~,~~ or consent to any departure from, or have the ~~definitions~~effect of ~~"LIBOR", "Available Tenor", "Benchmark", "Benchmark Replacement", "Benchmark Replacement Conforming Changes", "Benchmark Transition Event", "~~modifying, changing, waiving or consenting to any departure from, Section 3.03, any term defined in such section, any term defined in any other section or provision in this Agreement relating to Daily Simple SOFR~~",~~

~~"Early Opt-in Effective Date", "Early Opt-in Election", "Other Rate Early Opt-in", "Relevant Governmental Body", "~~, SOFR~~"~~, ~~"SOFR Early Opt-in", or "~~Term SOFR~~" or the provisions of Section 3.03~~ or any Successor Rate, or any term or provision relating to the replacement of any such rate or Successor Rate; and (iii) any Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary herein,

(i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended (except as provided in Section 2.14) without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender;

(ii) the Administrative Agent, with the consent of the Borrower, may amend, modify or supplement any Loan Document without the consent of any Lender or the Required Lenders in order to correct, amend or cure any ambiguity, inconsistency or defect or correct any typographical error or other manifest error in any Loan Document so long as such amendment, modification or supplement does not impose additional obligations on any Lender; provided that the Administrative Agent shall promptly give the Lenders notice of any such amendment, modification or supplement;

(iii) an Incremental Term Loan Facility Amendment to give effect to any addition of one or more Incremental Facilities shall be effective if executed by the Loan Parties, each Lender providing such Incremental Facilities, the Administrative Agent and, if required by clause (i) or (ii) of the proviso immediately following clause (i) above, the L/C Issuers;

(iv) the Administrative Agent and the Borrower may, without the consent of any Lender or any Guarantor then party hereto, amend this Agreement to add a Subsidiary as a "Guarantor" hereunder pursuant to a joinder agreement in substantially the form of Exhibit G; and

(v) for the avoidance of doubt, this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrower and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement.

11.02 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all

notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or any other Loan Party, the Administrative Agent or any L/C Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, any L/C Issuer or any Loan Party may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE

ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's, any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) Change of Address, Etc. Each Loan Party, the Administrative Agent and each L/C Issuer may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and each L/C Issuer. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and ~~applicable~~Applicable Laws, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Committed Loan Notices and Letter of Credit Applications) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Each Loan Party shall jointly and severally indemnify the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

11.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate

as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and all of the L/C Issuers; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

11.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. Each Loan Party shall jointly and severally pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, amendments and restatements, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by each L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or any L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Loan Parties. Each Loan Party shall jointly and severally indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby (including, without limitation, the Indemnitee's reliance on any Communication executed using an Electronic Signature or in the form of an Electronic Record), the performance by any of the parties hereto to perform (or the failure of any of the parties hereto to perform) any of their respective obligations hereunder or under any other Loan Document, any action taken or omitted by the Administrative Agent or any Lender hereunder or under any of the other Loan Documents, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto**, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 11.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to the Administrative Agent (or any sub-agent thereof), any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is

sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by ~~applicable law~~Applicable Law, each Loan Party shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent and any L/C Issuer, the replacement of any Lender, the termination of the Facilities and the repayment, satisfaction or discharge of all the other Obligations.

11.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in

effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the applicable Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the applicable Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Credit Facility, or $5,000,000, in the case of any assignment in respect of the Term Facility unless each of the Administrative Agent

and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to prohibit any Lender from assigning all or a portion of its rights and obligations under separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required for (1) assignments to a Disqualified Institution and (2) all other assignments unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of each L/C Issuer shall be required for any assignment in respect of the Revolving Credit Facility that is not to a Lender.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to any Loan Party or any Loan Party's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of one or more natural persons).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the

assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under ~~applicable~~Applicable Laws without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of one or more natural persons, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 11.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the

avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment, or grant of a security interest, to secure obligations to a Federal Reserve Bank ~~or any other central bank~~; provided that no such pledge or assignment or grant shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee or grantee for such Lender as a party hereto.

(f) Resignation as L/C Issuer after Assignment. Notwithstanding anything to the contrary contained herein, if at any time a Lender that is an L/C Issuer assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to subsection (b) above, such Lender may, upon 30 days' notice to the Borrower, the Administrative Agent and the other Lenders, resign as an L/C Issuer. In the event of any such resignation as an L/C Issuer, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Lender as an L/C Issuer. If any Lender resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). Upon the appointment of a successor L/C Issuer, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by the resigning L/C Issuer, if any, outstanding at the time of such succession or make other arrangements satisfactory to resigning L/C Issuer to effectively assume the obligations of resigning L/C Issuer with respect to such Letters of Credit.

(g) Disqualified Institutions.

(i) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions of this Agreement or any other Loan Document relating to Disqualified Institutions. Without limiting the generality of the foregoing, neither the Administrative Agent nor any assigning Lender shall (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

(ii) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless the Borrower has consented to such assignment as otherwise contemplated by this Section 11.06, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified

Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be disqualified from becoming a Lender or participant and (y) the execution by the Borrower of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this clause (g)(ii) shall not be void, but the other provisions of this clause (g) shall apply.

(iii) If any assignment or participation is made to any Disqualified Institution without the Borrower's prior consent in violation of clause (ii) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate all Commitments of such Disqualified Institution and repay all Obligations of the Borrower owing to such Disqualified Institution in connection with such Commitments (but only to the extent that no proceeds of Loans are used to make such repayment), and/or (B) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 11.06), all of its interest, rights and obligations under this Agreement and the other Loan Documents to one or more Eligible Assignees at the lesser of (x) the outstanding principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents; provided that (1) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b), and (2) such assignment does not conflict with ~~applicable~~Applicable Laws.

(iv) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not have the right to (x) receive information, reports or other materials provided to Lenders by the Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders or the Administrative Agent, or (z) access the Platform or any other electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws (a "Bankruptcy Plan"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Bankruptcy Plan, (2) if such Disqualified Institution does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination

by the bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(v) The Administrative Agent shall, and the Borrower hereby expressly authorizes the Administrative Agent to, (A) post the DQ List (including any updates thereto from time to time) on the Platform, including that portion of the Platform that is designated for "public side" Lenders and (B) provide the DQ List to each Lender requesting the same.

11.07 Treatment of Certain Information; Confidentiality. The Administrative Agent, each Lender and each L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by ~~applicable laws~~Applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.15(c) or Section 11.01 or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder (it being understood that the DQ List may be disclosed to any assignee or Participant, or prospective assignee or Participant), (g) on a confidential basis to (i) any rating agency in connection with rating the REIT or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than a Loan Party. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such

Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

The Administrative Agent, each Lender and each L/C Issuer each acknowledges that (a) the Information may include material non-public information concerning a Loan Party or a Subsidiary thereof, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with ~~applicable~~Applicable Laws, including United States Federal and state securities Laws.

Notwithstanding anything herein to the contrary, the Administrative Agent, each Lender, each L/C Issuer and each of their respective Related Parties may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of any transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Related Parties relating to such tax treatment or tax structure.

11.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time to the fullest extent permitted by ~~applicable law~~Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. Each Lender and each L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by ~~applicable~~Applicable Laws (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount

that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by ~~applicable~~Applicable Laws, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Integration; Effectiveness. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or any L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

11.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or the L/C Issuers, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders. If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its

interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with ~~applicable~~Applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Each party hereto agrees that (a) an assignment required pursuant to this Section 11.13 may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and (b) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to an be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender, provided, further that any such documents shall be without recourse to or warranty by the parties thereto.

11.14 Governing Law; Jurisdiction; Etc**.**

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY

(WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, amendment and restatement, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Bookrunners, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Bookrunners, the Arrangers and the Lenders, on the other hand, (B) each of the Borrower and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Bookrunner, each Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any Bookrunner, any Arranger nor any Lender has any obligation to the Borrower, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Bookrunners, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent, any Bookrunner, any Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and each other Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, any Bookrunner, any Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.17 Electronic Execution; Electronic Records; Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and ~~the~~each Lender ~~Parties~~Party agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication

may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Lender Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent nor any L/C Issuer is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided~~, further~~ that, without limiting the foregoing, (a) to the extent the Administrative Agent or ~~any~~such L/C Issuer has agreed to accept such Electronic Signature, the Administrative Agent and each of the Lender Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Lender Party without further verification and regardless of the appearance or form of such Electronic Signature and (b) upon the request of the Administrative Agent or any Lender Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

Neither the Administrative Agent nor any L/C Issuer shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's or ~~any~~such L/C Issuer's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent and ~~any~~each L/C Issuer shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Loan Parties and each Lender Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement~~,~~ or any other Loan Document based solely on the lack of paper original copies of this Agreement~~,~~ or such other Loan Document, and (ii) waives any claim against the Administrative Agent, each Lender Party and each Related Party for any liabilities arising solely from the Administrative Agent's and/or any Lender Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

11.18 USA PATRIOT Act. Each Lender that is subject to the USA PATRIOT Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it is

required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. The Loan Parties shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

11.19 Authorized Persons and Authorized Signers. The Administrative Agent is authorized to rely upon the continuing authority of the Authorized Persons and Authorized Signers to bind the Borrower as set forth in the Borrower's Instruction Certificate. Such authorization may be changed only upon written notice to the Administrative Agent accompanied by evidence, reasonably satisfactory to the Administrative Agent, of the authority of the Person giving such notice. Such notice shall be effective not sooner than five (5) Business Days following receipt thereof by the Administrative Agent.

11.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Solely to the extent any Lender that is an Affected Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any Affected Resolution Authority.

11.21 No Novation.

(a) This Agreement amends, restates and supersedes the Existing Credit Agreement in its entirety and is not intended to be or operate as a novation or an accord and satisfaction of the Existing Credit Agreement or the obligations evidenced thereby or provided for thereunder. Without limiting the generality of the foregoing (i) all "Loans" under (and as defined in) the

Existing Credit Agreement shall on the Closing Date become Loans hereunder and (ii) all other "Obligations" (under and as defined in the Existing Credit Agreement) that remain outstanding on the Closing Date shall be Obligations under this Agreement.

(b) On the Closing Date, the Existing Revolving Credit Notes and Existing Term Notes, if any, held by each Lender shall be deemed to be cancelled and, if such Lender has requested a Revolving Credit Note and/or Term Note hereunder, amended and restated by the Revolving Credit Note or Term Note, as applicable, delivered hereunder on or about the Closing Date (regardless of whether any Lender shall have delivered to the Borrower for cancellation any Existing Note held by it). Each Lender, whether or not requesting a Note hereunder, shall use its commercially reasonable efforts to deliver the Existing Revolving Credit Note and/or Existing Term Note held by it to the Borrower for cancellation and/or amendment and restatement. All amounts owing under, and evidenced by, the Existing Revolving Credit Note and Existing Term Note of any Lender as of the Closing Date shall continue to be outstanding hereunder, and shall from and after the Closing Date be evidenced by the Notes (if any) received by such Lender pursuant to this Agreement, and shall in any event be evidenced by, and governed by the terms of, this Agreement. Each Lender hereby agrees to indemnify and hold harmless the Borrower from and against any and all liabilities, losses, damages, actions or claims that may be imposed on, incurred by or asserted against the Borrower arising out of such Lender's failure to deliver the Existing Revolving Credit Note and/or Existing Term Note held by it to the Borrower for cancellation, subject to the condition that the Borrower shall not make any payment to any Person claiming to be the holder of any such Existing Revolving Credit Note or Existing Term Note unless such Lender is first notified of such claim and is given the opportunity, at such Lender's sole cost and expense, to assert any defenses to such payment.

11.22 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such

Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 11.22, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

11.23 ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[*signature pages immediately follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

LIST OF AFFILIATES OF
ACADIA REALTY TRUST

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
Acadia Realty Limited Partnership		DE
ARLP GS LLC		DE
100 Bull LLC		DE
102 EB LLC		DE
1035 Third Avenue LLC		DE
106 Spring Retail Owner LLC		DE
11 East Walton LLC		DE
110 UP NY LLC		DE
1100 N. State Lender LLC		DE
120 West Broadway Lender LLC		DE
120 West Broadway LLC		DE
121 Spring Street Owner LLC		DE
1238 Wisconsin Holdco LLC		DE
1238 Wisconsin Lender LLC		DE
1238 Wisconsin Owner LLC		DE
131-135 Prince Street LLC		DE
1324 14th Street Owner LLC		DE
135 East 65th Street Lender LLC		DE
146 Geary LLC		DE
146 Geary Member LLC		DE
151 North State Owner LLC		DE
152-154 Spring Street Lender LLC		DE
152-154 Spring Street Retail LLC		DE
1526 14th Street Owner LLC		DE
1529 14th Street Owner LLC		DE
158 East 126th Street LLC		DE
163 Highland Owner LLC		DE
165 Newbury Street Owner LLC		DE
17 East 71 Street LLC		DE
182-186 Spring Street Lender LLC		DE
188 Spring Street Lender LLC		DE
1964 Union Member LLC		DE
201 Needham Street Owner LLC		DE
201 WB LLC		DE
210 Bowery LLC		DE
210 Bowery Owners LLC		DE
210 Bowery Residential Owners LLC		DE
2207 Fillmore Member LLC		DE
2208-2216 Fillmore Member LLC		DE
230/240 WB LLC		DE
239 Greenwich Associates Limited Partnership		CT
241 Bedford JV LLC		DE
241 Bedford JV Member LLC		DE
241 Bedford Mezz Owner LLC		DE
241 Bedford Owner LLC		DE
241 Bedford Portfolio Lender LLC		DE
2520 Flatbush Avenue LLC		DE
252-264 Greenwich Avenue Retail LLC		DE
2622-2634 Henderson Ave Owner LLC		DE
2675 City Center Partner LLC		DE
2675 Geary Boulevard LP		DE
27 East 61st Street LLC		DE

300 WB LLC		DE
3131 M Street Owner LLC		DE
313-315 Bowery Lender LLC		DE
313-315 Bowery LLC		DE
3177 East Main LLC		DE
3200 M Street Lender LLC		DE
37 Greene Street Owner LLC		DE
41 Greene Street Owner LLC		DE

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
430 Broome Street Lender LLC		DE
45 Greene Street Owner LLC		DE
47-49 Greene Street Owner LLC		DE
51 Greene Street Owner LLC		DE
53 Greene Street Owner LLC		DE
555 9th Street LP		DE
555 9th Street Partner LLC		DE
55-57 Spring Street Lender LLC		DE
565 Broadway Owner LLC		DE
57-63 Greene Acquisition LLC		DE
57-63 Greene Street NYC Lender LLC		DE
61 Main Street Owner LLC		DE
640 Broadway Lender LLC		DE
640 Broadway Member LLC		DE
640 Broadway Owners LLC		DE
640 Broadway Owners Subsidiary I LLC		DE
640 Broadway Owners Subsidiary II LLC		DE
717 N Michigan Ave Owner LLC		DE
717 N Michigan Ave Owner Subsidiary LLC		DE
801 Madison Avenue Owner LLC		DE
8-12 East Walton LLC		DE
840 North Michigan Avenue Acquisition LLC		DE
8436-8452 Melrose General Partner LLC		DE
8436-8452 Melrose Owner LP		DE
849 W. Armitage Owner LLC		DE
850 Third Preferred Equity Member LLC		DE
865 West North Avenue LLC		DE
868 Broadway LLC		DE
900 Block I Holdings LLC		DE
900 W Randolph Preferred Member LLC		DE
907 W. Armitage Owner LLC		DE
910 W Armitage Owner LLC		DE
912 W. Armitage Owner LLC		DE
917 W. Armitage Owner LLC		DE
991 Madison Ave LLC		DE
A/L 3200 M Street LLC		DE
ABR Amboy Road LLC		DE
ABS Investor LLC		DE
ABS Opportunities, LLC		DE
ABS Preferred Equity Member LLC fka Broughton Street Partners Lender LLC		DE
Acadia 1520 Milwaukee Avenue LLC		DE
Acadia 152-154 Spring Street Retail LLC		DE
Acadia 161ST Street LLC		DE
Acadia 181 Main Street LLC		DE
Acadia 239 Greenwich Avenue, LLC		DE
Acadia 28 Jericho Turnpike LLC		DE
Acadia 2914 Third Avenue LLC		DE
Acadia 3104 M Street LLC		DE
Acadia 3200 M Street LLC		DE
Acadia 330 River Street LLC		DE
Acadia 3780-3858 Nostrand Avenue LLC		DE
Acadia 4401 White Plains Road LLC		DE
Acadia 56 East Walton LLC		DE
Acadia 5-7 East 17th Street LLC		DE
Acadia 639 West Diversey LLC		DE
Acadia 654 Broadway LLC		DE
Acadia 654 Broadway Member LLC		DE

Acadia 83 Spring Street LLC		DE
Acadia Absecon LLC		DE
Acadia Albee LLC		DE
Acadia Albertsons Investors LLC		DE
Acadia Bartow Avenue, LLC		DE
Acadia Bloomfield NJ LLC		DE
Acadia Brandywine Holdings, LLC		DE
Acadia Brentwood LLC		DE
Acadia Cambridge LLC		DE

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
Acadia Chestnut LLC		DE
Acadia Chicago LLC		DE
Acadia Clark-Diversey LLC		DE
Acadia Connecticut Avenue LLC		DE
Acadia Cortlandt Crossing LLC		DE
Acadia Cortlandt LLC		DE
Acadia Crescent Plaza LLC		DE
Acadia Crossroads, LLC		DE
Acadia Cub Foods Investors LLC		DE
Acadia D.R. Management LLC		DE
Acadia Elmwood Park LLC		DE
Acadia Fund IV Investments LLC		DE
Acadia Gold Coast LLC		DE
Acadia Gotham Member LLC		DE
Acadia Heathcote LLC		DE
Acadia Hobson LLC		DE
Acadia Investors IV, Inc.		MD
Acadia L.U.F. LLC		DE
Acadia Mad River Property LLC		DE
Acadia Mark Plaza LLC		DE
Acadia Market Square, LLC		DE
Acadia MCB Holding Company II LLC		DE
Acadia MCB Holding Company LLC		DE
Acadia Mercer Street LLC		DE
Acadia Merrillville LLC		DE
Acadia Merrillville Realty, L.P.		IN
Acadia Mervyn I, LLC		DE
Acadia Mervyn II, LLC		DE
Acadia Mervyn Investors II, LLC		DE
Acadia Naamans Road LLC		DE
Acadia New Loudon, LLC		DE
Acadia North Michigan Avenue LLC		DE
Acadia Nostrand Avenue LLC		DE
Acadia Pacesetter LLC		DE
Acadia Paramus Plaza LLC		DE
Acadia Pelham Manor LLC		DE
Acadia Property Holdings, LLC		DE
Acadia Realty Acquisition II, LLC		DE
Acadia Realty Acquisition III LLC		DE
Acadia Realty Acquisition IV LLC		DE
Acadia Realty Acquisition V LLC		DE
Acadia Republic Farmingdale LLC		DE
Acadia Rush Walton LLC		DE
Acadia Second City 1521 West Belmont LLC		DE
Acadia Second City 2206-08 North Halsted LLC		DE
Acadia Second City 2633 North Halsted LLC		DE
Acadia Second City 843-45 West Armitage LLC		DE
Acadia Self Storage Management Company LLC		DE
Acadia Self Storage Management Investment Company LLC		DE
Acadia SP Investor LLC		DE
Acadia Strategic Opportunity Fund II, LLC		DE
Acadia Strategic Opportunity Fund III LLC		DE
Acadia Strategic Opportunity Fund III Special Member LLC		DE
Acadia Strategic Opportunity Fund IV LLC		DE
Acadia Strategic Opportunity Fund IV Promote Member LLC		DE
Acadia Strategic Opportunity Fund IV Special Member LLC		DE
Acadia Strategic Opportunity Fund V LLC		DE

Acadia Strategic Opportunity Fund V Promote Member LLC		DE
Acadia Strategic Opportunity Fund V Special Member LLC		DE
Acadia Town Center Holdco LLC		DE
Acadia Town Line, LLC		CT
Acadia Urban Development LLC		DE
Acadia West 54th Street LLC		DE
Acadia West Diversey LLC		DE
Acadia West Shore Expressway LLC		DE
Acadia-Washington Square Albee LLC		DE

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
ACF Paramus Plaza LLC		DE
ACRS II LLC		DE
ACRS, Inc.		DE
AFWV Investor Member LLC		DE
Airport Mall Owner LLC		DE
A-K JV I LLC		DE
Albee Development LLC		DE
Albee Food LLC		DE
Albee Phase 3 Development LLC		DE
Albee Retail 21 Development LLC		DE
Albee Retail Development LLC		DE
Albee Tower I Management LLC		DE
Albee Tower I Member LLC		DE
Albee Tower I Owners LLC		NY
AMCB Bloomfield LLC		DE
AMCB Eden Square LLC		DE
AMCB Kennedy LLC		DE
AMCB Manassas Promenade LLC		DE
AMCB Rhode Island Mall Owner LLC		DE
AP Fillmore II LLC		DE
AP Fillmore LLC		DE
AP Union II LLC		DE
ARA IV Class A Member LLC		DE
BDG Gotham Plaza LLC		DE
Bedford Green LLC		DE
Beverly Owner GP LLC		DE
Beverly Owner Holdco LP		DE
Beverly Owner LP		DE
BKLYN Studios LLC		DE
Brandywine Town Center Maintenance Corporation		DE
Brandywine Town Center/Market Square Lender LLC		DE
Broughton Street Partners Company II LLC		DE
Broughton Street Partners Company LLC		DE
California & Armitage Main Owner LLC		DE
California & Armitage Outparcel Owner LLC		DE
Canton Marketplace Owner LLC		DE
City Point 21 Development LLC		DE
City Point Retail Development LLC		DE
Concord & Milwaukee Owner LLC		DE
Cortlandt Crossing Sewage Works Corporation		NY
Cortlandt Town Center Member LLC		DE
Crossing Release Parcel Owner LLC		DE
Crossroads II		NY
Crossroads II, LLC		DE
Crossroads Joint Venture		NY
Crossroads Joint Venture, LLC		DE
Dauphin Plaza Member LLC		DE
Dauphin Plaza Owner LLC		DE
Dekalb Market Hall LLC		DE
Elk Grove General Partner LLC		DE
Elk Grove Owner LP		DE
Fairlane Green Condo Manager LLC		DE
Fairlane Green Owner LLC		DE
FAPFABI LLC		DC
FC Riverdale Investor Member LLC		DE
FC Riverdale Lender LLC		DE
FC Riverdale Shopping Center, LLC		DE

Fifth Wall Ventures Retail Fund, L.P.		DE
Frederick County Square Improvements, LLC		DE
Frederick Crossing Improvements, LLC		DE
Frederick Crossing Operator, LLC		DE
Fund II Lender LLC		DE
George Washington Bridge Bus Station Development Venture LLC		DE
Georgetown Ownership Associates LLC		DE
Gotham Member LLC		DE
GT Metro Portfolio Member LLC		DE

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
Heathcote Associates, L.P.		NY
Henderson Ave Dev 1 Owner LLC		DE
Henderson Ave Dev 2 Owner LLC		DE
Henderson Ave Grand Owner LLC		DE
Henderson Ave Land Owner LLC		DE
Henderson Ave Lots Owner LLC		DE
Henderson Ave Main Owner LLC		DE
Henderson Ave Shops Owner LLC		DE
Henderson Portfolio Owner LLC		DE
Hickory Ridge Owner LLC		DE
Hiram Pavilion Owner LLC		DE
JP Waterville Owner LLC		DE
La Frontera Holdco LLC		DE
La Frontera Improvements, LLC		DE
La Frontera Lender LLC		DE
La Frontera Landlord, LLC		DE
La Frontera Member LLC		DE
Lake Montclair-Dumfries, VA LLC		DE
Landstown Commons Owner LLC		DE
Lincoln Commons Owner LLC		DE
Lincoln Place SC Owner LLC		DE
Lincoln Road III LLC		FL
L.U.F. Associates LLC		DC
Mark Plaza Fifty L.P.		PA
Mark Twelve Associates, L.P.		PA
Mayfair Center Owner LLC		DE
MCB Bloomfield LLC		NJ
MC MP 850 Third Holdings LLC		DE
Miami Beach Lincoln, LLC		FL
Mid-Atlantic Portfolio Holdings, LLC		DE
Mid-Atlantic Portfolio Lender LLC		DE
Mid-Atlantic Portfolio Member LLC		DE
Midstate Owner LLC		DE
Mohawk Commons Member LLC		DE
Mohawk Commons Owner LLC		DE
Monroe Marketplace Owner LLC		DE
New Towne Center Owner LLC		DE
North & Kingsbury Owner LLC		DE
Pacesetter Lender LLC		DE
Pacesetter/Ramapo Associates		NY
Palm Coast Landing Owner LLC		DE
Plaza Santa Fe Owner LLC		DE
RD Abington Associates Limited Partnership		DE
RD Absecon Associates, L.P.		DE
RD Bloomfield Associates Limited Partnership		DE
RD Branch Associates L.P.		NY
RD Elmwood Associates, L.P.		DE
RD Hobson Associates, L.P.		DE
RD Methuen Associates Limited Partnership		MA
RD Smithtown, LLC		NY
Restaurants at Fort Point LLC		DE
RIM Member LLC		DE
Roosevelt Galleria LLC		DE
SC Retail Owner LLC		DE
Self Storage Management LLC		DE
Shops At Grand Avenue LLC		DE
South Hills Lender LLC		DE

South Hills Member LLC		DE
South Hills Owner LLC		DE
SP Holdings I LLC		DE
SP Holdings II LLC		DE
SP Holdings III LLC		DE
State & Washington Owner LLC		DE
Storage Post Holdings LLC		DE
Storage Post Member I LLC		DE
Strategic Opportunity Acquisition LLC		DE

SUBSIDIARIES		JURISDICTION OF INCORPORATION/ ORGANIZATION
Strategic Opportunity Fund Acquisition LLC		DE
Tri-City Plaza Lender LLC		DE
Tri-City Plaza Member LLC		DE
Tr-City Plaza Owner LLC		DE
Trussville Promenade I Owner LLC		DE
Trussville Promenade II Owner LLC		DE
Wake Forest Crossing Owner LLC		DE
Westport Retail Owner LLC		DE
White Oak Lender LLC		DE
Wood Ridge Improvements LLC		DE
Wood Ridge Plaza Member LLC		DE

EXHIBIT 23.1

Consent of Independent Registered Public Accounting Firm

Acadia Realty Trust
Rye, New York

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (Nos. 333-249900, 333-203236, 333-126712, 333-114785, 333-31630) and Form S-8 (Nos. 333-256025, 333-249898) of Acadia Realty Trust of our reports dated March 1, 2023, relating to the consolidated financial statements and financial statement schedules, and the effectiveness of Acadia Realty Trust's internal control over financial reporting, which appear in this Form 10-K.

/s/ BDO USA, LLP

New York, New York
March 1, 2023

EXHIBIT 23.2

Consent of Independent Registered Public Accounting Firm

Acadia Realty Trust
Rye, New York

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (Nos. 333-249900, 333-203236, 333-126712, 333-114785, 333-31630) and Form S-8 (Nos. 333-256025, 333-249898) of Acadia Realty Trust of our report dated March 1, 2023, relating to the combined financial statements of 840 North Michigan Avenue, Tenant-in-Common Interests, which appears in this Form 10-K.

/s/ BDO USA, LLP

New York, New York
March 1, 2023

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO RULE 13a - 14(a)

(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, Kenneth F. Bernstein, certify that:

1. I have reviewed this Annual Report on Form 10-K of Acadia Realty Trust;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Kenneth F. Bernstein

Kenneth F. Bernstein
President and Chief Executive Officer
March 1, 2023

EXHIBIT 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO RULE 13a - 14(a)

(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, John Gottfried, certify that:

1. I have reviewed this Annual Report on Form 10-K of Acadia Realty Trust;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ John Gottfried

John Gottfried
Executive Vice President and
Chief Financial Officer
March 1, 2023

EXHIBIT 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350

(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)

In connection with the Annual Report on Form 10-K of Acadia Realty Trust (the "Company") for the period ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Kenneth F. Bernstein, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Kenneth F. Bernstein

Kenneth F. Bernstein
President and Chief Executive Officer
March 1, 2023

EXHIBIT 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350

(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)

In connection with the Annual Report on Form 10-K of Acadia Realty Trust (the "Company") for the period ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John Gottfried, Senior Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ John Gottfried

John Gottfried
Executive Vice President and
Chief Financial Officer
March 1, 2023

Exhibit 99.3

840 North Michigan Avenue, Tenant-in-Common Interests
Combined Financial Statements for the Years Ended December 31, 2022 and 2021
and Independent Auditor's Report

Contents

Independent Auditor's Report	4
Combined Balance Sheets as of December 31, 2022 and 2021(Unaudited)	6
Combined Statements of Operations for the Years Ended December 31, 2022, 2021 (Unaudited) and 2020 (Unaudited)	7
Combined Statements of Tenant-in-Common Interests for the Years Ended December 31, 2022, 2021 (Unaudited) and 2020 (Unaudited)	8
Combined Statements of Cash Flows for the Years Ended December 31, 2022, 2021 (Unaudited) and 2020 (Unaudited)	9
Notes to Combined Financial Statements	10

Independent Auditor's Report

840 North Michigan Avenue, Tenant-in-Common Interests
Rye, New York

Opinion

We have audited the combined financial statements of 840 North Michigan Avenue, Tenant-in-Common Interests (the "Commonly-Held Property"), which comprise the combined balance sheet as of December 31, 2022, and the related combined statements of operations, tenant-in-common interests, and cash flows for the year then ended, and the related notes to the combined financial statements.

In our opinion, the accompanying combined financial statements present fairly, in all material respects, the financial position of the Commonly-Held Property as of December 31, 2022, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Combined Financial Statements section of our report. We are required to be independent of the Commonly-Held Property and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Combined Financial Statements

Management is responsible for the preparation and fair presentation of the combined financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of combined financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the combined financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Commonly-Held Property's ability to continue as a going concern within one year after the date that the combined financial statements are issued or available to be issued.

Auditor's Responsibilities for the Audit of the Combined Financial Statements

Our objectives are to obtain reasonable assurance about whether the combined financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the combined financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the combined financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the combined financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commonly-Held Property's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the combined financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Commonly-Held Property's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

/s/ BDO USA, LLP

New York, New York

March 1, 2023

840 North Michigan Avenue, Tenant-in-Common Interests

Combined Balance Sheets

(in thousands)	December 31, 2022	December 31, 2021
Assets		(Unaudited)
Operating real estate:		
Land	$ 11,931	$ 20,698
Buildings and improvements	93,708	142,364
Construction in progress	101	52
	105,740	163,114
Less: accumulated depreciation	(28,010)	(24,819)
Net operating real estate	77,730	138,295
Cash	1,175	1,347
Rents receivable	591	1,167
Prepaid expenses	18	19
Acquired lease intangibles, net of accumulated amortization of $12,661 and $11,094, respectively	1,383	2,950
Total assets	$ 80,897	$ 143,778
Liabilities and tenant-in-common interests		
Acquired lease intangibles, net of accumulated amortization of ($8,553) and ($5,009), respectively	$ 2,362	$ 5,906
Accounts payable and accrued expenses	3,027	4,370
Due to affiliates	2	99
Deferred income and other liabilities	3,771	1,451
Total liabilities	9,162	11,826
Commitments and contingencies (Note 8)		
Tenant-in-common interests	71,735	131,952
Total liabilities and tenant-in-common interests	$ 80,897	$ 143,778

See accompanying notes to combined financial statements.

840 North Michigan Avenue, Tenant-in-Common Interests

Combined Statements of Operations

(in thousands)	Year Ended December 31, 2022	2021	2020
Revenues		(Unaudited)	(Unaudited)
Rental income	$ 13,590	$ 13,926	$ 12,147
Total revenues	13,590	13,926	12,147
Operating expenses			
Depreciation and amortization	4,757	5,135	5,359
Property operating	653	457	456
Real estate taxes	1,397	4,064	3,731
Impairment charge	57,423	—	—
Total operating expenses	64,230	9,656	9,546
Net (loss) income	(50,640)	4,270	2,601

See accompanying notes to combined financial statements.

840 North Michigan Avenue, Tenants-in-Common Interests

Combined Statements of Tenant-in-Common Interests
Years Ended December 31, 2022 and 2021 (Unaudited)

(in thousands)	Acadia	CHUSA	Total
Combined tenant-in-common interests at January 1, 2020 (Unaudited)	$ 126,493	$ 16,550	$ 143,043
Distributions to tenant-in-common interests	(7,742)	(1,013)	(8,755)
Net income allocated to tenant-in-common interests	2,300	301	2,601
Combined tenant-in-common interests at December 31, 2020 (Unaudited)	$ 121,051	$ 15,838	$ 136,889
Distributions to tenant-in-common interests	(8,142)	(1,065)	(9,207)
Net income allocated to tenant-in-common interests	3,776	494	4,270
Combined tenant-in-common interests at December 31, 2021 (Unaudited)	$ 116,685	$ 15,267	$ 131,952
Distributions to tenant-in-common interests	(8,470)	(1,107)	(9,577)
Net (loss) allocated to tenant-in-common interests	(44,781)	(5,859)	(50,640)
Combined tenant-in-common interests at December 31, 2022	$ 63,434	$ 8,301	$ 71,735

See accompanying notes to combined financial statements.

840 North Michigan Avenue, Tenant-in-Common Interests

Combined Statements of Cash Flows

(in thousands)	Year Ended December 31, 2022	2021	2020
CASH FLOWS FROM OPERATING ACTIVITIES		(Unaudited)	(Unaudited)
Net (loss) income	$ (50,640)	$ 4,270	$ 2,601
Adjustments to reconcile net (loss) income to net cash provided by operating activities:			
Depreciation and amortization	4,757	5,135	5,359
Impairment charge	57,423	—	—
Amortization of lease intangibles	(3,544)	(1,468)	(582)
Straight-line rents	512	441	372
Changes in assets and liabilities:			
Due to/(from) affiliates	(97)	98	(44)
Prepaid expenses and other assets	1	17	11
Rents receivable	64	(13)	(13)
Accounts payable and accrued expenses	(1,342)	338	(54)
Deferred income and other liabilities	2,320	18	616
Net cash provided by operating activities	**9,454**	**8,836**	**8,266**
CASH FLOWS FROM INVESTING ACTIVITIES			
Development, construction and property improvement costs	(49)	(52)	—
Net cash used in investing activities	**(49)**	**(52)**	**—**
CASH FLOWS FROM FINANCING ACTIVITIES			
Distributions to members	(9,577)	(9,207)	(8,755)
Net cash used in financing activities	**(9,577)**	**(9,207)**	**(8,755)**
Decrease in cash	(172)	(423)	(489)
Cash beginning of year	1,347	1,770	2,259
Cash end of year	$ 1,175	$ 1,347	$ 1,770

See accompanying notes to combined financial statements.

(dollars in thousands)

1. Organization

On December 3, 2014, two unrelated parties acquired an undivided 100% tenant-in-common ("TIC") interest in a commercial retail property located at 840 North Michigan Avenue in Chicago, Illinois (the "commonly-held property"). 840 North Michigan Avenue Acquisition LLC ("Acadia"), a wholly-owned subsidiary of Acadia Realty Limited Partnership, holds an 88.43% TIC interest, and the remaining 11.57% TIC interest is held by an unaffiliated third-party CHUSA LLC ("CHUSA"), pursuant to the terms of the tenants-in-common agreement (the "TIC Agreement"). These combined financial statements represent 100% of the combined TIC interest in the commonly-held property for the years ended December 31, 2022 and 2021 and are being presented to satisfy certain reporting requirements of Acadia Realty Trust.

These combined financial statements exclude a $73.5 million mortgage loan (the "Mortgage Loan") and the related interest expense, which is the obligation of the individual TIC interest holders.

2. Summary of Significant Accounting Policies

Use of Estimates

Accounting principles generally accepted in the United States of America ("GAAP") require estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The significant assumptions and estimates relate to the valuation of real estate, depreciable lives, revenue recognition and the collectability of rents receivable. Application of these estimates and assumptions requires the exercise of judgement as to future uncertainties and, as a result, actual results could differ from these estimates.

Real Estate

Land, buildings improvements, and other property are carried at cost less accumulated depreciation. Improvements and significant renovations that extend the useful lives of the property are capitalized, while replacements, maintenance, and repairs that do not improve or extend the lives of the respective assets are expensed as incurred.

Depreciation is computed on the straight-line basis over estimated useful lives of the assets as follows:

Buildings and improvements	Useful life of 40 years for buildings and 15 years for improvements
Tenant improvements	Shorter of economic life or lease terms

Upon acquisition of the real estate property, Management assessed the fair value of acquired assets and assumed liabilities (including land, buildings, and improvements, and identified intangibles such as above- and below-market leases and acquired in-place leases) and assumed liabilities in accordance with ASC Topic 805, "Business Combinations" and ASC Topic 350 "Intangibles – Goodwill and Other," and allocated the acquisition price based on these assessments. As the acquisition of the property did not meet the criteria for a business combination, the property was accounted for as an asset acquisition; therefore, no goodwill was recorded, and acquisition costs were capitalized.

Management assessed the fair value of its tangible assets acquired and assumed liabilities based on estimated cash flow projections that utilized appropriate discount and capitalization rates and available market information at the measurement period. Estimates of future cash flows were based on several factors including the historical operating results, known trends, and market/economic conditions that may affect the property.

In determining the value of above- and below-market leases, Management estimated the present value difference between contractual rent obligations and estimated market rate of leases at the time of the transaction. To the extent there were fixed-rate options at below-market rental rates, management included these periods along with the current term below-market rent in arriving at the fair value of the acquired leases. The discounted difference between contract and market rents is being amortized to rental income over the remaining applicable lease term, inclusive of any option periods.

In determining the value of acquired in-place leases, Management considered market conditions at the time of the transaction and values the costs to execute similar leases during the expected lease-up period from vacancy to existing occupancy, including carrying costs. The value assigned to in-place leases and tenant relationships is amortized over the estimated remaining term of the leases. If a lease were to be terminated prior to its scheduled expiration, all unamortized costs (e.g., lease intangibles) relating to that lease would be written off.

Construction in progress pertains to construction activity at the commonly-held property that are in service and continue to operate during the construction period.

Real Estate Impairment – Impairment losses on a long-lived asset used in operations will be recorded when events and circumstances indicate that the asset might be impaired and the estimated undiscounted cash flows, without interest charges to be generated by the asset is less than the carrying amounts of the asset. The commonly-held property is reviewed periodically to determine if its carrying amounts will be recovered from future operating cash flows. In cases where the carrying amount is not expected to be recovered, an impairment loss will be recognized. The determination of anticipated undiscounted cash flows is inherently subjective, requiring significant estimates made by management, and considers the most likely expected course of action at the balance sheet date based on current plans, intended holding periods and available market information. If management is evaluating the potential sale of an asset, the undiscounted future cash flows analysis is probability-weighted based upon management's best estimate of the likelihood of the alternative courses of action as of the balance sheet date. Such cash flow projections consider factors such as expected future operating income, trends, and prospects, as well as the effects of demand, competition, and other factors. If an impairment is indicated, an impairment loss is recognized based on the excess of the carrying amount of the asset over its estimated fair value.

Impairment charges totaled $57,423 for the year ended December 31, 2022 (Note 7). No impairment losses were recognized in 2021.

Revenue Recognition and Accounts Receivable

Management accounts for its leases under Accounting Standard Codification ("ASC") 842, *Leases*. Pursuant to ASC 842, management has made an accounting policy election to not separate the non-lease components from its leases, such as common area maintenance, and has accounted for each of its leases as a single lease component. In addition, management has elected to account only for those taxes that it pays on behalf of the tenant as reimbursable costs and will not account for those taxes paid directly by the tenant. Minimum rents from tenants are recognized using the straight-line method over the non-cancelable lease term of the respective leases. Lease termination fees are recognized upon the effective termination of a tenant's lease when there are no further obligations under the lease. As of December 31, 2022 and 2021, unbilled rents receivable relating to the straight-lining of rents of $540 and $1,052, respectively, are included in Rents Receivable on the accompanying balance sheets. In addition, leases typically provide for the reimbursement of real estate taxes, insurance, and other property operating expenses. These reimbursements are recognized as revenue in the period the related expenses are incurred. To the extent that real estate taxes, insurance, and other property operating expenses are prepaid, they are included in Deferred income and other liabilities on the combined balance sheets.

Management assesses the collectability of its accounts receivable related to tenant revenues under ASC 842 related to billed rents, straight-line rents, recoveries from tenants, and other revenue taking into consideration historical write-off experience, tenant creditworthiness, current economic trends, and remaining lease terms. At both December 31, 2022 and December 31, 2021, there is no provision for doubtful accounts.

Cash

Cash is maintained at financial institutions and, at times, balances may exceed the limits insured by the Federal Deposit Insurance Corporation.

Income Taxes

No provision for income taxes is necessary in these financial statements because, as a TIC interest, the tax effect of its activities accrues to the individual TIC interest holders.

Concentration of Credit Risk

There is a concentration of credit risk as space in the property is 100% leased to two tenants which terms expire at various dates through March 20, 2024, not including renewal options. It is anticipated that both of these tenants will not renew upon expiration of its current term, including one such tenant that comprises approximately 68.1% of the space with a scheduled expiration in August 2023. These two tenants each accounted for more than 10% of total revenues for the year ended December 31, 2022 and 2021.

3. Lease Intangibles

Upon acquisitions of real estate, management assesses the fair value of acquired assets (including land, buildings, and improvements, and identified intangibles such as above- and below-market leases, including below- market options and acquired in-place leases) and assumed liabilities. The lease intangibles are amortized over the remaining terms of the respective leases, including option periods where applicable.

Intangible assets and liabilities are summarized as follows (in thousands):

	December 31, 2022			December 31, 2021 (Unaudited)		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Amortizable Intangible Assets						
In-place lease intangible assets	$ 2,950	$ (1,567)	$ 1,383	$ 4,516	$ (1,566)	$ 2,950
	$ 2,950	$ (1,567)	$ 1,383	$ 4,516	$ (1,566)	$ 2,950
Amortizable Intangible Liabilities						
Below-market rent	$ (5,906)	$ 3,544	$ (2,362)	$ (7,374)	$ 1,468	$ (5,906)
	$ (5,906)	$ 3,544	$ (2,362)	$ (7,374)	$ 1,468	$ (5,906)

Amortization of in-place lease intangible assets is recorded in depreciation and amortization expense and amortization of above-market rent and below-market rent is recorded as a reduction to and increase to rental income, respectively, in the statements of operations.

The scheduled amortization of acquired lease intangible assets and liabilities, net as of December 31, 2022 is as follows:

Years Ending December 31,	Net Increase in Lease Revenues	Increase to Amortization	Net (Expense) Income
2023	$ 2,362	$ (1,238)	$ 1,124
2024	—	(145)	(145)
2025	—	—	—
2026	—	—	—
2027	—	—	—
Thereafter	—	—	—
Total	$ 2,362	$ (1,383)	$ 979

4. Mortgage Loan Payable (Not Reflected in Combined Financial Statements)

In connection with the acquisition of the commonly-held property, each TIC interest holder is party to the Mortgage Loan. The Mortgage Loan is subject to certain debt service coverage ratio requirements, with which the commonly-held property is compliant as of December 31, 2022 and 2021. Interest expense on the Mortgage Loan was $3,145 for the year ended December 31, 2022 and $3,180 for the year

ended December 31, 2021. The Mortgage Loan and related interest expense is the responsibility of the individual TIC-interest holders and is not reflected in these combined financial statements.

The following table summarizes the mortgage notes payable as of December 31, 2022 and 2021:

			December 31,	
Description	**Interest Rate**	**Maturity Date**	**2022**	**2021**
Secured				(Unaudited)
Promissory Note	4.49%	February 10, 2025	55,000	55,000
Additional Advance Promissory Note	3.97%	February 10, 2025	18,500	18,500
Total Debt			73,500	73,500

Scheduled Debt Principal Payments

The scheduled principal repayments, without regard to available extension options (described further below) as of December 31, 2022 are as follows:

Year Ending December 31,	
2023	$ —
2024	—
2025	73,500
2026	—
2027	—
Thereafter	—
Total indebtedness	73,500

5. Related Party Transactions

Acadia Realty Limited Partnership (the "ARLP Manager"), an affiliate of Acadia, and Parkside Realty, Inc. (“Parkside Manager” and collectively, “Property Managers”), were engaged by the TIC interest holders to perform respective property management duties for the commonly-held property pursuant to the terms of the property management agreement (the “Management Agreement”). Under the Management Agreement, the ARLP Manager and Parkside Manager each receive a property management fee equal to 1.0% of the monthly gross revenues of the commonly-held property. Total management fees earned by the Property Managers for the year ended December 31, 2022 and 2021 were $259 and $257, respectively, and are included in Property operating expenses on the combined statements of operations. Payables due to Property Managers totaled $2 and $99 at December 31, 2022 and 2021, respectively.

6. Tenant Leases

Space in the commonly-held property is currently 100% leased to two tenants which terms expire at various dates through March 20, 2024. Space is generally leased to tenants pursuant to agreements that provide for terms ranging generally from three to ten years and generally provide for additional rents based on certain operating expenses. It is anticipated that both of these tenants will not renew upon expiration of its current term, including one such tenant that comprises approximately 68.1% of the space with a scheduled expiration in August 2023. During the years ended December 31, 2022 and 2021, variable-lease revenue of $2,047 and $4,461, respectively, primarily for real estate taxes and common area maintenance charges are included in rental income in the combined statements of operations.

Minimum future annual rentals to be received under non-cancelable operating leases as of December 31, 2022 are summarized as follows:

Year Ending December 31,	**Minimum Rental Revenues**
2023	$ 6,368
2024	665
2025	5
2026	2
2027	—
Thereafter	—
Total	$ 7,040

7. Impairment

During 2022, management identified an impairment indicator of a significant decrease in the market price of its real estate. As a result, management recorded impairment charges of $57,423 for the year ended December 31, 2022. The fair value of these assets were derived using discounted cash flow analyses based on Level 3 inputs based on projections of: holding period, net operating income, capitalization rate, and incremental costs.

8. Commitments and Contingencies

As an acquirer and holder of real estate, the TIC is subject to various federal and local environmental laws. Compliance by the TIC with existing laws has not had a material adverse effect on the TIC and management does not believe that it will have a negative impact in the future. However, the TIC cannot predict the impact of new or changed laws or regulations on its current investment in operating real estate.

The TIC may, over time, be subject to routine litigation arising out of the normal course of business, none of which is expected to have a material adverse effect on the financial position, results of operations or liquidity of the TIC.

9. Tenants-in-Common Interests

The TIC Agreement includes, among other matters, the rights and limitations of the TIC interest holders.

Pursuant to the TIC Agreement, each TIC interest holder is responsible for its pro-rata share of contributions which may be required thereunder in connection with the ownership, operation, management, and maintenance of the commonly-held property, and each TIC interest holder is entitled to receive its pro-rata share of applicable revenues and proceeds derived from the commonly-held property in accordance with the terms thereof.

10. Subsequent Events

Management has performed subsequent events procedures through March 1, 2023, which is the date the financial statements were available to be issued. No material subsequent events have occurred since December 31, 2022, that require recognition or disclosure in the combined financial statements.