

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

Form 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): January 31, 2023

Piedmont Office Realty Trust, Inc.

(Exact name of registrant as specified in its charter)

Commission File Number: 001-34626

Maryland
(State or other jurisdiction
of incorporation)

58-2328421
(IRS Employer
Identification No.)

5565 Glenridge Connector Ste. 450
Atlanta, Georgia 30342
(Address of principal executive offices, including zip code)

(770) 418-8800
(Registrant's telephone number, including area code)

Not applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, \$0.01 par value	PDM	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth 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.

Item 1.01. Entry into a Material Definitive Agreement

The information set forth under Item 2.03, "Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant" is incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant

On January 31, 2023, Piedmont Operating Partnership, LP ("Piedmont OP"), a consolidated subsidiary of Piedmont Office Realty Trust, Inc. (the "Registrant"), entered into a \$215 million, floating-rate, unsecured term loan facility (the "\$215 Million Unsecured 2023 Term Loan"). Piedmont OP intends to use the loan proceeds to repay the majority of its \$350 Million Unsecured Senior Notes that mature on June 1, 2023, with the remaining balance repaid from a combination of cash on hand, proceeds from select property dispositions and/or borrowings under its \$600 Million Unsecured 2022 Line of Credit.

The term of the \$215 Million Unsecured 2023 Term Loan is one year, with an option to extend for an additional year for a final maturity date of January 31, 2025. Piedmont OP may prepay the loan in whole or in part, at any time without premium or penalty. Piedmont OP paid customary fees to the lenders in connection with the closing of the \$215 Million Unsecured 2023 Term Loan.

The terms of the \$215 Million Unsecured 2023 Term Loan are set forth in the Term Loan Agreement attached as Exhibit 10.1. As defined in the Term Loan Agreement, the \$215 Million Unsecured 2023 Term Loan has the option to bear interest at varying levels based on Daily Simple SOFR, Term SOFR for an interest period selected by Piedmont OP of one or three months, or a Base Rate (which is defined as the greatest of (i) Bank of America's prime rate, (ii) the Federal Funds Rate plus 1/2 of 1%, (iii) Term SOFR for a one-month period plus 1.0%, and (iv) 1.0%), in each case plus a stated interest rate spread. The stated interest rate spread for borrowings accruing interest based on Daily Simple SOFR and Term SOFR can vary from 0.85% to 1.70%, and the stated interest rate spread for borrowings accruing interest based on the Base Rate can vary from 0.00% to 0.70%, in each case based on the current credit rating of the Registrant or Piedmont OP, whichever is higher. As of the closing of the \$215 Million Unsecured 2023 Term Loan, the applicable interest rate for the loan was Daily Simple SOFR plus 1.05%.

Under the terms of the \$215 Million Unsecured 2023 Term Loan, Piedmont OP is subject to certain financial covenants that require, among other things, the maintenance of an unencumbered interest coverage ratio of at least 1.75, an unencumbered leverage ratio of at least 1.60, a fixed charge coverage ratio of at least 1.50, a leverage ratio of no more than 0.60, and a secured debt ratio of no more than 0.40.

The foregoing does not purport to be a complete description of the terms of the \$215 Million Unsecured 2023 Term Loan and is qualified in its entirety by reference to the Term Loan Agreement attached as Exhibit 10.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

<u>Exhibit No.</u>	<u>Description</u>
10.1	Term Loan Agreement dated as of January 31, 2023, by and among Piedmont Operating Partnership, LP, as Borrower, Piedmont Office Realty Trust, Inc., as Parent, BofA Securities, Inc., JPMorgan Chase Bank, N.A., and TD Securities (USA) LLC, as Joint Lead Arrangers and Joint Bookrunners, Bank of America, N.A., as Administrative Agent, and the other financial institutions initially signatory thereto and their assignees
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Current Report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

Piedmont Office Realty Trust, Inc.
(Registrant)

Dated: February 3, 2023

By: /s/ Robert E. Bowers
Robert E. Bowers
Chief Financial Officer and Executive Vice President

TERM LOAN AGREEMENT

Dated as of January 31, 2023

by and among

PIEDMONT OPERATING PARTNERSHIP, LP,
as Borrower,

PIEDMONT OFFICE REALTY TRUST, INC.,
as Parent,

BOFA SECURITIES, INC.,
JPMORGAN CHASE BANK, N.A.,
and
TD SECURITIES (USA) LLC,
as Joint Lead Arrangers and Joint Bookrunners,

BANK OF AMERICA, N.A.,
as the Administrative Agent,

JPMORGAN CHASE BANK, N.A.,
and
TD BANK, N.A.
as Syndication Agents

and

THE FINANCIAL INSTITUTIONS INITIALLY SIGNATORY HERETO
AND THEIR ASSIGNEES PURSUANT TO SECTION 12.5,
as Lenders

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EXHIBITS

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EXHIBIT F-4	Form of U.S. Tax Compliance Certificate
EXHIBIT G	Form of Compliance Certificate
EXHIBIT H	Form of Facility Guaranty

TERM LOAN AGREEMENT

THIS TERM LOAN AGREEMENT (this “*Agreement*”) dated as of January 31, 2023 by and among **PIEDMONT OPERATING PARTNERSHIP, LP**, a limited partnership formed under the laws of the State of Delaware (the “*Borrower*”), **PIEDMONT OFFICE REALTY TRUST, INC.**, a corporation formed under the laws of the State of Maryland (the “*Parent*”), the Joint Lead Arrangers and Joint Bookrunners listed on the cover page to this Agreement (each a “*Co-Lead Arranger*” and “*Bookrunner*”), **BANK OF AMERICA, N.A.**, as administrative agent (the “*Agent*”), the Syndication Agents listed on the cover page to this Agreement (each a “*Syndication Agent*”), and each of the financial institutions initially a signatory hereto together with their assignees pursuant to **Section 12.5(b)**.

WHEREAS, the Borrower and the Parent have requested that the Lenders provide a term loan facility to the Borrower in the initial aggregate amount of \$215,000,000, and the Lenders are willing to provide such facility to the Borrower on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto agree as follows:

I. DEFINITIONS.

1.1 **Definitions.** In addition to terms defined elsewhere herein, the following terms shall have the following meanings for the purposes of this Agreement:

“**Accession Agreement**” means an Accession Agreement substantially in the form of **Annex I** to the Facility Guaranty.

“**Acquisition Property**” means a Property that has been owned (or ground leased) for fewer than eight (8) complete fiscal quarters.

“**Additional Costs**” has the meaning given that term in **Section 4.1**.

“**Adjusted EBITDA**” means, for any given period, (a) the EBITDA of the Parent for such period, *plus*, (b) without duplication, the Parent’s Share of EBITDA of its Consolidated Subsidiaries and Unconsolidated Affiliates *minus* (c) Capital Reserves.

“**Administrative Details Form**” means an administrative questionnaire completed by each Lender and delivered to the Agent in a form supplied by the Agent to the Lenders from time to time.

“**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. In no event shall the Agent or any Lender be deemed to be an Affiliate of the Borrower.

“**Agent**” means Bank of America, as administrative agent for the Lenders under the terms of this Agreement, and any of its successors.

“**Agent’s Office**” means the Agent’s address and, as appropriate, account as set forth on **Schedule 10.02**, or such other address or account as the Agent may from time to time notify to the Borrower and the Lenders.

“**Applicable Law**” means all applicable provisions of constitutions, statutes, laws, rules, regulations and orders of all governmental bodies and all orders and decrees of all courts, tribunals and arbitrators.

“**Applicable Margin**” means the percentage *per annum* determined, at any time, based on the Credit Rating of the Parent or the Credit Rating of the Borrower, whichever is higher, in accordance with the levels in the table set forth below (each a “**Level**”). Any change in a Credit Rating of the Parent or the Borrower which would cause it to move to a different Level in such table shall effect a change in the Applicable Margin on the Business Day on which such change in the Credit Rating is first announced by the applicable Rating Agency, irrespective of when notice of such change shall have been furnished by the Borrower pursuant to **Section 8.4(l)** or otherwise. During any period that either the Parent or the Borrower has received Credit Ratings that are not equivalent, the Credit Rating of such Person shall be determined by the higher of such two Credit Ratings. During any period for which either the Parent or the Borrower has received a Credit Rating from only one Rating Agency, then the Credit Rating of such Person shall be determined based on such Credit Rating. During any period for which neither the Parent nor the Borrower has a Credit Rating from either Rating Agency, the Applicable Margin shall be determined based on Level 5. As of the Effective Date and thereafter until changed as provided above, the Applicable Margin is determined based on Level 3.

Level	Credit Rating (S&P/Moody's)	Applicable Margin for Term SOFR Rate Loans or Daily SOFR Rate Loans	
1	≥A-/A3	0.850%	0.0%
2	BBB+/Baa1	0.925%	0.0%
3	BBB/Baa2	1.050%	0.05%
4	BBB-/Baa3	1.300%	0.30%
5	< BBB-/Baa3	1.700%	0.70%

“**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.

“**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 12.5**), and accepted by the Agent, substantially in the form of **Exhibit A** or any other form (including electronic records generated by the use of an electronic platform) approved by the Agent.

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable 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.

“Bank of America Fee Letter” means that certain fee letter dated January 18, 2023 by and among Bank of America, BofA Securities, Inc., the Borrower and the Parent as amended and in effect from time to time.

“Bankruptcy Event” means, with respect to any Person, (i) a bankruptcy or insolvency proceeding under Debtor Relief Laws, or (ii) appointment for it of a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the 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; provided that a Bankruptcy Event shall not result (a) solely by virtue of any ownership or acquisition of any equity interest in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person 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 Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person, or (b) if the bankruptcy court or such receiver, conservator, trustee, administrator, custodian, assignee or other Person confirms or affirms that such Lender will continue to comply with its funding obligations under this Agreement.

“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 1.00%, (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”, (c) Term SOFR *plus* 1.00% and (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.

“Base Rate Loan” means a Loan bearing interest at a rate based on the Base Rate.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. §1010.230.

“Benefit Arrangement” means at any time an employee benefit plan within the meaning of *Section 3(3)* of ERISA which is not a Plan or a Multiemployer Plan and which is maintained or otherwise contributed to by any member of the ERISA Group.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in *Section 3(3)* of ERISA) that is subject to *Title I* of ERISA, (b) a “plan” as defined in *Section 4975* of the Code to which *Section 4975* of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations 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”.

“BHC Act Affiliate” has the meaning given that term in *Section 12.20*.

“Borrower” has the meaning set forth in the introductory paragraph hereof and shall include the Borrower’s successors and assigns.

“**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 Agent’s Office is located.

“**Capital Reserves**” means, for any period and with respect to a Property, an amount equal to (a) \$.15 per square foot times (b) a fraction, the numerator of which is the number of days in such period and the denominator of which is 365. Any portion of a Property leased under a ground lease to a third party that owns the improvements on such portion of such Property shall not be included in determinations of Capital Reserves. If the term Capital Reserves is used without reference to any specific Property, then the amount shall be determined on an aggregate basis with respect to all Properties of the Parent and the Parent’s Share of all Properties of all Consolidated Subsidiaries and Unconsolidated Affiliates.

“**Capitalization Rate**” means (i) six percent (6.0%) for CBD or Urban Infill Properties, (ii) six and three-quarters percent (6.75%) for all other office Properties and (iii) seven and one-quarter percent (7.25%) for all other Properties.

“**Capitalized Lease Obligation**” means an obligation as lessee under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP. The amount of a Capitalized Lease Obligation is the capitalized amount of such obligation as would be required to be reflected on a balance sheet of the applicable Person prepared in accordance with GAAP as of the applicable date.

“**Cash Equivalents**” means: (a) securities issued, guaranteed or insured by the United States of America or any of its agencies with maturities of not more than one year from the date acquired; (b) certificates of deposit with maturities of not more than one year from the date acquired issued by a United States federal or state chartered commercial bank of recognized standing, or a commercial bank organized under the laws of any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, acting through a branch or agency, which bank has capital and unimpaired surplus in excess of \$500,000,000 and which bank or its holding company has a short term commercial paper rating of at least A-2 or the equivalent by S&P or at least P-2 or the equivalent by Moody’s; (c) reverse repurchase agreements with terms of not more than seven days from the date acquired, for securities of the type described in **clause (a)** above and entered into only with commercial banks having the qualifications described in **clause (b) above**; (d) commercial paper issued by any Person incorporated under the laws of the United States of America or any State thereof and rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody’s, in each case with maturities of not more than one year from the date acquired; and (e) investments in money market funds registered under the Investment Company Act of 1940, as amended, which have net assets of at least \$500,000,000 and at least 85% of whose assets consist of securities and other obligations of the type described in **clauses (a)** through **(d)** above.

“**CBD or Urban Infill Property**” means, (a) any Property listed on **Schedule 6.1(x)** and identified as a CBD or Urban Infill Property, (b) any improved Property which is located in Manhattan in New York, New York, the Back Bay, Financial District and Cambridge areas of Boston, Massachusetts, San Francisco, California, Los Angeles, California, or Washington, D.C., or (c) any other improved Property which is located in markets with characteristics similar to those identified in **clause (a)** or **(b)** and is designated by the Agent and the Borrower as a CBD or Urban Infill Property from time to time.

“**CME**” means CME Group Benchmark Administration Limited.

“**Co-Lead Arrangers**” means BofA Securities, Inc., JPMorgan Chase Bank, N.A., and TD Securities (USA) LLC, together with their respective successors and permitted assigns.

“Commitment” means, as to each Lender, such Lender’s obligation to make Loans pursuant to **Section 2.1**, in an amount up to, but not exceeding, the amount set forth for such Lender on **Schedule IA** as such Lender’s **“Commitment”** or as set forth in the applicable Assignment and Assumption, as the same may be reduced from time to time pursuant to **Section 2.12**, increased from time to time pursuant to **Section 2.16**, or increased or reduced as appropriate to reflect any assignments to or by such Lender effected in accordance with **Section 12.5**.

“Commitment Percentage” means, as to each Lender, the ratio, expressed as a percentage represented by (a) at any time prior to the termination of the Commitments, such Lender’s Commitment at such time divided by the aggregate amount of all of the Lenders’ Commitments, and (b) thereafter, the principal amount of such Lender’s Loans at such time divided by the aggregate outstanding principal amount of all of the Lenders’ Loans.

“Communications” has the meaning given to that term in **Section 8.5(d)**.

“Compliance Certificate” has the meaning given that term in **Section 8.3**.

“Conforming Changes” means, with respect to the use, administration of or any conventions associated with SOFR or any proposed Successor Rate, Daily Simple SOFR, or Term SOFR, as applicable, any conforming changes to the definitions of **“Base Rate”**, **“Daily Simple SOFR”**, **“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 Agent in consultation with the Borrower, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the 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 Agent determines 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 Subsidiary” means, with respect to a Person as of any date, any other Person which is consolidated with such Person in accordance with GAAP as of such date.

“Construction” means cash expenditures for land and improvements (including indirect costs internally allocated and development costs) on all Properties that are under development or are scheduled to commence development within twelve months as such expenditures are reasonably determined by the Borrower in good faith.

“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.

“Covered Entity” has the meaning given that term in **Section 12.20**.

“Covered Party” has the meaning given that term in **Section 12.20**.

“Credit Party” means the Agent (as the administrative agent) or any other Lender.

“**Credit Rating**” means the rating assigned by a Rating Agency to a Person as a corporate issuer.

“**Daily Simple SOFR**” means, with respect to any applicable determination date, (a) SOFR published on the fifth (5th) U.S. Government Securities Business Day preceding such day by the SOFR Administrator on the Federal Reserve Bank of New York’s website (or any successor source); provided, however, that if such day is not a U.S. Government Securities Business Day, then Daily Simple SOFR means such rate so published on the fifth (5th) U.S. Government Securities Business Day preceding the first (1st) U.S. Government Securities Business Day immediately prior thereto; *plus* (b) the SOFR Adjustment. If the rate as so determined would be less than zero (0), such rate shall be deemed to be zero (0) for purposes of the Loans and Loan Documents.

“**Daily SOFR Rate Loan**” means a Loan made hereunder with respect to which the interest rate is calculated by reference to Daily Simple SOFR.

“**Debtor Relief Laws**” means the Bankruptcy Code of the United States of America, 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 of the events specified in **Section 10.1**, whether or not there has been satisfied any requirement for the giving of notice, the lapse of time, or both.

“**Defaulting Lender**” means any Lender that (a) has failed, within two (2) Business Days after the date required to be funded or paid, to (i) fund any portion of its Loans unless such Lender notifies the Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (each of which conditions precedent, together with any applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (ii) pay over to any Credit Party any other amount required to be paid by it hereunder unless the subject of a good faith dispute, (b) has notified the Borrower or any Credit Party in writing that it does not intend to comply with any of its funding obligations under this Agreement (unless such writing relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, if any, shall be specifically identified in such writing) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Agent or the Borrower, acting in good faith, to confirm in writing to the Agent and the Borrower that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this **clause (c)** upon receipt of such written confirmation by the Agent and the Borrower, or (d) has become, or has a direct or indirect parent company that has become, the subject of (i) a Bankruptcy Event or (ii) a Bail-In Action. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of **clauses (a)** through **(d)** above shall be made by the Agent acting reasonably and in good faith, and such Lender shall be deemed to be a Defaulting Lender (subject to **Section 3.10(e)**) upon delivery of written notice of such determination to the Borrower and each Credit Party.

“**Derivatives Contract**” means 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. Not in

limitation of the foregoing, the term “*Derivatives Contract*” includes 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, including any such obligations or liabilities under any such master agreement.

“*Derivatives Termination Value*” means, in respect of any one or more Derivatives Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Derivatives Contracts, (a) for any date on or after the date such Derivatives 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 Derivatives Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Derivatives Contracts (which may include the Agent or any Lender).

“*Designated Jurisdiction*” means any country, region or territory to the extent that such country, region or territory itself is the subject of any Sanction.

“*Development Property*” means a Property currently under development that has not achieved an Occupancy Rate of at least 80%, or on which the improvements (other than tenant improvements on unoccupied space) related to the development have not been completed. A Development Property on which all improvements (other than tenant improvements on unoccupied space) related to the development of such Property have been completed for at least eight (8) complete fiscal quarters shall cease to constitute a Development Property notwithstanding the fact that such Property has not achieved an Occupancy Rate of at least 80%.

“*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.

“*Dollars*” or “*\$*” means the lawful currency of the United States.

“*EBITDA*” means, with respect to a Person for any period net income (loss) of such Person for such period, exclusive of the following (but only to the extent included in determination of such net income (loss)): (i) depreciation and amortization; (ii) Interest Expense; (iii) income tax expense; and (iv) extraordinary or non-recurring gains and losses (including but not limited to and without limitation, gains/losses from early extinguishment of debt, impairment charges, and acquisition costs). EBITDA shall be adjusted to remove any impact from straight line rent leveling adjustments required under GAAP and amortization of intangibles pursuant to FASB Accounting Standards Codification 805.

“*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.

“**Effective Date**” means the date on which all of the conditions precedent set forth in **Section 5.1** shall have been fulfilled or waived in writing by the Requisite Lenders.

“**Electronic Record**” and “**Electronic Signature**” have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

“**Eligible Assignee**” means (a) a Lender unless such Lender is a Defaulting Lender, (b) an Affiliate of a Lender which Affiliate is a Qualified Institution unless such Lender is a Defaulting Lender or such Affiliate meets the criteria of a Defaulting Lender, (c) an Approved Fund which is a Qualified Institution unless such Approved Fund meets the criteria of a Defaulting Lender, and (d) any other Person (other than a natural person) approved by (i) the Agent and (ii) unless a Default or Event of Default shall exist, the Borrower (each such approval not to be unreasonably withheld or delayed, and the Borrower shall be deemed to have approved such Person unless it shall object by written notice to the Agent within ten (10) Business Days after having received written notice thereof); provided that notwithstanding the foregoing, “**Eligible Assignee**” shall not include the Borrower or any of the Borrower’s Affiliates or Subsidiaries.

“**Eligible Property**” means a Property which satisfies all of the following requirements: (a) such Property is fully developed as an office or industrial property; (b) the Property is owned, or leased under a Ground Lease, entirely by the Borrower and/or a Subsidiary of the Borrower and/or a Partially-Owned Entity; (c) neither such Property, nor any interest of the Borrower, any Subsidiary and/or any Partially-Owned Entity therein, is subject to any Lien (other than Permitted Liens of the types described in **clauses (a)** through **(f)** of the definition of Permitted Liens) or a Negative Pledge; (d) if such Property is owned or leased by a Subsidiary and/or a Partially-Owned Entity (i) none of the Borrower’s direct or indirect ownership interest in such Subsidiary or Partially-Owned Entity is subject to any Lien (other than Permitted Liens of the types described in **clauses (a)** through **(f)** of the definition of Permitted Liens) or to a Negative Pledge; and (ii) except for Properties owned or leased by a Partially-Owned Entity, the Borrower directly, or indirectly through a Subsidiary, has the right to take the following actions without the need to obtain the consent of any Person: (x) to sell, transfer or otherwise dispose of such Property and (y) to create a Lien on such Property as security for Indebtedness of the Borrower or such Subsidiary, as applicable; (e) such Property is free of all structural defects or major architectural deficiencies, title defects, environmental conditions or other adverse matters except for defects, deficiencies, conditions or other matters individually or collectively which are not material to the profitable operation of such Property; (f) if such Property is owned or leased by a Subsidiary and/or a Partially-Owned Entity that is not a Guarantor, such Subsidiary or Partially-Owned Entity has no (i) Indebtedness (other than (x) Nonrecourse Indebtedness or (y) Indebtedness owed to Borrower or any Subsidiary of Borrower as lender and that has not been pledged or otherwise subjected to any lien by Borrower or such Subsidiary of Borrower) or (ii) other liabilities, including without limitation contingent liabilities, determined in accordance with GAAP, and in any event including obligations in respect of any forward commitment, put right enforceable against such Subsidiary or Partially-Owned Entity, purchase or repurchase obligation or other obligation that requires such Subsidiary or Partially-Owned Entity to acquire any asset; provided that such Subsidiary or Partially-Owned Entity may have liabilities described in this **clause (ii)** so long as the aggregate amount thereof does not exceed 5% of the total assets of such Subsidiary or Partially-Owned Entity; and (g) such Property is not owned or leased by any Subsidiary or Partially-Owned Entity (i) which has taken any action described in **clauses (i)** through **(viii)** of **Section 10.1(f)**, (ii) which is subject to any proceedings of the type described

in **Section 10.1(g)**, (iii) against whom there are judgments or orders for the payment of money or for an injunction of the type described in **Section 10.1(i)** or (iv) with respect to which Subsidiary's or Partially-Owned Entity's Property a warrant, writ of attachment, execution or similar process of the type described in **Section 10.1(j)** has been issued, in each case whether or not such Sections are applicable to such Subsidiary or Partially-Owned Entity.

"Environmental Laws" means any Applicable Law relating to environmental protection or the manufacture, storage, remediation, disposal or clean-up of Hazardous Materials including, without limitation, the following: Clean Air Act, 42 U.S.C. §7401 *et seq.*; Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq.*; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*; Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*; National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*; regulations of the Environmental Protection Agency and any applicable rule of common law and any judicial interpretation thereof relating primarily to the environment or Hazardous Materials.

"Equity Interest" means, with respect to any Person, any share of capital stock of (or other ownership or profit interests in) such Person, any warrant, option or other right for the purchase or other acquisition from such Person of any share of capital stock of (or other ownership or profit interests in) such Person, any security convertible into or exchangeable for any share of capital stock of (or other ownership or profit interests in) such Person or warrant, right or option for the purchase or other acquisition from such Person of such shares (or such other interests), and any other ownership or profit interest in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such share, warrant, option, right or other interest is authorized or otherwise existing on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974, as in effect from time to time and the rules and regulations promulgated thereunder.

"ERISA Group" means the Parent, the Borrower, any Subsidiary and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Parent, the Borrower or any Subsidiary, are treated as a single employer under *Section 414* of the Internal Revenue Code.

"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.

"Event of Default" means any of the events specified in **Section 10.1**, provided that any requirement for notice or lapse of time or any other condition has been satisfied.

"Excluded Properties" means those Properties listed and described on **Schedule EP** attached hereto.

"Excluded Subsidiary" means any Subsidiary (a) holding title to assets which are or are to become collateral for any Secured Indebtedness of such Subsidiary and (b) which is prohibited from Guarantying the Indebtedness of any other Person pursuant to (i) any document, instrument or agreement evidencing such Secured Indebtedness or (ii) a provision of such Subsidiary's organizational documents which provision was included in such Subsidiary's organizational documents as a condition to the extension of such Secured Indebtedness.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a 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, (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 applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) imposed by any other jurisdiction (other than such Taxes imposed solely 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), (b) Other Connection Taxes, (c) 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 4.5**) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to **Section 3.11**, 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, (d) Taxes attributable to such Recipient’s failure to comply with **Section 3.11(g)**, and (e) any U.S. federal withholding Taxes imposed under FATCA.

“Existing Revolving Credit Facility” means the \$600,000,000 revolving credit facility evidenced by that certain Amended and Restated Revolving Credit Agreement, dated as of June 14, 2022, by and among the Borrower, the Parent, the lenders party thereto and JPMorgan Chase Bank, N.A., as agent for the lenders, as amended and in effect from time to time.

“Existing Term Loan Facility 2018” means the \$250,000,000 term loan credit facility evidenced by that certain Term Loan Agreement, dated as of March 29, 2018, by and among the Borrower, the Parent, the lenders party thereto and U.S. Bank National Association, as agent for the lenders, as amended and in effect from time to time.

“Existing Term Loan Facility 2022” means the \$200,000,000 term loan credit facility evidenced by that certain Term Loan Agreement dated July 22, 2022 by and between Borrower and Truist Bank, as amended and in effect from time to time.

“Extended Termination Date” has the meaning given that term in **Section 2.13**.

“Facility Guaranty” means the Guaranty to which the Guarantors are parties substantially in the form of **Exhibit H**.

“Facility Increase” has the meaning given that term in **Section 2.16**.

“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, any agreement 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 and implementing such Sections of the Code.

“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 this Agreement.

“Fee Letters” means (a) the Bank of America Fee Letter, and (b) any other fee letter executed by any Co-Lead Arranger and the Borrower and the Trust.

“Fees” means the fees and commissions provided for or referred to in **Section 3.5** and any other fees payable by the Borrower hereunder or under any other Loan Document.

“Fixed Charges” means, with respect to a Person for any period, the sum (without duplication) of (a) Interest Expense of such Person for such period, *plus* (b) all regularly scheduled principal payments made with respect to Indebtedness of such Person during such period, other than any balloon, bullet or similar principal payment which repays such Indebtedness in full, *plus* (c) all Preferred Dividends actually paid by such Person during such period *plus*, when determining Fixed Charges of the Parent, (d) the Parent’s Share of the Fixed Charges of its Consolidated Subsidiaries and Unconsolidated Affiliates.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

“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 business.

“Funds From Operations” means, with respect to a Person and for a given period, “funds from operations” as determined and adjusted in accordance with the standards established from time to time by the National Association of Real Estate Investment Trusts.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination; provided, however, that as provided herein, when determining the Parent’s compliance with the financial covenants set forth in **Section 9.1**, only the Parent’s Share of any income, expense, assets and liabilities of a Consolidated Subsidiary shall be included, notwithstanding the requirements of FASB Accounting Standards Codification 810 10.

“Governmental Approvals” means all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and reports to, all Governmental Authorities.

“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).

“Ground Lease” means a ground lease containing the following terms and conditions: (a) a remaining term (exclusive of any unexercised extension options) of 30 years or more from the Effective Date; (b) the right of the lessee to mortgage and encumber its interest in the leased property without the consent of the lessor; (c) the obligation of the lessor to give the holder of any mortgage Lien on such leased property written notice of any defaults on the part of the lessee and agreement of such lessor that such lease will not be terminated until such holder has had a reasonable opportunity to cure or complete foreclosures, and fails to do so; (d) reasonable transferability of the lessee’s interest under such lease, including ability to sublease; and (e) such other rights, as reasonably determined by the Borrower, customarily required by mortgagees making a loan secured by the interest of the holder of the leasehold estate demised pursuant to a ground lease.

“Guarantor” means any Person that is a party to the Facility Guaranty as a **“Guarantor”** and in any event shall include the Parent.

“Guaranty”, **“Guaranteed”**, **“Guarantying”** or to **“Guarantee”** as applied to any obligation means, without duplication: (a) a guaranty (other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business), directly or indirectly, in any manner, of any part or all of such obligation, or (b) an agreement, direct or indirect, contingent or otherwise, and whether or not constituting a guaranty, the practical effect of which is to assure the payment or performance (or payment of damages in the event of nonperformance) of any part or all of such obligation whether by: (i) the purchase of securities or obligations, (ii) the purchase, sale or lease (as lessee or lessor) of property or the purchase or sale of services primarily for the purpose of enabling the obligor with respect to such obligation to make any payment or performance (or payment of damages in the event of nonperformance) of or on account of any part or all of such obligation, or to assure the owner of such obligation against loss, (iii) the supplying of funds to or in any other manner investing in the obligor with respect to such obligation, (iv) repayment of amounts drawn down by beneficiaries of letters of credit, or (v) the supplying of funds to or investing in a Person on account of all or any part of such Person’s obligation under a Guaranty of any obligation or indemnifying or holding harmless, in any way, such Person against any part or all of such obligation.

“Hazardous Materials” means all or any of the following: (a) substances that are defined or listed in, or otherwise classified pursuant to, any applicable Environmental Laws as **“hazardous substances”**, **“hazardous materials”**, **“hazardous wastes”**, **“toxic substances”** or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, **“TCLP”** toxicity or **“EP toxicity”**; (b) oil, petroleum or petroleum derived substances, natural gas, natural gas liquids or synthetic gas and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; (c) any flammable substances or explosives or any radioactive materials; (d) asbestos in any form; (e) toxic mold; and (f) electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty parts per million.

“Increased Amount Date” has the meaning given that term in **Section 2.16**.

“Indebtedness” means, with respect to a Person, at the time of computation thereof and not on a consolidated basis, all of the following (without duplication): (a) all obligations of such Person in respect of money borrowed (other than trade debt incurred in the ordinary course of business); (b) all obligations of such Person, whether or not for money borrowed (i) represented by notes payable, or drafts accepted, in each case representing extensions of credit, (ii) evidenced by bonds, debentures, notes or similar instruments, or (iii) constituting purchase money indebtedness, conditional sales contracts, title retention debt instruments or other similar instruments, upon which interest charges are customarily paid or that are issued or assumed as full or partial payment for property or services rendered; (c) Capitalized Lease Obligations of such Person; (d) all reimbursement obligations (contingent or otherwise) of such Person in respect of any letter of credit or acceptance (whether or not the same have been presented for payment); (e) all Off-Balance Sheet Obligations of such Person; (f) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Mandatorily Redeemable Stock issued by such Person or any other Person, valued at the greater of its voluntary or involuntary liquidation preference *plus* accrued and unpaid dividends; (g) all obligations of such Person in respect of any purchase obligation, repurchase obligation, takeout commitment or forward equity commitment, in each case evidenced by a binding agreement (excluding any such obligation to the extent the obligation can be satisfied by the

issuance of Equity Interests (other than Mandatorily Redeemable Stock)); (h) net obligations under any Derivatives Contract not entered into as a hedge against existing Indebtedness, in an amount equal to the Derivatives Termination Value thereof; (i) all Indebtedness of other Persons which such Person has Guaranteed or is otherwise recourse to such Person (except for guaranties of customary exceptions for fraud, misapplication of funds, environmental indemnities and other exceptions to nonrecourse liability customarily excluded by institutional lenders from exculpation provisions or included in separate indemnification agreements); and (j) all Indebtedness of another Person secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property or assets owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness or other payment obligation. Indebtedness of any Person shall include Indebtedness of any partnership or joint venture in which such Person is a general partner or joint venturer to the extent of such Person's *pro rata* share of the ownership of such partnership or joint venture (except if such Indebtedness, or portion thereof, is recourse to such Person, in which case the greater of such Person's *pro rata* portion of such Indebtedness or the amount of the recourse portion of the Indebtedness, shall be included as Indebtedness of such Person). All Loans shall constitute Indebtedness of the Borrower. In no event, however, shall Indebtedness be deemed to include intercompany Indebtedness that is eliminated upon consolidation in accordance with GAAP.

"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 the Borrower under any Loan Document and (b) to the extent not otherwise described in **clause (a)**, *Other Taxes*.

"Information Materials" has the meaning given that term in **Section 8.6**.

"Intellectual Property" has the meaning given that term in **Section 6.1(s)**.

"Interest Expense" means, with respect to a Person and for any period, without duplication, total interest expense of such Person, including capitalized interest not funded under a construction loan interest reserve account, for such period, and excluding any non-cash portion of interest expense attributable to convertible debt under FASB Accounting Standards Codification 470-20 for such period and other non-cash components of interest expense for such period (including, but not limited to, the amortization of financing costs and debt premiums).

"Interest Payment Date" means, (a) as to any Daily SOFR Rate Loan or Base Rate Loan, the fifth (5th) day of each calendar month (or if the fifth (5th) day of any calendar month is not a Business Day, then on the next succeeding Business Day) and the Termination Date; and (b) as to any Term SOFR Rate Loan, the last day of each Interest Period applicable to such Term SOFR Loan and the Termination Date.

"Interest Period" means, as to each Term SOFR Rate Loan, the period commencing on the date such Term SOFR Rate Loan is disbursed or converted to or continued as a Term SOFR Rate Loan and ending on the date one or three months thereafter (in each case, subject to availability), as selected by the Borrower in a Loan Notice; provided that:

(a) 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 such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period 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

(c) no Interest Period shall extend beyond the Termination Date.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

“Investment” means, with respect to any Person, any acquisition or investment (whether or not of a controlling interest) by such Person, by means of any of the following: (a) the purchase or other acquisition of any Equity Interest in another Person, (b) a loan, advance or extension of credit to, capital contribution to, Guaranty of Indebtedness of, or purchase or other acquisition of any Indebtedness of, another Person, including any partnership or joint venture interest in 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 the business or a division or operating unit of another Person. Any binding commitment to make an Investment in any other Person, as well as any option of another Person to require an Investment in such Person, shall constitute an Investment. Except as expressly provided otherwise, for purposes of determining compliance with any covenant contained in a Loan Document, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Lender” means each financial institution from time to time party hereto as a “Lender”, together with its respective successors and permitted assigns.

“Lender-Related Person” has the meaning given that term in **Section 12.16(a)**.

“Lending Office” means, for each Lender and for each Type of Loan, the office of such Lender specified as such in such Lender’s Administrative Details Form, or such other office of such Lender of which such Lender may notify the Agent in writing from time to time.

“Level” has the meaning given that term in the definition of the term **“Applicable Margin.”**

“Lien” as applied to the property of any Person means: (a) any security interest, encumbrance, mortgage, deed to secure debt, deed of trust, assignment of leases and rents, pledge, lien, charge or lease constituting a Capitalized Lease Obligation, conditional sale or other title retention agreement, or other security title or encumbrance of any kind in respect of any property of such Person, or upon the income, rents or profits therefrom; (b) any arrangement, express or implied, under which any property of such Person is transferred, sequestered or otherwise identified for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to the payment of the general, unsecured creditors of such Person; (c) the filing of any financing statement under the Uniform Commercial Code or its equivalent in any jurisdiction, other than any precautionary filing not otherwise constituting or giving rise to a Lien, including a financing statement filed (i) in respect of a lease not constituting a Capitalized Lease Obligation pursuant to **Section 9-505** (or a successor provision) of the Uniform Commercial Code or its equivalent as in effect in an applicable jurisdiction or (ii) in connection with a sale or other disposition of accounts or other assets not prohibited by this Agreement in a transaction not otherwise constituting or giving rise to a Lien; and (d) any agreement by such Person to grant, give or otherwise convey any of the foregoing.

“Loan” has the meaning given that term in **Section 2.1**.

“Loan Document” means this Agreement, each Note, the Facility Guaranty and each other document or instrument (other than a Derivatives Contract) now or hereafter executed and delivered by a Loan Party in connection with, pursuant to or relating to this Agreement.

“Loan Party” means each of the Borrower, the Parent and each other Person who guarantees all or a portion of the Obligations and/or who pledges any collateral security to secure all or a portion of the Obligations. **Schedule 1.1(A)** sets forth the Loan Parties in addition to the Parent and the Borrower as of the Effective Date.

“Loan Notice” means a notice of (a) an advance of Loans, (b) a conversion of any Loans from one Type to the other, or (c) a continuation of Term SOFR Rate Loans, which shall be substantially in the form of **Exhibit B** or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), appropriately completed and signed or otherwise authenticated by a Responsible Officer of the Borrower.

“Mandatorily Redeemable Stock” means, with respect to any Person, any Equity Interest of such Person which by the terms of such Equity Interest (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable), upon the happening of any event or otherwise, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than an Equity Interest to the extent redeemable in exchange for common stock or other equivalent common Equity Interests so long as such Equity Interest is not redeemable at the option of the holder thereof), (b) is convertible into or exchangeable or exercisable for Indebtedness or Mandatorily Redeemable Stock, or (c) is redeemable at the option of the holder thereof, in whole or in part (other than an Equity Interest which is redeemable solely in exchange for common stock or other equivalent common Equity Interests), in each case on or prior to the date on which all Loans are scheduled to be due and payable in full.

“Material Adverse Effect” means a materially adverse effect on (a) the business, assets, liabilities, financial condition, or results of operations of the Parent and its Subsidiaries taken as a whole, (b) the ability of (i) the Parent, (ii) the Borrower or (iii) the Parent, the Borrower and the other Loan Parties, taken as a whole, to perform its or their respective obligations (including without limitation all payment obligations) under any Loan Document to which it is a party, (c) the validity or enforceability of any of the Loan Documents, or (d) the rights and remedies of the Lenders and the Agent under any of the Loan Documents.

“Material Contract” means any contract or other arrangement (other than Loan Documents), whether written or oral, to which the Parent, the Borrower, any Subsidiary or any other Loan Party is a party as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“Maximum Increase Amount” has the meaning given that term in **Section 2.16**.

“Moody’s” means Moody’s Investors Service, Inc., and its successors.

“Mortgage” means a mortgage, deed of trust, deed to secure debt or similar security instrument made by a Person owning an interest in real property granting a Lien on such interest in real property as security for the payment of Indebtedness of such Person or another Person.

“Mortgage Receivable” means a promissory note secured by a Mortgage of which the Parent, the Borrower or one of their respective Subsidiaries is the holder and retains the rights of collection of all payments thereunder.

“Multiemployer Plan” means at any time a multiemployer plan within the meaning of **Section 4001(a)(3)** of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions, including for these purposes any Person which ceased to be a member of the ERISA Group during such five year period.

“Negative Pledge” means, with respect to a given asset, any provision of a document, instrument or agreement (other than any Loan Document) which prohibits or purports to prohibit the creation or assumption of any Lien on such asset as security for Indebtedness of the Person owning such asset or any other Person; provided, however, that an agreement that conditions a Person’s ability to encumber its assets upon the maintenance of one or more specified ratios that limit such Person’s ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, shall not constitute a Negative Pledge.

“Net Cash Proceeds” means with respect to any sale or disposition by the Borrower or any Subsidiary of any Property, the excess, if any, of (a) the sum of cash and Cash Equivalents received in connection with such transaction (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (b) the sum of (i) the principal amount of any Indebtedness that is secured by the applicable asset and that is required to be repaid in connection with such transaction, including any accrued interest, repayment fees or charges due in connection with such repayment (other than Indebtedness under the Loan Documents), (ii) the reasonable and customary out-of-pocket expenses incurred by the Borrower or such Consolidated Subsidiary in connection with such transaction and (iii) income taxes reasonably estimated to be actually payable within two (2) years of the date of the relevant transaction as a result of any gain recognized in connection therewith; *provided* that, if the amount of any estimated taxes pursuant to **subclause (iii)** exceeds the amount of taxes actually required to be paid in cash in respect of such disposition, the aggregate amount of such excess shall constitute Net Cash Proceeds.

“Net Operating Income” or **“NOI”** means, for any Property and for a given period, the sum of the following (without duplication and determined on a consistent basis with prior periods): (a) rents and other revenues received in the ordinary course from such Property (including proceeds of rent loss or business interruption insurance but excluding pre-paid rents and revenues and security deposits except to the extent applied in satisfaction of tenants’ obligations for rent) *minus* (b) all expenses paid (excluding acquisition costs for such Property and interest, but including an appropriate accrual for property taxes and insurance) related to the ownership, operation or maintenance of such Property, including but not limited to property taxes, assessments and the like, insurance, utilities, payroll costs, maintenance, repair and landscaping expenses, marketing expenses, and general and administrative expenses (including an appropriate allocation for legal, accounting, advertising, marketing and other expenses incurred in connection with such Property, but specifically excluding general overhead expenses of the Parent or any Consolidated Subsidiary and any property management fees) *minus* (c) the Capital Reserves for such Property as of the end of such period *minus* (d) the greater of (i) the actual property management fee paid during such period and (ii) an imputed management fee in the amount of two percent (2%) of the gross revenues for such Property for such period. Notwithstanding the foregoing and for the avoidance of doubt, for purposes of calculating the value of a Property under the definitions of Total Asset Value and Unencumbered Asset Value, the value of rents under leases included in Net Operating Income shall include the effects of *“straight-line rent accounting”*.

“Nonrecourse Indebtedness” means, with respect to a Person, (a) Indebtedness for borrowed money in respect of which recourse for payment (except for exceptions for fraud, misapplication of funds, environmental indemnities, and other exceptions to nonrecourse liability customarily excluded by institutional lenders from exculpation provisions or included in separate indemnification agreements) is contractually limited to specific assets of a Person or Persons encumbered by a Lien securing such Indebtedness and (b) Indebtedness of a Subsidiary so long as there is no recourse to the Parent, Borrower, any Guarantor or any Subsidiary that owns or leases an Eligible Property other than recourse in respect of guaranties of customary exceptions for fraud, misapplication of funds, environmental indemnities, and other exceptions to nonrecourse liability customarily excluded by institutional lenders from exculpation provisions or included in separate indemnification agreements.

“**Note**” means a Term Note.

“**Notice of Loan Prepayment**” means a notice of an optional prepayment with respect to a Loan, which shall be substantially in the form of **Exhibit C** or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), appropriately completed and signed by a Responsible Officer.

“**Obligations**” means, individually and collectively: (a) the aggregate principal balance of, and all accrued and unpaid interest on, all Loans; and (b) all other indebtedness, liabilities, obligations, covenants and duties of the Borrower and the other Loan Parties owing to the Agent or any Lender of every kind, nature and description, under or in respect of this Agreement or any of the other Loan Documents, including, without limitation, the Fees and indemnification obligations, whether direct or indirect, absolute or contingent, due or not due, contractual or tortious, liquidated or unliquidated, and whether or not evidenced by any promissory note.

“**Occupancy Rate**” means, with respect to a Property at any time, the ratio, expressed as a percentage, of (a) the net rentable square footage of such Property (i) physically occupied by Affiliated tenants in connection with the management and operation of the Borrower’s business and assets, or (ii) actually occupied by non-Affiliated tenants paying rent at rates not materially less than rates generally prevailing at the time the applicable lease was entered into, pursuant to binding leases as to which no monetary default has occurred and has continued unremedied for 90 or more days to (b) the aggregate net rentable square footage of such Property. For purposes of the definition of “**Occupancy Rate**”, a tenant shall be deemed to actually occupy a Property notwithstanding a temporary cessation of operations for renovation, repairs or other temporary reason, or for the purpose of completing tenant build-out or that is otherwise scheduled to be open for business within 90 days after the date of such determination.

“**OFAC**” means U.S. Department of the Treasury’s Office of Foreign Assets Control and any successor Governmental Authority.

“**Off-Balance Sheet Obligations**” means liabilities and obligations of a Person on a non-consolidated basis in respect of “*off-balance sheet arrangements*” (as defined in *Item 303(a)(4)(ii)* of Regulation S-K promulgated under the Securities Act) including such liabilities and obligations which such Person would be required to disclose in the “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*” section of its report on Form 10-Q or Form 10-K (or their equivalents) if such Person were required to file the same with the Securities and Exchange Commission (or any Governmental Authority substituted therefor).

“**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 solely 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 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 an assignment request by Borrower under **Section 4.5**).

“**Parent**” has the meaning set forth in the introductory paragraph hereof and shall include the Parent’s successors and assigns.

“**Parent’s Share**” means the Parent’s *pro rata* share of the liabilities or assets, as the case may be, of an Unconsolidated Affiliate or Consolidated Subsidiary as reasonably determined by the Parent based upon the Parent’s economic interest in such Unconsolidated Affiliate or Consolidated Subsidiary, as the case may be, as of the date of such determination; provided, that the Parent’s Share of the Borrower shall be deemed to be 100%.

“**Partially-Owned Entity**” means any Subsidiary of the Borrower (other than a Wholly Owned Subsidiary) or Unconsolidated Affiliate of the Borrower wherein the Borrower or a Wholly Owned Subsidiary has control, in such Subsidiary’s or Unconsolidated Affiliate’s constituent documents, to cause or prevent sales, refinancings or other dispositions of such Subsidiary’s or Unconsolidated Affiliate’s Properties or to trigger “**buy/sale**” rights in connection therewith.

“**Participant**” has the meaning given that term in **Section 12.5(d)**.

“**Participant Register**” has the meaning given that term in **Section 12.5(d)**.

“**PBGC**” means the Pension Benefit Guaranty Corporation and any successor agency.

“**Permitted Liens**” means, as to any Person: (a) Liens securing taxes, assessments and other charges or levies imposed by any Governmental Authority (excluding any Lien imposed pursuant to any of the provisions of ERISA or pursuant to any Environmental Laws) or the claims of materialmen, mechanics, carriers, warehousemen or landlords for labor, materials, supplies or rentals incurred in the ordinary course of business, which are not at the time required to be paid or discharged under **Section 7.6**; (b) Liens consisting of deposits or pledges made, in the ordinary course of business, in connection with, or to secure payment of, obligations under workers’ compensation, unemployment insurance or similar Applicable Laws; (c) Liens consisting of encumbrances in the nature of zoning restrictions, easements, and rights or restrictions of record on the use of real property, which do not materially detract from the value of such property or materially impair the intended use thereof in the business of such Person; (d) the rights of tenants under leases or subleases not interfering with the ordinary conduct of business of such Person; (e) Liens in favor of the Agent for the benefit of the Lenders; (f) Liens in favor of the Borrower or a Guarantor securing obligations owing by a Subsidiary to the Borrower or a Guarantor and (g) Liens in existence as of the Effective Date and set forth in **Part II of Schedule 6.1(j)**.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other business entity, or a government or any agency or political subdivision thereof.

“**Plan**” means at any time an employee pension benefit plan (other than a Multiemployer Plan) which is covered by *Title IV* of ERISA or subject to the minimum funding standards under *Section 412* of the Internal Revenue Code and either (a) is maintained, or contributed to, by any member of the ERISA Group for employees of any member of the ERISA Group or (b) has at any time within the preceding five years been maintained, or contributed to, by any Person which was at such time a member of the ERISA Group for employees of any Person which was at such time a member of the ERISA Group.

“**Platform**” has the meaning given to that term in **Section 8.5(a)**.

“Post-Default Rate” means an interest rate equal to (a) the Base Rate plus (b) the Applicable Margin, if any, for Base Rate Loans outstanding under any applicable Facility, plus (c) 2% per annum; provided, however, that, with respect to a Term SOFR Rate Loan, the Post-Default Rate shall be an interest rate equal to the interest rate (including any Applicable Margin for any applicable facility) otherwise applicable to such Loan outstanding under any applicable facility, plus 2% per annum, in all cases to the fullest extent permitted by Applicable Laws.

“Preferred Dividends” means, with respect to a Person and for any period and without duplication, all Restricted Payments paid during such period on Preferred Equity Interests issued by such Person. Preferred Dividends shall not include dividends or distributions (a) paid or payable solely in Equity Interests (other than Mandatorily Redeemable Stock) payable to holders of such class of Equity Interests, (b) paid or payable to such Person or its Consolidated Subsidiaries, or (c) constituting or resulting in the redemption of Preferred Equity Interests, other than scheduled redemptions not constituting balloon, bullet or similar redemptions in full.

“Preferred Equity Interests” means, with respect to any Person, Equity Interests in such Person which are entitled to preference or priority over any other Equity Interest in such Person in respect of the payment of dividends or distribution of assets upon liquidation or both.

“Property” means any parcel of real property owned or leased (in whole or in part) or operated by the Parent, the Borrower, any Consolidated Subsidiary or any Unconsolidated Affiliate of the Parent and which is located in a state of the United States of America or the District of Columbia.

“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 given that term in **Section 8.6**.

“QFC” has the meaning given that term in **Section 12.20**.

“Qualified Institution” means a bank, finance company, insurance company or other financial institution which, at the time of determination, (a) has (or, in the case of a bank which is a subsidiary, such bank’s parent has) a rating of its senior debt obligations of not less than Baa 1 by Moody’s or a comparable rating by a rating agency acceptable to the Agent and (b) has total assets in excess of \$5,000,000,000.

“Rating Agencies” means S&P and Moody’s.

“Recipient” means (a) the Agent and (b) any Lender and (c) any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“Register” has the meaning given that term in **Section 12.5(c)**.

“Regulatory Change” means, with respect to any Lender, any change effective after the Effective Date in Applicable Law (including without limitation, Regulation D of the Board of Governors of the Federal Reserve System) or treaty or the adoption or making after such date of any change in an interpretation, guideline, directive or request applying to a class of banks, including such Lender, of or under any Applicable Law or treaty (whether or not having the force of law and whether or not failure to comply therewith would be unlawful) by any Governmental Authority, central bank, monetary authority or comparable agency charged with the interpretation, promulgation, implementation or administration thereof or compliance after such date by any Lender with any rule, regulation, guideline, request or directive regarding capital adequacy, capital or liquidity requirements. Notwithstanding anything herein to the contrary, (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether

or not having the force of law and whether or not failure to comply therewith would be unlawful) and (b) all requests, rules, regulations, guidelines, interpretations 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 (whether or not having the force of law and whether or not failure to comply therewith would be unlawful), in each case pursuant to Basel III, shall in each case be deemed to be a “*Regulatory Change*”, regardless of the date enacted, adopted, promulgated, implemented or issued.

“*REIT*” means a Person qualifying for treatment as a “*real estate investment trust*” under the Internal Revenue 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.

“*Removal Effective Date*” has the meaning given that term in *Section 11.6*.

“*Requisite Lenders*” means, as of any date, at least two Lenders (unless there is only one Lender at such time) having more than 50% of the sum of the aggregate outstanding principal amount of the Loans not held by Defaulting Lenders who are not entitled to vote. Loans held by Defaulting Lenders shall be disregarded when determining the Requisite Lenders.

“*Rescindable Amount*” has the meaning given that term in *Section 3.1(a)(ii)*.

“*Resignation Effective Date*” has the meaning given that term in *Section 11.6*.

“*Resolution Authority*” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“*Responsible Officer*” means the chief accounting officer, executive vice president, chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party, and solely for purposes of the delivery of incumbency certificates pursuant to *Section 5.1*, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to *Article II*, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Agent. 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 and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“*Restricted Payment*” means: (a) any dividend or other distribution, direct or indirect, on account of any Equity Interest of the Parent or any Subsidiary now or hereafter outstanding, except a dividend payable solely in Equity Interests of an identical or junior class to the holders of that class; (b) any redemption, conversion, exchange, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Equity Interest of the Parent or any Subsidiary now or hereafter outstanding; and (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire any Equity Interests of the Parent or any Subsidiary now or hereafter outstanding.

“Sanction(s)” means any sanctions or trade embargoes or restrictions administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, His Majesty’s Treasury (**“HMT”**) or other relevant sanctions authority.

“Secured Indebtedness” means, with respect to a Person as of any given date, the aggregate principal amount of all Indebtedness of such Person outstanding at such date and that is secured in any manner by any Lien, and, in the case of the Parent, shall include (without duplication) the Parent’s Share of the Secured Indebtedness of its Consolidated Subsidiaries and Unconsolidated Affiliates.

“Securities Act” means the Securities Act of 1933, as amended from time to time, together with all rules and regulations issued thereunder.

“Significant Subsidiary” means any Subsidiary to which more than 10% of Total Asset Value is attributable.

“SOFR” means the Secured Overnight Financing Rate as administered by the SOFR Administrator.

“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.

“Solvent” means, when used with respect to any Person, that (a) the fair salable value of its assets (excluding any Indebtedness due from any Affiliate of such Person unless such Affiliate is itself Solvent) are each in excess of the fair valuation of its total liabilities (including all contingent liabilities computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that could reasonably be expected to become an actual and matured liability); (b) such Person is able to pay its debts or other obligations in the ordinary course as they mature; and (c) such Person has capital not unreasonably small to carry on its business and all business in which it proposes to be engaged.

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of S&P Global Inc., and its successors.

“Stabilized Property” means a Property that is not an Acquisition Property, a Development Property or a Transition Property.

“Subsidiary” means, for any Person, any corporation, partnership or other entity of which at least a majority of the Equity Interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other individuals performing similar functions of such corporation, partnership or other entity (without regard to the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, and, for the Parent or the Borrower, shall include all Persons which are required to be consolidated with the Parent or the Borrower in accordance with GAAP.

“Syndication Agents” means the financial institutions listed as **“Syndication Agents”** on the cover page to this Agreement.

“**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.

“**Termination Date**” means January 31, 2024, or, if the Termination Date is extended pursuant to **Section 2.13**, the Extended Termination Date.

“**Term SOFR**” means:

(a) for any Interest Period with respect to a Term SOFR Rate Loan, the rate per annum equal to the Term SOFR Screen Rate two (2) 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 the Term SOFR determined in accordance with either of the foregoing **clauses (a) or (b)** of this definition would otherwise be less than zero (0), Term SOFR shall be deemed zero (0) for purposes of this Agreement.

“**Term SOFR Screen Rate**” means the forward-looking SOFR term rate administered by CME (or any successor administrator satisfactory to the Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time).

“**Term SOFR Rate Loan**” means a Loan made hereunder with respect to which the interest rate is calculated by reference to Term SOFR (other than a Loan for which **clause (c)** of the definition of Base Rate is used to determine Base Rate).

“**Term SOFR Replacement Date**” has the meaning given that term in **Section 4.2**.

“**Titled Agents**” means each of the Co-Lead Arrangers, the Bookrunners and the Syndication Agents and their respective successors and permitted assigns.

“**Total Asset Value**” means the sum of all of the following of the Parent and the Parent’s Share of the following (excluding, with respect to Unconsolidated Affiliates, assets of the type described in the following **clause (a)** with respect to Consolidated Subsidiaries and Unconsolidated Affiliates: (a) cash, cash equivalents and marketable securities (including cash held in escrow in connection with the completion of Internal Revenue Code *Section 1031* “like-kind” exchanges, but excluding security deposits); provided that no such cash and cash equivalents will be added to Total Asset Value to the extent unrestricted cash and cash equivalents (in an amount equal to the lesser of (x) the amount of unrestricted cash and cash equivalents in excess of \$30,000,000 and (y) the amount of Total Indebtedness or Secured Indebtedness, as applicable, that matures within twenty-four (24) months) have been deducted from Total Indebtedness or Secured Indebtedness in the calculation of the financial covenants, *plus* (b) with respect to each Stabilized Property owned by the Borrower or any Consolidated Subsidiary, the quotient of (i) Net Operating Income attributable to such Property for the fiscal quarter most recently ended times 4, divided by (ii) the applicable Capitalization Rate, *plus* (c) with respect to each Acquisition Property, each Development Property and each Transition Property, the greater of (i) the undepreciated GAAP book value (after taking into account

any impairments) of such Property or (ii) the quotient of (A) Net Operating Income attributable to such Property for the fiscal quarter most recently ended times 4, divided by (B) the applicable Capitalization Rate, plus (d) the GAAP book value (after taking into account any impairments) of Unimproved Land, Mortgage Receivables and other promissory notes, plus (e) the quotient of (i) the management fee income of the Borrower and its Subsidiaries for the fiscal quarter most recently ended times 4, divided by (ii) 15%, plus (f) the undepreciated GAAP book value (after taking into account any impairments) of other tangible assets. For purposes of determining Total Asset Value, (A) Net Operating Income from Properties disposed of by the Borrower or any Consolidated Subsidiary during the immediately preceding fiscal quarter of the Parent (and, if determining Total Asset Value other than at the end of a fiscal quarter, disposed of by the Borrower or a Consolidated Subsidiary during the current fiscal quarter of the Parent) shall be excluded, (B) if determining Total Asset Value other than at the end of a fiscal quarter, the value of any Stabilized Property acquired during the current fiscal quarter shall be determined in accordance with *clause (c)(i)* above and (C) if any Property being valued by reference to its Net Operating Income has negative Net Operating Income, the value of such Property shall be deemed to be zero. In no event, however, shall Total Asset Value be deemed to include intercompany loan assets that are eliminated upon consolidation in accordance with GAAP.

For purposes of this definition, to the extent the aggregate Total Asset Value attributable to (1) Development Properties, (2) Transition Properties, (3) Unimproved Land, (4) Mortgage Receivables and other promissory notes and (5) Investments in (x) general and limited partnerships, joint ventures, other Persons which investments are accounted for on an equity basis in accordance with GAAP and (y) Persons that are not Subsidiaries would exceed 35% of the Total Asset Value, such excess shall be excluded.

“Total Indebtedness” means all Indebtedness of the Parent plus the Parent’s Share of all Indebtedness of all Consolidated Subsidiaries and Unconsolidated Affiliates.

“Total Leverage Ratio” has the meaning given that term in *Section 9.1(a)*.

“Transition Property” means, as of any date of determination, a completed Property that (x) is not an Acquisition Property or a Development Property, and was not an Acquisition Property or a Development Property in the fiscal quarter immediately prior to such date of determination, (y) had previously achieved an Occupancy Rate of at least 80%, and (z) has ceased to have an Occupancy Rate of at least 80%. A Property shall be treated as a Transition Property until the earlier of (i) such Property achieving an Occupancy Rate of at least 80% after the Effective Date, if such Property was a Transition Property on the Effective Date, or after the date on which such Property most recently became a Transition Property, if such Property became or again becomes a Transition Property after the Effective Date, or (ii) the end of the eighth (8th) complete fiscal quarter after the Effective Date or such later date on which such Property most recently became a Transition Property.

“Type” means, with respect to a Loan, its character as a Base Rate Loan, Term SOFR Rate Loan or Daily SOFR Rate Loan.

“UK Financial Institutions” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within 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, with respect to any Person, any other Person in whom such Person holds an Investment, which Investment is accounted for in the financial statements of such Person on an equity basis of accounting and whose financial results would not be consolidated under GAAP with the financial results of such Person on the consolidated financial statements of such Person.

“**Unencumbered Asset Value**” means the sum of all of the following of the Parent and the Parent’s Share of the following (excluding assets of the type described in the following **clauses (a), (e) and (f)** owned by any Partially-Owned Entity) with respect to Wholly Owned Subsidiaries and Partially-Owned Entities: (a) unrestricted cash, cash equivalents and marketable securities (including cash held in escrow in connection with the completion of Internal Revenue Code *Section 1031* “like-kind” exchanges, but excluding security deposits), (b) the Unencumbered NOI (excluding NOI attributable to Acquisition Properties, Development Properties and Transition Properties) for the fiscal quarter most recently ended times 4 divided by the applicable Capitalization Rate, *plus* (c) with respect to Eligible Properties that are Acquisition Properties or Transition Properties, the greater of (i) the undepreciated GAAP book value (after taking into account any impairments) of such Property or (ii) the value of such Property as calculated in accordance with **clause (b)** hereof without regard to the parenthetical therein, *plus* (d) with respect to Development Properties owned by the Borrower, any Subsidiary and/or any Partially-Owned Entity that meet the requirements of **clauses (b) through (d)**, (e) (with respect to title defects and environmental conditions only), **(f) and (g)** of the definition of “*Eligible Property*”, the greater of (1) the undepreciated GAAP book value (after taking into account any impairments) of such Property or (2) the value of such Property as calculated in accordance with **clause (b)** hereof without regard to the parenthetical therein, *plus* (e) with respect to any Unimproved Land and any Mortgage Receivables secured by a first-priority Mortgage that are owned by the Borrower and/or any Subsidiary and that meet the requirements of **clauses (c), (d), (f) and (g)** of the definition of “*Eligible Property*”, the GAAP book value (after taking into account any impairments) of such Unimproved Land and Mortgage Receivables, *plus* (f) with respect to any other promissory notes that consist of Mortgage Receivables secured by Mortgages that are not a first-priority Mortgage or promissory notes secured by a pledge of direct or indirect equity interests in a real property-owning entity (each a “*mezzanine loan*”), that are owned by the Borrower and/or any Subsidiary and that meet the requirements of **clauses (c), (d), (f) and (g)** of the definition of “*Eligible Property*”, the GAAP book value (after taking into account any impairments) of such promissory note (excluding the portion of the GAAP book value of any promissory note which exceeds 75% of the value of the collateral securing the loan evidenced by such note, where the value of such collateral is determined as follows: (i) if, as of the date of determination, the promissory note was created either during the current fiscal year of the obligor under the mortgage loan that is senior to such promissory note or during the most recently completed fiscal year of such obligor and prior to the delivery of financial information of such obligor for such fiscal year to the Borrower, the value determined by the Borrower in good faith at the time such promissory note was created, and otherwise (ii)(A) the NOI of the real property securing such senior mortgage loan for the most recently completed fiscal year of such obligor for which the financial information of such obligor has been reported to the Borrower as determined by the Borrower in good faith divided by the Capitalization Rate applicable to such real property, less (B) the principal balance of such senior mortgage loan and any other mezzanine loan that is senior to such promissory note). For purposes of this definition, (A) to the extent the Unencumbered Asset Value attributable to Development Properties, Transition Properties (other than the Excluded Properties), Properties owned or leased by Partially-Owned Entities, Mortgage Receivables, other promissory notes and Unimproved Land would exceed 20% of the Unencumbered Asset Value, such excess shall be excluded, (B) if determining Unencumbered Asset Value other than at the end of a fiscal quarter, the value of any Property acquired during the current fiscal quarter shall be determined in accordance with **clause (c)(i)** above and (C) if any Property being valued by reference to its NOI has negative NOI, the value of such Property shall be deemed to be zero. In no event, however, shall Unencumbered Asset Value be deemed to include intercompany loan assets that are eliminated upon consolidation in accordance with GAAP.

“Unencumbered NOI” means, for any period, NOI from all Eligible Properties owned by the Parent *plus* the Parent’s Share of NOI from all Eligible Properties owned by a Subsidiary or a Partially-Owned Entity.

“Unfunded Liabilities” means, with respect to any Plan at any time, the amount (if any) by which (a) the value of all benefit liabilities under such Plan, determined on a plan termination basis using the assumptions prescribed by the PBGC for purposes of *Section 4044* of ERISA, exceeds (b) the fair market value of all Plan assets allocable to such liabilities under *Title IV* of ERISA (excluding any accrued but unpaid contributions), all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the ERISA Group to the PBGC or any other Person under *Title IV* of ERISA.

“Unimproved Land” means land on which no development (other than improvements that are not material and are temporary in nature) has occurred and for which no development is scheduled in the following 12 months.

“United States” means the United States of America.

“Unsecured Indebtedness” means Indebtedness which is not Secured Indebtedness.

“Unsecured Interest Expense” means, for a given period, all Interest Expense of the Parent attributable to Unsecured Indebtedness of the Parent for such period *plus* the Parent’s Share of all Interest Expense of Subsidiaries (and, to the extent that Unencumbered NOI includes NOI with respect to a Property owned in whole or part by an Unconsolidated Affiliate, the Parent’s Share of all Interest Expense of such Unconsolidated Affiliate) attributable to Unsecured Indebtedness of such Subsidiaries (and, if applicable an Unconsolidated Affiliate) for such period.

“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. 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 given that term in *Section 3.11(g)(ii)(B)*.

“Wholly Owned Subsidiary” means any Subsidiary of a Person in respect of which all of the equity securities or other ownership interests (other than, in the case of a corporation, directors’ qualifying shares) are at the time directly or indirectly owned or controlled by such Person or one or more other Wholly Owned Subsidiaries of such Person or by such Person and one or more other Wholly Owned Subsidiaries of such Person.

“Withholding Agent” means the Borrower and the Agent.

“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.

1.2 General; References to Times. Unless otherwise indicated, all accounting terms, ratios and measurements shall be interpreted or determined in accordance with GAAP as in effect from time to time; *provided* that, 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 Requisite Lenders shall so request, the 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 Requisite Lenders); *provided further* that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Parent and the Borrower shall provide to the 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. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “*fair value*”, as defined therein, so that such Indebtedness and other liabilities will be valued at the historical cost basis, which generally is the contractual amount owed adjusted for amortization or accretion of any premium or discount, and (ii) in a manner such that any obligations relating to a lease that was accounted for by a Person as an operating lease as of the Effective Date and any similar lease entered into after the Effective Date by such Person shall be accounted for as obligations relating to an operating lease and not as Capital Lease Obligations.

References in this Agreement to “*Sections*”, “*Articles*”, “*Exhibits*” and “*Schedules*” are to sections, articles, exhibits and schedules herein and hereto unless otherwise indicated. References in this Agreement to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, to the extent permitted hereby and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, supplemented, restated or otherwise modified as of the date of this Agreement and from time to time thereafter to the extent not prohibited hereby and in effect at any given time. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter. Unless explicitly set forth to the contrary, a reference to “*Subsidiary*” means a Subsidiary of the Parent or a Subsidiary of such Subsidiary, a reference to “*Consolidated Subsidiary*” means a Consolidated Subsidiary of the Parent or a Consolidated Subsidiary of such Consolidated Subsidiary and a reference to an “*Affiliate*” means a reference to an Affiliate of the Borrower. Titles and captions of Articles, Sections, subsections and clauses in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement. Unless otherwise indicated, all references to time are references to New York, New York time.

1.3 Financial Attributes of Non-Wholly Owned Subsidiaries. Notwithstanding anything to the contrary contained herein, when determining the Parent’s compliance with any financial covenant contained in any of the Loan Documents, only the Parent’s Share of an Unconsolidated Affiliate or a Consolidated Subsidiary shall be included.

1.4 Interest Rates. The Agent does not warrant, nor accept responsibility, nor shall the 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 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 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.

1.5 [Reserved].

1.6 Divisions. Any reference herein to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

II. FACILITY.

2.1 Loans.

(a) **Generally.** Subject to the terms and conditions hereof, on the Effective Date each Lender severally agrees to make a single loan in Dollars to the Borrower (each a "**Loan**" and collectively the "**Loans**") in an aggregate principal amount of \$215,000,000 (each such Lender's Loan not to exceed the amount of such Lender's Commitment). The Loans are not revolving, and any amount repaid or prepaid may not be reborrowed. The Loan may be Term SOFR Rate Loans, Daily SOFR Rate Loans, or Base Rate Loans, as further provided herein.

(b) **Requesting Loans.** The Borrower shall give the Agent notice pursuant to a Loan Notice of the borrowing of Loans on the Effective Date. Such Loan Notice shall be delivered to the Agent before 11:00 a.m. (i) in the case of Term SOFR Rate Loans, on the date three Business Days prior to the proposed date of such borrowing and (ii) in the case of Base Rate Loans or Daily SOFR Rate Loans, on the Business Day of such borrowing. The Agent will transmit by telecopy the Loan Notice (or the information contained in such Loan Notice) to each Lender promptly upon receipt by the Agent. Each Loan Notice of each borrowing shall be irrevocable once given and binding on the Borrower.

(c) **Disbursements of Loan Proceeds.** No later than 1:00 p.m. on the Effective Date, each Lender will make available for the account of its applicable Lending Office to the Agent at the Agent's Office, in immediately available funds, the proceeds of the Loan to be made by such Lender. The Agent may assume that such Lender will make the proceeds of such Loan available to the Agent on the Effective Date and the Agent may (but shall not be obligated to), in reliance upon such assumption, make available to the Borrower the amount of such Loan to be provided by such Lender. Subject to satisfaction of the applicable conditions set forth in **Article V** for such borrowing, the Agent will make the proceeds of such borrowing so received from the Lenders available to the Borrower on the Effective Date.

2.2 **[Reserved].**

2.3 **[Reserved].**

2.4 **[Reserved].**

2.5 Rates and Payment of Interest on Loans.

(a) **Rates.** The Borrower promises to pay to the Agent for the account of each Lender interest on the unpaid principal amount of each Loan made by such Lender for the period from and including the date of the making of such Loan to but excluding the date such Loan shall be paid in full, at the following *per annum* rates:

(i) during such periods as such Loan is a Base Rate Loan, at a rate per annum equal to Base Rate *plus* the Applicable Margin;

(ii) during such periods as such Loan is a Term SOFR Rate Loan, at a rate per annum equal to Term SOFR for such Loan for the Interest Period therefor *plus* the Applicable Margin; and

(iii) during such periods as such Loan is a Daily SOFR Rate Loan, at a rate per annum equal to Daily Simple SOFR for such Loan *plus* the Applicable Margin.

Notwithstanding the foregoing, while an Event of Default exists, the Borrower shall pay to the Agent for the account of each Lender interest at the Post-Default Rate on the outstanding principal amount of any Loan made by such Lender and on any other amount payable by the Borrower hereunder or under the Notes held by such Lender to or for the account of such Lender (including without limitation, accrued but unpaid interest to the extent permitted under Applicable Law).

(b) **Payment of Interest.** Accrued and unpaid interest on each Loan shall be payable on each Interest Payment Date 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.

2.6 **Number of Interest Periods.** There may be no more than eight (8) different Interest Periods for Term SOFR Rate Loans outstanding at the same time.

2.7 **Repayment of Loans.** The Borrower shall repay the entire outstanding principal amount of, and all accrued but unpaid interest on, the Loans on the Termination Date.

2.8 Prepayments.

(a) **Optional.** Subject to **Section 4.4**, the Borrower may, upon written notice to the Agent pursuant to a delivery to the Agent of a Notice of Loan Prepayment, prepay any Loan at any time without premium or penalty; provided that (i) such notice must be in a form reasonably acceptable to the Agent (which, subject to **Section 4.4**, may be conditioned upon closing of another transaction or the occurrence of another event) and be received by the Agent not later than 1:00 p.m. (A) three (3) Business Days prior to any date of prepayment of any Term SOFR Rate Loans, (B) one (1) Business Day prior to any date of prepayment of any Daily SOFR Rate Loans and (C) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Term SOFR Rate Loans or Daily SOFR Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole *multiple* of \$100,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a 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 shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Commitment Percentage of such prepayment. 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 any Loan shall be accompanied by all accrued interest on the amount prepaid, together with, in the case of any Term SOFR Rate Loan, any additional amounts required pursuant to **Section 4.04**. Subject to **Section 3.10**, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Commitment Percentage.

(b) **Mandatory.** If the Termination Date is extended to the Extended Termination Date pursuant to **Section 2.13**, then, commencing July 31, 2024 if the Borrower or any of its Consolidated Subsidiaries makes any sale or disposition of any Property (other than Property sold pursuant to an Internal Revenue Code *Section 1031* "like-kind" exchange), the Borrower shall, within five (5) Business Days after receipt by the Borrower or such Consolidated Subsidiary of the proceeds thereof, make a mandatory repayment of the outstanding principal of the Loans in an amount equal to 50% of the aggregate Net Cash Proceeds received in connection with such sale or disposition. Such payment shall be applied to pay all amounts of principal outstanding on the Loans *pro rata* in accordance with **Section 3.2**.

(c) **Derivatives Contracts.** No repayment or prepayment pursuant to this **Section** shall affect any of the Borrower's obligations under any Derivatives Contract between the Borrower and any Lender (or any Affiliate of any Lender).

2.9 Continuation. So long as no Default or Event of Default shall exist, the Borrower may on any Business Day, with respect to any Term SOFR Rate Loan, elect to maintain such Term SOFR Rate Loan or any portion thereof as a Term SOFR Rate Loan by selecting a new Interest Period for such Term SOFR Rate Loan or any portion thereof. Each new Interest Period selected under this **Section** shall commence on the last day of the immediately preceding Interest Period. Each selection of a new Interest Period shall be made by the Borrower giving to the Agent a Loan Notice not later than 11:00 a.m. on the third Business Day prior to the date of any such continuation. Such notice by the Borrower of a continuation or change in Interest Period shall be by telephone or telecopy, confirmed immediately in writing if by telephone, in the form of a Loan Notice, specifying (a) the proposed date of such continuation, (b) the Term SOFR Rate Loans and portions thereof subject to such continuation and (c) the duration of the selected Interest Period, all of which shall be specified in such manner as is necessary to comply with all limitations on Loans outstanding hereunder. Each Loan Notice shall be irrevocable by and binding on the Borrower once given. Promptly after receipt of a Loan Notice specifying a continuation, the Agent shall notify each Lender by telecopy, or other similar form of transmission, of the proposed continuation. If the Borrower

shall fail to select in a timely manner a new Interest Period for any Term SOFR Rate Loan in accordance with this **Section**, then, so long as no Default or Event of Default shall exist such Loan will automatically, on the last day of the current Interest Period therefore, continue as a Term SOFR Rate Loan with an Interest Period of one month. If a Default or Event of Default shall exist, each Term SOFR Rate Loan will automatically, on the last day of the current Interest Period therefor, convert into a Base Rate Loan notwithstanding the first sentence of **Section 2.10** or the Borrower's failure to comply with any of the terms of such **Section**.

2.10 Conversion. The Borrower may on any Business Day, upon the Borrower's giving of a Loan Notice to the Agent, convert all or a portion of a Loan of one Type into a Loan of another Type; provided, however, a Base Rate Loan or an Daily SOFR Rate Loan may not be converted to a Term SOFR Rate Loan if a Default or Event of Default shall exist. Any conversion of a Term SOFR Loan into a Base Rate Loan or an Daily SOFR Rate Loan shall be made on, and only on, the last day of an Interest Period for such Term SOFR Rate Loan. Each such Loan Notice specifying a conversion shall be given not later than 11:00 a.m. on the Business Day prior to the date of any proposed conversion into Base Rate Loans or Daily SOFR Rate Loans and on the third Business Day prior to the date of any proposed conversion into Term SOFR Rate Loans. Promptly after receipt of a Loan Notice specifying a conversion, the Agent shall notify each Lender by telecopy, or other similar form of transmission, of the proposed conversion. Subject to the restrictions specified above, each Loan Notice specifying a conversion shall be by telephone (confirmed immediately in writing in the form of a Loan Notice) or telecopy in the form of a Loan Notice specifying (a) the requested date of such conversion, (b) the Type of Loan to be converted, (c) the portion of such Type of Loan to be converted, (d) the Type of Loan such Loan is to be converted into and (e) if such conversion is into a Term SOFR Rate Loan, the requested duration of the Interest Period of such Loan. Each Loan Notice shall be irrevocable by and binding on the Borrower once given. If the Borrower requests a conversion to Term SOFR Rate Loans in any such Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

2.11 Notes.

(a) **Term Note.** Unless a Lender requests not to receive a promissory note (and without limiting such Lender's ability to thereafter request a promissory note), the Loan made by each Lender shall, in addition to this Agreement, also be evidenced by a promissory note of the Borrower substantially in the form of **Exhibit E** (each a "**Term Note**"), payable to such Lender (or if requested by such Lender, to such Lender and its registered assigns) in a principal amount equal to the amount of its Loan and otherwise duly completed.

(b) **[Reserved].**

(c) **Records.** The date, amount, interest rate, Type and duration of Interest Periods (if applicable) of each Loan made by each Lender to the Borrower, and each payment made on account of the principal thereof, shall be recorded by such Lender on its books and such entries shall be binding on the Borrower, absent manifest error; *provided, however*, that the failure of a Lender to make any such record shall not affect the obligations of the Borrower under any of the Loan Documents.

(d) **Lost, Stolen, Destroyed or Mutilated Notes.** Upon receipt by the Borrower of (i) written notice from a Lender that a Note of such Lender has been lost, stolen, destroyed or mutilated, and (ii)(A) in the case of loss, theft or destruction, an unsecured agreement of indemnity from such Lender in form reasonably satisfactory to the Borrower, or (B) in the case of mutilation, upon surrender and cancellation of such Note, the Borrower shall at its own expense execute and deliver to such Lender a new Note dated the date of such lost, stolen, destroyed or mutilated Note.

2.12 **Termination of the Commitment.** The Commitments shall be automatically and permanently reduced to zero on the date of the borrowing of Loans pursuant to **Section 2.1(a)**.

2.13 **Extension of Termination Date.** The Borrower shall have the right, exercisable once, to extend the Termination Date to January January 31, 2025 (the “**Extended Termination Date**”). The Borrower may exercise such right only by executing and delivering to the Agent at least 30 days but not more than 90 days prior to the current Termination Date, a written request for such extension (an “**Extension Request**”). The Agent shall forward to each Lender a copy of the Extension Request delivered to the Agent promptly upon receipt thereof. Subject to satisfaction of the following conditions, the Termination Date shall be extended to the Extended Termination Date effective upon receipt of the Extension Request and payment of the fee referred to in the following **clause (b)**: (a) immediately prior to such extension and immediately after giving effect thereto, (i) no Default or Event of Default shall exist and (ii) the representations and warranties made or deemed made by the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects (or, in the case of any such representation or warranty already qualified by materiality, in all respects) on and as of the date of such extension with the same force and effect as if made on and as of such date except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents; and (b) the Borrower shall have paid the Fees payable under **Section 3.5(c)**.

2.14 [Reserved].

2.15 [Reserved].

2.16 **Increase in Loans.**

(a) **Request for Increase.** The Borrower may, by written notice to the Agent on one or more occasions on or after the Effective Date, elect to request an increase to the existing Loans (any such increase, the “**Increased Loans**”), by an aggregate amount of up to \$85,000,000 that would result in the sum of all Loans (both existing Loans and Increased Loans) not exceeding \$300,000,000 in the aggregate (each such amount in addition to the Loans as of the Effective Date, a “**Facility Increase**” and the maximum aggregate increase, the “**Maximum Increase Amount**”) and not less than \$25,000,000 per request (or such lesser amount which shall be approved by the Agent or such lesser amount that shall constitute the difference between the Maximum Increase Amount and the sum of all such Increased Loans), and integral multiples of \$5,000,000 in excess of that amount. Each such notice shall specify (A) the date (each, an “**Increased Amount Date**”) on which the Borrower proposes that the Increased Loans shall be effective, which shall be a date not less than 10 Business Days, nor more than 30 Business Days after the date on which such notice is delivered to the Agent and the Borrower may also invite prospective lenders to respond. At the time of sending such notice, the Borrower (in consultation with the Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders).

(b) **Lender Elections to Increase.** Each Lender shall notify the Agent within such time period whether or not it agrees to increase its Loans and, if so, whether by an amount equal to, greater than, or less than its Commitment Percentage of such requested increase. Any Lender not responding within such time period shall be deemed to have declined to increase its total Loans.

(c) **Notification by the Agent; Additional Lenders.** The Agent shall notify the Borrower and each Lender of the Lenders' and prospective lenders' responses to each request made hereunder. To achieve the full amount of a requested Facility Increase, the Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance satisfactory to the Agent, the Borrower and their respective counsel. If any prospective lender agrees to fund any portion of the requested Facility Increase (an "**Additional Lender**"), such Additional Lender shall become a Lender hereunder pursuant to such joinder agreement in form and substance reasonably satisfactory to the Agent and its counsel.

(d) **Conditions to Effectiveness of Facility Increase.** Such Increased Loans shall become effective as of such Increased Amount Date, subject to the satisfaction of each of the following conditions precedent, as determined by the Agent in its good faith judgment:

(i) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to such Facility Increase;

(ii) the representations and warranties made or deemed made by the Borrower in any Loan Document shall be true and correct in all material respects (or, in the case of any such representation or warranty already qualified by materiality, in all respects) on the Increased Amount Date, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (or, in the case of any such representation or warranty already qualified by materiality, in all respects) on and as of such earlier date);

(iii) any Additional Lender shall be subject to the requirements set forth in **Section 3.11** and shall become a Lender hereunder;

(iv) the Borrower shall make any payments required pursuant to **Section 4.4** in connection with the Increased Loans;

(v) the Borrower shall deliver or cause to be delivered any promissory notes, certificates, legal opinions, resolutions or other documents reasonably requested by the Agent in connection with any such transaction, consistent with those delivered on the Effective Date under **Section 5.1**;

(vi) as requested by the Agent, the Loan Parties shall have acknowledged and ratified that their obligations under the applicable Loan Documents remain in full force and effect, and continue to guaranty the Obligations under the Loan Documents, as modified by the applicable Facility Increase and the implementation thereof;

(vii) the Borrower shall have paid, pursuant to separate agreements between the Borrower and the Agent, the arranger for the Facility Increase, the Lenders increasing their Loans and/or the Additional Lenders, (A) all reasonable costs and expenses incurred by the Agent in connection with the applicable Facility Increase and (B) any fees that the Borrower has agreed to pay to the arranger for the Facility Increase, the Lenders increasing their Loans and/or the Additional Lenders in connection with such Facility Increase; and

(viii) upon the reasonable request of any Lender (including any Additional Lender) made at least ten (10) days prior to the effective date of such Facility Increase, Borrower shall have provided to such Lender, and such Lender shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including the

PATRIOT Act, in each case at least five (5) days prior to the effective date of such Facility Increase and (B) at least five (5) days prior to the effective date of such Facility Increase, any Loan Party that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have delivered, to each Lender that so requests, a Beneficial Ownership Certification in relation to such Loan Party.

(e) Additional Facility Increase Matters.

(i) [Reserved].

(ii) [Reserved].

(iii) [Reserved].

(iv) [Reserved].

(v) Each joinder agreement executed in connection with a Facility Increase 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 good faith judgment of the Agent, to effect the provisions of this **Section 2.16**, subject to approval by the Borrower; provided however, that any amendments to **Articles V** through **X** that adversely affect a Lender shall be subject to **Section 12.6**. Notwithstanding anything to the contrary set forth in this Agreement (including **Section 12.6(b)**), such permitted amendments shall include (A) the Additional Lenders as “*Lenders*” hereunder, and (B) the Increased Loans as “*Loans*” hereunder. All such amendments and joinder agreements entered into with the applicable Loan Parties by the Agent which comply with the provisions of this **Section 2.16** shall be binding and conclusive on all Lenders.

III. PAYMENTS, FEES AND OTHER GENERAL PROVISIONS.

3.1 Payments. Except to the extent otherwise provided herein, all payments of principal, interest and other amounts to be made by the Borrower under this Agreement or any other Loan Document shall be made in Dollars, in immediately available funds, without deduction, set off or counterclaim, to the Agent at the Agent’s Office, not later than 2:00 p.m. on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day). Subject to **Section 10.4**, the Borrower may, at the time of making each payment under this Agreement or any Note, specify to the Agent the amounts payable by the Borrower hereunder to which such payment is to be applied. If the due date of any payment under this Agreement or any other Loan Document would otherwise fall on a day which is not a Business Day such date shall be extended to the next succeeding Business Day and interest shall be payable for the period of such extension.

(a) (i) **Funding by Lenders; Presumption by the Agent.** Unless the Agent shall have received notice from a Lender prior to the proposed date of any advance of Term SOFR Loans (or, in the case of any requested advance of Base Rate Loans or Daily SOFR Rate Loans, prior to 12:00 noon on the date of such requested advance) that such Lender will not make available to the Agent such Lender’s share of such advance, the Agent may assume that such Lender has made such share available on such date in accordance with **Section 2.1** 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 advance of Loans available to the Agent, then the applicable Lender and the Borrower severally agree to pay to the 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 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 Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the 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 Daily SOFR Rate Loans. If the Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the 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 advance of Loans to the Agent, then the amount so paid shall constitute such Lender's Loan included in such advance of Loans. 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 Agent.

(ii) **Payments by Borrower; Presumptions by the Agent.** Unless the Agent shall have received notice from the Borrower prior to the time at which any payment is due to the Agent for the account of the Lenders that the Borrower will not make such payment, the 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 the amount due. With respect to any payment that the Agent makes for the account of the Lenders as to which the 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 Agent has made a payment in excess of the amount so paid by the Borrower (whether or not then owed); or (3) the Agent has for any reason otherwise erroneously made such payment; then each of the Lenders severally agrees to repay to the Agent forthwith on demand the Rescindable Amount so distributed to such Lender, 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 Agent, at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation.

A notice of the Agent to any Lender or the Borrower with respect to any amount owing under this clause (b) shall be conclusive, absent manifest error.

(b) **Failure to Satisfy Conditions Precedent.** If any Lender makes available to the 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 Agent because the conditions to the applicable advance of Loans set forth in **Article V** are not satisfied or waived in accordance with the terms hereof, the Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(c) **Obligations of Lenders Several.** The obligations of the Lenders hereunder to make Loans and to make payments pursuant to **Section 12.9** are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under **Section 12.9** 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 Loan, to purchase its participation or to make its payment under **Section 12.9**.

(d) **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.

(b) **Insufficient Funds.** If at any time insufficient funds are received by and available to the Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due to such parties, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties and (ii) second, toward payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

3.2 Sharing of Payments, Etc. If a Lender shall obtain payment of any principal of, or interest on, any Loan made by it to the Borrower under this Agreement, or shall obtain payment on any other Obligation owing by the Borrower or any other Loan Party through the exercise of any right of set off, banker's lien or counterclaim or similar right or otherwise or through voluntary prepayments directly to a Lender or other payments made by the Borrower to a Lender not in accordance with the terms of this Agreement and such payment should be distributed to the Lenders *pro rata* in accordance with **Section 3.1** or **Section 10.4**, as applicable, such Lender shall promptly purchase from the other Lenders participations in (or, if and to the extent specified by such Lender, direct interests in) the Loans made by the other Lenders or other Obligations owed to such other Lenders in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all the Lenders shall share the benefit of such payment (net of any reasonable expenses which may be incurred by such Lender in obtaining or preserving such benefit) *pro rata* in accordance with **Section 3.1** or **Section 10.4**, as applicable; *provided* that the provisions of this **paragraph** shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Commitments or Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this **paragraph** shall apply). To such end, all the Lenders shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored. The Borrower agrees that any Lender so purchasing a participation (or direct interest) in the Loans or other Obligations owed to such other Lenders may exercise all rights of set off, banker's lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans in the amount of such participation. Nothing contained herein shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of the Borrower.

3.3 Several Obligations. No Lender shall be responsible for the failure of any other Lender to make a Loan or to perform any other obligation to be made or performed by such other Lender hereunder, and the failure of any Lender to make a Loan or to perform any other obligation to be made or performed by it hereunder shall not relieve the obligation of any other Lender to make any Loan or to perform any other obligation to be made or performed by such other Lender.

3.4 Minimum Amounts.

(a) **Borrowings and Conversions.** Each borrowing of Base Rate Loans or Daily SOFR Rate Loans or conversion of Base Rate Loans to Daily SOFR Rate Loans or Daily SOFR Rate Loans to Base Rate Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof. Each borrowing of, conversion to or from and continuation of Term SOFR Rate Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$1,000,000 in excess of that amount.

(b) **Prepayments.** Each voluntary prepayment of Base Rate Loans and Daily SOFR Rate Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof (or, if less, the aggregate principal amount of Loans then outstanding).

Each voluntary prepayment of Term SOFR Rate Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$1,000,000 in excess thereof (or, if less, the aggregate principal amount of Loans then outstanding).

(c) **[Reserved]**.

(d) **[Reserved]**.

3.5 Fees.

(a) **Upfront Fees.** The Borrower agrees to pay, without duplication, to the Agent and the Co-Lead Arrangers the upfront fee described in the Bank of America Fee Letter, in the amounts and at the times specified in the Bank of America Fee Letter. Bank of America shall pay to the Lenders that portion of such upfront fee paid to it by the Borrower specified in the Bank of America Fee Letter as being payable to such Lenders. Such upfront fee shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(b) **[Reserved]**.

(c) **Extension Fee.** If the Borrower exercises its right to extend the Termination Date in accordance with **Section 2.13**, the Borrower agrees to pay to the Agent for the account of each Lender, a fee for each extension equal to 0.20% of the outstanding amount of principal of such Lender's Loan at the time of such extension. Such fee shall be due and payable in full on the effective date of such extension.

(d) **Administrative and Other Fees.** The Borrower agrees to pay the administrative and other fees of the Agent and the Co-Lead Arrangers as may be agreed to in the Fee Letters or otherwise in writing by the Borrower, the Agent and the Co-Lead Arrangers from time to time.

3.6 Computations. Unless otherwise expressly set forth herein, all computations of fees and accrued interest on any Term SOFR Rate Loan or Daily SOFR Rate Loan, shall be computed on the basis of a year of 360 days and the actual number of days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year) and any accrued interest on any Base Rate Loan (include Base Rate Loans determined by reference to Term SOFR) shall be computed on the basis of a year of 365 or 366, as the case may be, days and the actual number of days elapsed. Interest shall accrue on the Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the 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 3.1**, bear interest for one day. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

3.7 Usury. In no event shall the amount of interest due or payable on the Loans or other Obligations exceed the maximum rate of interest allowed by Applicable Law and, if any such payment is paid by the Borrower or any other Loan Party or received by any Lender, then such excess sum shall be credited as a payment of principal, unless the Borrower shall notify the respective Lender in writing that the Borrower elects to have such excess sum returned to it forthwith. It is the express intent of the parties hereto that the Borrower not pay and the Lenders not receive, directly or indirectly, in any manner whatsoever, interest in excess of that which may be lawfully paid by the Borrower under Applicable Law.

3.8 Agreement Regarding Interest and Charges. The parties hereto hereby agree and stipulate that the only charge imposed upon the Borrower for the use of money in connection with this

Agreement is and shall be the interest specifically described in **Sections 2.5(a)(i)** through **(iii)**. Notwithstanding the foregoing, the parties hereto further agree and stipulate that all agency fees, syndication fees, facility fees, closing fees, letter of credit fees, underwriting fees, default charges, late charges, funding or “*breakage*” charges, increased cost charges, attorneys’ fees and reimbursement for costs and expenses paid by the Agent or any Lender to third parties or for damages incurred by the Agent or any Lender, in each case which are paid or to be paid by the Borrower in connection with the transactions contemplated by this Agreement and the other Loan Documents, are charges made to compensate the Agent or any such Lender for underwriting or administrative services and costs or losses performed or incurred, and to be performed or incurred, by the Agent and the Lenders in connection with this Agreement and shall under no circumstances be deemed to be charges for the use of money. All charges other than charges for the use of money shall be fully earned and nonrefundable when due.

3.9 Statements of Account. The Agent will account to the Borrower monthly with a statement of Loans, accrued interest and Fees, charges and payments made pursuant to this Agreement and the other Loan Documents, and such account rendered by the Agent shall be deemed conclusive upon Borrower absent demonstrable error. The failure of the Agent to deliver such a statement of accounts shall not relieve or discharge the Borrower from any of its obligations hereunder.

3.10 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) [reserved];

(b) the Commitment and Loans of such Defaulting Lender shall not be included in determining whether the Requisite Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to **Section 12.6**); except (i) such Defaulting Lender’s Commitment may not be increased or extended without its consent and (ii) the principal amount of, or interest or fees payable on, Loans may not be reduced or excused or the scheduled date of payment may not be postponed as to such Defaulting Lender (except as otherwise provided herein) without such Defaulting Lender’s consent;

(c) [reserved];

(d) [reserved]; and

(e) Nothing contained in this **Section** or elsewhere in this Agreement shall be deemed to reduce the Commitment or Loans of any Lender or in any way affect the rights of Borrower with respect to any Defaulting Lender or, if the Agent is a Defaulting Lender, the Agent. Except as expressly set forth in this **Section 3.10**, the status of any Lender as a Defaulting Lender shall not relieve any other Lender of its obligations to fund its Commitment or Loans or otherwise perform its obligations in accordance with the provisions of this Agreement.

(f) Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to **Article X** or otherwise) or received by the Agent from a Defaulting Lender pursuant to **Section 12.3** shall be applied at such time or times as may be determined by the Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; *second*, 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; *third*, if so determined by the Agent and the Borrower, to

be held in a deposit account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, 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 *sixth*, 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, in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in **Section 5.1** were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders in accordance with their Commitment Percentages. 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 **subsection** shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

3.11 Taxes.

(a) **Defined Terms.** For purposes of this **Section 3.11**, "*applicable law*" includes FATCA.

(b) **Payments Free of Taxes.** Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower under any Loan Document shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this **Section**) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) **Payment of Other Taxes by the Borrower.** The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Agent timely reimburse it or any Lender for the payment of, any Other Taxes.

(d) **Indemnification by the Borrower.** The Borrower shall indemnify each Recipient, within 10 days after Borrower's receipt of written notice of demand therefor together with a certificate specifying the amount of such payment or liability and the calculation thereof in reasonable detail (with a copy to the Agent), for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section**) paid or payable by such Recipient or required to be withheld or deducted from a payment to such Recipient and any 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 (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) **Indemnification by the Lenders.** Each Lender shall severally indemnify the Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of **Section 12.5(d)** relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Agent 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Agent to the Lender from any other source against any amount due to the Agent under this **paragraph (e)**.

(f) **Evidence of Payments.** Within a reasonable time after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this **Section 3.11**, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

(g) **Status of Lenders.**

(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 Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the 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 Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the 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 3.11(g)(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 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 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 Agent), an executed copy 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 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 Agent), whichever of the following is applicable:

(1) 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, an executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E 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-8BEN or IRS Form W-8BEN-E 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;

(2) an executed copy of IRS Form W-8ECI;

(3) 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 F-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) an executed copy of IRS Form W-8BEN or IRS Form W 8BEN E; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of *Exhibit F-2* or *Exhibit F-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 F-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 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 Agent), executed originals 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 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 Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the 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 Agent as may be necessary for the Borrower and the 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.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(h) **Treatment of Certain Refunds.** If any party 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 pursuant to this **Section 3.11** (including by the payment of additional amounts pursuant to this **Section 3.11**), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this **Section 3.11** with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party in connection with obtaining such refund and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this **paragraph (h)**, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this **paragraph (h)** to the extent the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This **paragraph** shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to, or to file for or pursue any refund of Taxes on behalf of, the indemnifying party or any other Person.

(i) **Survival.** Each party's obligations under this **Section 3.11** shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

IV. YIELD PROTECTION, ETC.

4.1 Additional Costs; Capital Adequacy.

(a) If any Regulatory Change shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender;

(ii) impose on any Lender any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender; or

(iii) 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;

and (x) the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or otherwise) and (y) such Lender, is generally imposing such costs or amounts on other borrowers of such Lender or other Recipient in similar circumstances, then the Borrower will pay to such Lender or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If (i) any Lender determines that any Regulatory Change regarding capital or liquidity ratios or requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Regulatory Change (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity) and (ii) such Lender is generally imposing such additional amount or amounts on other borrowers of such Lender in similar circumstances, then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in *paragraph (a)* or *(b)* of this *Section* shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this *Section* shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Borrower shall not be required to compensate a Lender pursuant to this *Section* for any increased costs or reductions incurred more than 270 days prior to the date that such Lender notifies the Borrower of the Regulatory Change giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; *provided further* that, if the Regulatory Change giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

4.2 Inability to Determine Rates.

(a) If in connection with any request for a Term SOFR Rate Loan, or Daily SOFR Rate Loan, or a conversion of Daily SOFR Rate Loans to Term SOFR Rate Loans or a continuation of any of such advances, as applicable, (a) the Agent determines (which determination shall be conclusive absent manifest error) that (i) no Successor Rate has been determined in accordance with **Section 4.2(b)**, and the circumstances under **Section 4.2(b)(i)** or the Scheduled Unavailability Date has occurred, or (ii) adequate and reasonable means do not otherwise exist for determining Term SOFR for any requested Interest Period with respect to a proposed Term SOFR Rate Loan or in connection with an existing or proposed Base Rate Loan, or (iii) adequate and reasonable means do not otherwise exist for determining Daily Simple SOFR in connection with an existing or proposed Daily SOFR Rate Loan, or (b) the Agent or Requisite Lenders determine that for any reason that Term SOFR for any requested Interest Period or Daily Simple SOFR with respect to a proposed advance does not adequately and fairly reflect the cost to such Lenders of funding such advance, the Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of Lenders to make or maintain Term SOFR Rate Loans, Daily SOFR Rate Loans, or to convert Daily SOFR Rate Loans to Term SOFR Rate Loans, shall be suspended (to the extent of the affected Term SOFR Rate Loans, Daily SOFR Rate Loans, or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Term SOFR component of the Base Rate, the utilization of the Term SOFR component in determining the Base Rate shall be suspended, in each case until the Agent (or, in the case of a determination by the Requisite Lenders described in **Section 4.2(b)**, until the Agent upon instruction of the Requisite Lenders) revokes such notice. Upon receipt of such notice, (1) the Borrower may revoke any pending request for a borrowing of, or conversion to, or continuation of Term SOFR Rate Loans or Daily SOFR Rate Loans (to the extent of the affected Term SOFR Rate Loans, Daily SOFR Rate Loans, or Interest 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, (2) any outstanding Term SOFR Rate Loans shall be deemed to have been converted to Base Rate Loans immediately at the end of their respective applicable Interest Period, and (3) any outstanding Daily SOFR Rate Loans shall immediately be deemed to have been converted to Base Rate Loans.

(b) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or the Requisite Lenders notify the Agent (with, in the case of the Requisite Lenders, a copy to Borrower) that the Borrower or the Requisite Lenders (as applicable) have determined, that:

(i) if adequate and reasonable means do not exist for ascertaining one (1) month and three (3) month interest periods of Term SOFR, including because the Term SOFR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Agent or such administrator with respect to its publication of Term SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which one (1) month and three (3) month interest periods of Term SOFR or the Term SOFR Screen Rate 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 Agent, that will continue to provide such interest periods of Term SOFR after such specific date (the latest date on which one (1) month and three (3) month interest periods of Term SOFR or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the “**Scheduled Unavailability Date**”);

then, on a date and time determined by the Agent (any such date, the “**Term SOFR Replacement Date**”), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to **clause (b)** above, no later than the Scheduled Unavailability Date, Term SOFR will be replaced hereunder and under any Loan Document with Daily Simple SOFR for any payment period for interest calculated that can be determined by the Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “**Successor Rate**”).

If the Successor Rate is Daily Simple SOFR, all interest payments will be payable on a monthly basis.

Notwithstanding anything to the contrary herein, (i) if the Agent determines that Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date, or (ii) if the events or circumstances of the type described in **clauses (a) or (b)** above have occurred with respect to Daily Simple SOFR or the Successor Rate then in effect, then in each case, the Agent and the Borrower may amend this Agreement solely for the purpose of replacing Term SOFR, Daily Simple SOFR, and/or any then current Successor Rate in accordance with this **Section** at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, as applicable, with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities syndicated and agented in the United States for such alternative benchmark, 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 Dollar denominated credit facilities syndicated and agented in the United States for such benchmark, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustments, shall constitute a “*Successor Rate*”. Any such amendment shall become effective at 5:00 p.m. on the fifth (5th) Business Day after the Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Requisite Lenders have delivered to the Agent written notice that such Requisite Lenders object to such amendment.

The 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 Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero percent (0.0%), the Successor Rate will be deemed to be zero percent (0.0%) for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a Successor Rate, the 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; *provided* that, with respect to any such amendment effected, the Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

4.3 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to perform any of its obligations hereunder or make, maintain or fund Loans whose interest is determined by reference to SOFR, Term SOFR, or Daily Simple SOFR, or to determine or charge interest rates based upon SOFR, Term SOFR or Daily Simple SOFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to engage in reverse repurchase of U.S. Treasury securities transactions of the type included in the determination of SOFR, then, on notice thereof by such Lender to the Borrower through the Agent, (a) any obligation of such Lender to make or continue either Term SOFR Rate Loans or Daily SOFR Rate Loans shall be suspended and (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 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 Agent without reference to the Term SOFR component of the Base Rate, in each case until such Lender notifies the Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) Borrower shall, upon demand from such Lender (with a copy to the Agent), prepay (without penalty or premium other than amounts payable pursuant to **Section 3.5**) or, if applicable, convert all Term SOFR 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 Agent without reference to the Term SOFR component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Term SOFR Rate Loans, (ii) the Borrower shall, upon demand from such Lender (with a copy to the Agent), immediately prepay or, if applicable, convert all Daily SOFR 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 Agent without reference to the Term SOFR component of the Base Rate), and (iii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon SOFR, the Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to Term SOFR component thereof until the 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 SOFR. Upon any such prepayment or conversion, Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to **Section 3.5**.

4.4 Compensation. Subject to delivery of a statement if requested by the Borrower as permitted below, the Borrower shall pay to the Agent for the account of each Lender, within 5 Business Days following the request of such Lender through the Agent, such amount or amounts as shall be sufficient (in the reasonable opinion of such Lender) to compensate it for any loss, cost or expense (excluding lost profit and loss of margin) that such Lender reasonably determines is attributable to:

(a) any payment or prepayment (whether mandatory or optional) of a Term SOFR Rate Loan or conversion of a Term SOFR Rate Loan, made by such Lender for any reason (including, without limitation, acceleration) on a date other than the last day of the Interest Period for such Loan;

(b) any failure by the Borrower for any reason (including, without limitation, the failure of any of the applicable conditions precedent specified in **Article V** to be satisfied) to borrow a Term SOFR Rate Loan from such Lender on the requested date for such borrowing, or to convert a Base Rate Loan or Daily SOFR Rate Loan into a Term SOFR Rate Loan or continue a Term SOFR Rate Loan on the requested date of such conversion or continuation; or

(c) the assignment of any Term SOFR Loan other than on the last day of an Interest Period applicable thereto as a result of a request by the Borrower pursuant to **Section 4.5**.

Upon the Borrower's request, any Lender requesting compensation under this **Section** shall provide the Borrower with a statement setting forth in reasonable detail the basis for requesting such compensation and the method for determining the amount thereof. Absent manifest error, determinations by any Lender in any such statement shall be conclusive, provided that such determinations are made on a reasonable basis and in good faith.

4.5 Affected Lenders. If (a) a Lender requests compensation pursuant to **Section 3.11** or **4.1**, and the Requisite Lenders are not also doing the same, or (b) the obligation of any Lender to make Term SOFR Rate Loans or Daily SOFR Rate Loans or to continue, or to convert Base Rate Loans or Daily SOFR Rate Loans into, Term SOFR Rate Loans or Daily SOFR Rate Loans shall be suspended pursuant to **Section 4.3** but the obligation of the Requisite Lenders shall not have been suspended under such Sections or (c) a Lender becomes a Defaulting Lender or (d) a Lender does not vote in favor of any amendment, modification or waiver to the requirements of **Section 9.7(c)(i)(y)** or a Default or Event of Default under **Section 10.1(m)(i)**, **(ii)**, or **(iii)** and the Requisite Lenders shall have voted in favor of such amendment, modification or waiver, then, so long as there does not then exist any Default or Event of Default, the Borrower may either (i) demand that such Lender (the "**Affected Lender**"), and upon such demand the Affected Lender shall promptly, assign its Commitment and Loans to an Eligible Assignee subject to and in accordance with the provisions of **Section 12.5(b)** for a purchase price equal to the aggregate principal balance of all Loans then owing to the Affected Lender *plus* any accrued but unpaid interest thereon and accrued but unpaid fees owing to the Affected Lender, or any other amount as may be mutually agreed upon by such Affected Lender and Eligible Assignee, or (ii) solely, with respect to **clause (c)**, pay to the Affected Lender the aggregate principal balance of the Loans then owing to the Affected Lender *plus* any accrued but unpaid interest thereon and accrued but unpaid fees owing to the Affected Lender, whereupon the Loans and Commitment of the Affected Lender shall be terminated and the Affected Lender shall no longer be a party hereto or have any rights or obligations hereunder or under any of the other Loan Documents. Each of the Agent and the Affected Lender shall reasonably cooperate in effectuating the replacement of such Affected Lender under this **Section**, but at no time shall the Agent, such Affected Lender nor any other Lender be obligated in any way whatsoever to initiate any such replacement or to assist in finding an Eligible Assignee. The exercise by the Borrower of its rights under this **Section** shall be at the Borrower's sole cost and expense and at no cost or expense to the Agent, the Affected Lender or any of the other Lenders. The terms of this **Section** shall not in any way limit the Borrower's obligation to pay to any Affected Lender compensation owing to such Affected Lender pursuant to **Section 3.11** or **4.1** with respect to periods up to the date of replacement. A Lender shall not be required to make any such assignment and 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 (c) an assignment required pursuant to this **paragraph** may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Agent and such parties are participants), and (d) 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 and 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 that any such documents shall be without recourse to or warranty by the parties thereto.

4.6 Treatment of Affected Loans. If the obligation of any Lender to make Term SOFR Rate Loans or Daily SOFR Rate Loans or to continue, or to convert Base Rate Loans or Daily SOFR Rate Loans into, Term SOFR Rate Loans or Daily SOFR Rate Loans shall be suspended pursuant to **Section 4.3**, then such Lender's Term SOFR Rate Loans or Daily SOFR Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for Term SOFR Rate Loans (or, in the case of a conversion required by **Section 4.3**, if such Lender has determined in good faith that it may not lawfully continue to maintain any Term SOFR Rate Loans to the end of the then current Interest Period, then on such earlier date as such Lender may specify to the Borrower with a copy to the Agent) or on the date specified by such Lender for Daily SOFR Rate Loans (without payment of any amount that Borrower would otherwise be obligated to pay pursuant to **Section 4.4**) and, unless and until such Lender gives notice as provided below that the circumstances specified in **Section 4.1** or **4.3** that gave rise to such conversion no longer exist:

(a) to the extent that such Lender's Term SOFR Rate Loans or Daily SOFR Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Term SOFR Rate Loans or Daily SOFR Rate Loans shall be applied instead to its Base Rate Loans; and

(b) all Loans that would otherwise be made or continued by such Lender as Term SOFR Rate Loans or Daily SOFR Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Term SOFR Rate Loans or Daily SOFR Rate Loans shall remain as Base Rate Loans.

If such Lender gives notice to the Borrower (with a copy to the Agent) that the circumstances specified in **Section 4.1** or **4.3** that gave rise to the conversion of such Lender's Term SOFR Rate Loans or Daily SOFR Rate Loans pursuant to this **Section** no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Term SOFR Rate Loans or Daily SOFR Rate Loans made by other Lenders are outstanding, then such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Term SOFR Rate Loans or Daily SOFR Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Term SOFR Rate Loans or Daily SOFR Rate Loans and by such Lender are held *pro rata* (as to principal amounts, Types and Interest Periods) in accordance with their respective applicable Commitment Percentages.

4.7 Change of Lending Office. Each Lender agrees that it shall use reasonable efforts to designate an alternate Lending Office with respect to any of its Loans affected by the matters or circumstances described in **Section 3.11, 4.1** or **4.3** to reduce the liability of the Borrower or avoid the results provided thereunder, so long as such designation is not disadvantageous to such Lender as determined by such Lender in its sole discretion, except that such Lender shall have no obligation to designate a Lending Office located in the United States. The Borrower hereby agrees to pay all reasonable, documented and out-of-pocket costs and expenses incurred by any Lender in connection with such designation.

V. CONDITIONS PRECEDENT.

5.1 Initial Conditions Precedent. The effectiveness of this Agreement and the obligation of the Lenders to advance the Loans on the Effective Date, is subject to the following conditions precedent:

(a) The Agent shall have received each of the following, in form and substance satisfactory to the Agent:

(i) counterparts of this Agreement executed by each of the parties hereto (which, subject to **Section 12.14**, may include any Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page);

(ii) Term Notes (except for any Lender who has requested not to receive a promissory note), executed by the Borrower, payable to each Lender and complying with the applicable provisions of **Section 2.11**;

(iii) the Facility Guaranty executed by the Parent and each other Person that the Borrower elects to make a Guarantor on the Effective Date;

(iv) an opinion of counsel to the Loan Parties, addressed to the Agent and the Lenders in form and substance reasonably satisfactory to the Agent;

(v) the articles of incorporation, articles of organization, certificate of limited partnership or other comparable organizational instrument (if any) of the Borrower and each other Loan Party certified as of a recent date by the Secretary of State of the state of formation of such Loan Party, or, in the case of the Parent only, certified by the Secretary or Assistant Secretary of the Parent;

(vi) a certificate of good standing or certificate of similar meaning with respect to each Loan Party issued as of a recent date by the Secretary of State of the state of formation of each such Loan Party and certificates of qualification to transact business or other comparable certificates issued by each Secretary of State (and any state department of taxation, as applicable) of each state in which such Loan Party is required to be so qualified and where the failure to be so qualified could reasonably be expected to have a Material Adverse Effect;

(vii) a certificate of incumbency signed by the Secretary or Assistant Secretary (or other individual performing similar functions) of each Loan Party with respect to each of the officers of such Loan Party or its constituent partners or members authorized to execute and deliver the Loan Documents to which such Loan Party is a party and, in the case of the Borrower, the officers of the Borrower then authorized to deliver Loan Notices;

(viii) copies certified by the Secretary or Assistant Secretary (or other individual performing similar functions) of each Loan Party of (i) the by-laws of such Loan Party, if a corporation, the operating agreement of such Loan Party, if a limited liability company, the partnership agreement of such Loan Party, if a limited or general partnership, or other comparable document in the case of any other form of legal entity and (ii) all corporate, partnership, member or other necessary action taken by such Loan Party to authorize the execution, delivery and performance of the Loan Documents to which it is a party;

(ix) a certificate from a Responsible Officer of the Parent and the Borrower to the effect that (x) all representations and warranties of the Loan Parties contained in the Loan Documents are true, correct and complete in all material respects and (y) immediately after giving effect to the transactions contemplated by this Agreement, no Default or Event of Default shall exist;

(x) the Fees then due and payable under **Section 3.5**, and any other Fees payable to the Agent, the Titled Agents and the Lenders on or prior to the Effective Date;

(xi) a Compliance Certificate calculated as of September 30, 2022 (giving *pro forma* effect to the financing contemplated by this Agreement and the use of the proceeds of the Loans to be funded on the Effective Date);

(xii) (A) all documentation and other information about the Loan Parties as shall have been reasonably requested by the Agent or any Lender that it shall have reasonably determined is required by regulatory authorities under applicable “*know your customer*” and anti-money laundering rules and regulations, including, without limitation, the Patriot Act and (B) to the extent the Borrower qualifies as a “*legal entity customer*” under the Beneficial Ownership Regulation, at least five days prior to the Effective Date, any Lender that has requested, in a written notice to the Borrower at least 10 days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this **clause (B)** shall be deemed to be satisfied); and

(xiii) such other documents, agreements and instruments as the Agent on behalf of the Lenders may reasonably request; and

(b) In the good faith judgment of the Agent and the Lenders:

(i) There shall not have occurred or become known to the Agent or any of the Lenders any event, condition, situation or status concerning the Parent or its Subsidiaries since December 31, 2021 that has had or could reasonably be expected to result in a Material Adverse Effect;

(ii) No litigation, action, suit, investigation or other arbitral, administrative or judicial proceeding shall be pending or threatened which could reasonably be expected to (1) result in a Material Adverse Effect or (2) restrain or enjoin, impose materially burdensome conditions on, or otherwise materially and adversely affect the ability of the Parent, the Borrower or any other Loan Party to fulfill its obligations under the Loan Documents to which it is a party;

(iii) The Parent, the Borrower and the Subsidiaries shall have received all approvals, consents and waivers, and shall have made or given all necessary filings and notices, as shall be required to consummate the transactions contemplated hereby without the occurrence of any default under, conflict with or violation of (1) any Applicable Law or (2) any agreement, document or instrument to which the Parent, the Borrower or any other Loan Party is a party or by which any of them or their respective properties is bound, except for such approvals, consents, waivers, filings and notices the receipt, making or giving of which would not reasonably be likely to (A) have a Material Adverse Effect, or (B) restrain or enjoin, impose materially burdensome conditions on, or otherwise materially and adversely affect the ability of the Parent, the Borrower or any other Loan Party to fulfill its obligations under the Loan Documents to which it is a party;

(iv) There shall not have occurred or exist any other material disruption of financial or capital markets that could reasonably be expected to materially and adversely affect the transactions contemplated by the Loan Documents; and

(c) The representations and warranties made or deemed made by the Parent, the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects (or, in the case of any such representation or warranty already qualified by materiality, in all respects) on and as of the date of the making of such Loan.

(d) No Default or Event of Default shall exist, or would result from such proposed Loan or from the application of the proceeds thereof.

VI. REPRESENTATIONS AND WARRANTIES.

6.1 Representations and Warranties. In order to induce the Agent and each Lender to enter into this Agreement and to make Loans, each of the Parent and the Borrower represents and warrants to the Agent and each Lender as follows:

(a) **Organization; Power; Qualification.** Each of the Parent, the Borrower, the Subsidiaries and the other Loan Parties is a corporation, partnership or other legal entity, duly organized or formed, validly existing and in good standing under the jurisdiction of its incorporation or formation, has the power and authority to own or lease its respective properties and to carry on its respective business as now being and hereafter proposed to be conducted and is duly qualified and is in good standing as a foreign corporation, partnership or other legal entity, and authorized to do business, in each jurisdiction in which the character of its properties or the nature of its business requires such qualification or authorization and where the failure to be so qualified or authorized could reasonably be expected to have, in each instance, a Material Adverse Effect.

(b) **Ownership Structure.** As of the Effective Date, *Part I of Schedule 6.1(b)* is a complete and correct list of all Subsidiaries of the Parent setting forth for each such Subsidiary, (i) the jurisdiction of organization of such Subsidiary, (ii) each Person holding any Equity Interests in such Subsidiary, (iii) the nature of the Equity Interests held by each such Person, (iv) the percentage of ownership of such Subsidiary represented by such Equity Interests and (v) whether such Subsidiary is a Significant Subsidiary and/or an Excluded Subsidiary. Except as disclosed in such Schedule, as of the Effective Date (i) each of the Parent, the Borrower and the Subsidiaries owns, free and clear of all Liens (other than Permitted Liens), and has the unencumbered right to vote, all outstanding Equity Interests in each Person shown to be held by it on such Schedule, (ii) all of the issued and outstanding capital stock of each such Person organized as a corporation is validly issued, fully paid and nonassessable and (iii) there are no outstanding subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including, without limitation, any stockholders' or voting trust agreements) for the issuance, sale, registration or voting of, or outstanding securities convertible into, any additional shares of capital stock of any class, or partnership or other ownership interests of any type in, any such Person. As of the Effective Date, *Part II of Schedule 6.1(b)* correctly sets forth all Unconsolidated Affiliates of the Parent, including the correct legal name of such Person, the type of legal entity which each such Person is, and all Equity Interests in such Person held directly or indirectly by the Parent.

(c) **Authorization of Agreement, Etc.** The Borrower has the right and power, and has taken all necessary action to authorize it, to borrow and obtain other extensions of credit hereunder. Each Loan Party has the right and power, and has taken all necessary action to authorize it, to execute, deliver and perform each of the Loan Documents to which it is a party in accordance with their respective terms and to consummate the transactions contemplated hereby and thereby. The Loan Documents to which any Loan Party is a party have been duly executed and delivered by the duly authorized officers of such Person and each is a legal, valid and binding obligation of such Person enforceable against such Person in accordance with its respective terms except as the same may be limited by bankruptcy, insolvency, and other similar laws affecting the rights of creditors generally and the availability of equitable remedies for the enforcement of certain obligations (other than the payment of principal) contained herein or therein and as may be limited by equitable principles generally.

(d) **Compliance of Loan Documents with Laws, Etc.** The execution, delivery and performance of this Agreement, the Notes and the other Loan Documents to which any Loan Party is a party in accordance with their respective terms and the borrowings and other extensions of credit hereunder do not and will not, by the passage of time, the giving of notice, or both: (i) require any Governmental Approval or violate any Applicable Law relating to any Loan Party; (ii) conflict with, result in a breach of or constitute a default under the organizational documents of any Loan Party, or any indenture, agreement or other instrument to which any Loan Party is a party or by which it or any of its respective properties may be bound, including, without limitation, the Existing Term Loan Facility 2018 and the Existing Term Loan Facility 2022; or (iii) result in or require the creation or imposition of any Lien upon or with respect to any property now owned or hereafter acquired by any Loan Party.

(e) **Compliance with Law; Governmental Approvals.** Each of the Parent, the Borrower, each Subsidiary and each other Loan Party is in compliance with each Governmental Approval applicable to it and in compliance with all other Applicable Laws (including without limitation, Environmental Laws) relating to the Parent, the Borrower, a Subsidiary or such other Loan Party except for noncompliances which, and Governmental Approvals the failure to possess which, could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) **Title to Properties.** As of the Effective Date, *Part I of Schedule 6.1(f)* is a complete and correct listing of all of the real property owned or leased by the Parent, the Borrower, each other Loan Party and each other Subsidiary. Each such Person (i) has good, marketable and legal title to, or a valid leasehold interest in, each Eligible Property owned by such Person and (ii) owns or has a valid leasehold interest in such Person's respective other material assets.

(g) **Existing Indebtedness.** *Schedule 6.1(g)* is, as of the Effective Date, a complete and correct listing of all Indebtedness of the Parent, the Borrower and the Subsidiaries, including without limitation, Guarantees of the Parent, the Borrower and the Subsidiaries, and indicating whether such Indebtedness is Secured Indebtedness or Unsecured Indebtedness.

(h) **Litigation.** Except as set forth on *Schedule 6.1(h)*, there are no actions, suits, investigations or proceedings pending (nor, to the knowledge of the Parent, are there any actions, suits or proceedings threatened) against or in any other way relating adversely to or affecting the Parent, the Borrower, any Subsidiary or any other Loan Party or any of its respective property in any court or before any arbitrator of any kind or before or by any other Governmental Authority which could reasonably be expected to have a Material Adverse Effect. There are no strikes, slow downs, work stoppages or walkouts or other labor disputes in progress or threatened relating to the Parent, the Borrower, any Subsidiary or any other Loan Party which could reasonably be expected to have a Material Adverse Effect.

(i) **Taxes.** All federal, state and other tax returns of the Parent, the Borrower, any Subsidiary or any other Loan Party required by Applicable Law to be filed have been duly filed, and all federal, state and other taxes, assessments and other governmental charges or levies upon the Parent, the Borrower, any Subsidiary and each other Loan Party and its respective properties, income, profits and assets which are due and payable have been paid, except any such nonpayment which is at the time permitted under *Section 7.6*. As of the Effective Date, none of the United States

income tax returns of the Parent, the Borrower, its Subsidiaries or any other Loan Party is under audit. All charges, accruals and reserves on the books of the Parent, the Borrower and each Subsidiary and each other Loan Party in respect of any taxes or other governmental charges are in accordance with GAAP.

(j) **Financial Statements.** The Parent has furnished to each Lender copies of (i) the audited consolidated balance sheet of the Parent and its consolidated Subsidiaries for the fiscal year ending December 31, 2021, and the related audited consolidated statements of operations, cash flows and shareholders' equity for the fiscal year ending on such dates, with the opinion thereon of Deloitte and Touche LLP, and (ii) the unaudited consolidated balance sheet of the Parent and its consolidated Subsidiaries for the fiscal quarter ending September 30, 2022, and the related unaudited consolidated statements of operations, cash flows and shareholders' equity of the Parent and its consolidated Subsidiaries for the fiscal quarter ending on such date. Such financial statements (including in each case related schedules and notes) present fairly, in all material respects and in accordance with GAAP consistently applied throughout the periods involved, the consolidated financial position of the Parent and its consolidated Subsidiaries as at their respective dates and the results of operations and the cash flow for such periods (subject, as to interim statements, to changes resulting from normal year end audit adjustments). Neither the Parent nor any of its Subsidiaries has on the Effective Date any material contingent liabilities, liabilities, liabilities for taxes, unusual or long-term commitments or unrealized or forward anticipated losses from any unfavorable commitments that would be required to be set forth in its financial statements or in the notes thereto, except as referred to or reflected or provided for in said financial statements.

(k) **No Material Adverse Change.** Since December 31, 2021, no event, condition, situation or status concerning the Parent or its Subsidiaries has occurred that has had or could reasonably be expected to result in a Material Adverse Effect. Each of the Borrower and the Parent is Solvent. The Parent, the Borrower and the other Loan Parties, taken as a whole, are Solvent. The Parent and its Subsidiaries, taken as a whole, are Solvent.

(l) **ERISA.** Each member of the ERISA Group is in compliance with its obligations under the minimum funding standards of ERISA and the Internal Revenue Code with respect to each Plan and is in compliance with the presently applicable provisions of ERISA and the Internal Revenue Code with respect to each Plan, except in each case for noncompliances which could not reasonably be expected to have a Material Adverse Effect. As of the Effective Date, no member of the ERISA Group has (i) sought a waiver of the minimum funding standard under *Section 412* of the Internal Revenue Code in respect of any Plan, (ii) failed to make any contribution or payment to any Plan or Multiemployer Plan or in respect of any Benefit Arrangement, or made any amendment to any Plan or Benefit Arrangement, which has resulted or could result in the imposition of a Lien or the posting of a bond or other security under ERISA or the Internal Revenue Code or (iii) incurred any liability under *Title IV* of ERISA other than a liability to the PBGC for premiums under *Section 4007* of ERISA.

(m) **Not Plan Assets; No Prohibited Transaction.** None of the assets of the Parent, the Borrower, any Subsidiary or any other Loan Party constitute "*plan assets*" within the meaning of ERISA, the Internal Revenue Code and the respective regulations promulgated thereunder. The execution, delivery and performance of this Agreement and the other Loan Documents, and the borrowing and repayment of amounts hereunder, do not and will not constitute "*prohibited transactions*" under ERISA or the Internal Revenue Code.

(n) **Absence of Defaults.** None of the Parent, the Borrower or any Subsidiary is in default in any material respect beyond any applicable grace period under its articles of

incorporation, bylaws, partnership agreement or other similar organizational documents, and no event has occurred, which has not been remedied, cured or waived, which, in any such case: (i) constitutes a Default or an Event of Default; or (ii) constitutes, or which with the passage of time, the giving of notice, or both, would constitute, a default or event of default by the Parent, the Borrower, any Subsidiary or any other Loan Party under any agreement (other than this Agreement) or judgment, decree or order to which the Parent, the Borrower or any Subsidiary or other Loan Party is a party or by which the Parent, the Borrower or any Subsidiary or other Loan Party or any of their respective properties may be bound where such default or event of default could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(o) **Environmental Laws.** Each of the Parent, the Borrower, the Subsidiaries and the other Loan Parties has obtained all Governmental Approvals which are required under Environmental Laws and is in compliance with all terms and conditions of such Governmental Approvals which the failure to obtain or to comply with could reasonably be expected to have a Material Adverse Effect. Except for any of the following matters that could not be reasonably expected to have a Material Adverse Effect, (i) neither the Parent nor the Borrower is aware of, or has received notice of any events, conditions, circumstances, activities, practices, incidents, actions, or plans which, with respect to the Parent, the Borrower and the Subsidiaries, may interfere with or prevent compliance or continued compliance with Environmental Laws, or may give rise to any common law or legal liability, or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, study, or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling or the emission, discharge, release or threatened release into the environment, of any Hazardous Material on or from any of the Properties of the Parent, the Borrower, or any Subsidiary ; and (ii) there is no civil, criminal, or administrative action, suit, demand, claim, hearing, notice, or demand letter, notice of violation, investigation, or proceeding pending or, to the Parent's and the Borrower's knowledge, threatened, against the Parent, the Borrower or any Subsidiary relating in any way to Environmental Laws.

(p) **Investment Company; Etc.** None of the Parent, the Borrower, any Subsidiary or any other Loan Party is (i) an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or (ii) subject to any other Applicable Law which purports to regulate or restrict its ability to borrow money, otherwise obtain extensions of credit or repay indebtedness.

(q) **Margin Stock.** None of the Parent, the Borrower, any Subsidiary or any other Loan Party is engaged principally, or as one of its primary activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System.

(r) **Affiliate Transactions.** Except as permitted by **Section 9.10**, none of the Parent, the Borrower, any Subsidiary or any other Loan Party is a party to any transaction with an Affiliate.

(s) **Intellectual Property.** Each of the Parent, the Borrower, each other Loan Party and each other Subsidiary owns or has the right to use, under valid license agreements or otherwise, all patents, licenses, franchises, trademarks, trademark rights, service marks, service mark rights, trade names, trade name rights, trade secrets and copyrights (collectively, "**Intellectual Property**") necessary to the conduct of its businesses as now conducted and as contemplated by the Loan Documents, without known conflict with any patent, license, franchise, trademark, trademark right, service mark, service mark right, trade secret, trade name, copyright or other proprietary right of any other Person except where the failure to own or have the right to use such Intellectual Property

without known conflict could not reasonably be expected to have a Material Adverse Effect. The Parent, the Borrower, each other Loan Party and each other Subsidiary have taken all such steps as they deem reasonably necessary to protect their respective rights under and with respect to such Intellectual Property. No claim which could reasonably be expected to have a Material Adverse Effect has been asserted by any Person with respect to the use of any such Intellectual Property by the Parent, the Borrower, any other Loan Party or any other Subsidiary, or challenging or questioning the validity or effectiveness of any such Intellectual Property. The use of such Intellectual Property by the Parent, the Borrower, its Subsidiaries and the other Loan Parties, does not infringe on the rights of any Person, subject to such claims and infringements as do not, in the aggregate, give rise to any liabilities on the part of the Parent, the Borrower, any other Loan Party or any other Subsidiary that could reasonably be expected to have a Material Adverse Effect.

(t) **Business.** As of the Effective Date, the Parent, the Borrower and the other Subsidiaries are engaged in the business of owning, managing, leasing, acquiring and making investments in office and industrial properties, together with other business activities incidental thereto.

(u) **Broker's Fees.** No Loan Party is required to pay any broker's or finder's fee, commission or similar compensation with respect to the transactions contemplated hereby. No other similar fees or commissions will be payable by any Loan Party for any other services rendered to the Parent, the Borrower or any of its Subsidiaries ancillary to the transactions contemplated hereby.

(v) **Accuracy and Completeness of Information.** All written information, reports and other papers and data (excluding financial projections and other forward looking statements) furnished to the Agent or any Lender by, on behalf of, or at the direction of, the Parent, the Borrower, any Subsidiary or any other Loan Party in connection with, pursuant to or relating in any way to this Agreement, is true and accurate in all material respects on the date as of which such information, reports, and other papers and data is stated or certified. All financial statements (including in each case all related schedules and notes) furnished to the Agent or any Lender by, on behalf of, or at the direction of, the Parent, the Borrower, any Subsidiary or any other Loan Party in connection with, pursuant to or relating in any way to this Agreement, present fairly, in all material respects and in accordance with GAAP consistently applied throughout the periods involved, the financial position of the Persons involved as at the date thereof and the results of operations for such periods (subject, as to interim statements, to changes resulting from normal year end audit adjustments). All financial projections and other forward looking statements prepared by or on behalf of the Parent, the Borrower, any Subsidiary or any other Loan Party that have been or may hereafter be made available to the Agent or any Lender were or will be prepared in good faith based on reasonable assumptions. As of the Effective Date, no fact is known to the Parent or the Borrower which has had, or may in the future have (so far as the Borrower can reasonably foresee), a Material Adverse Effect which has not been set forth in the financial statements referred to in **Section 6.1(j)** or in such information, reports or other papers or data or otherwise disclosed in writing to the Agent and the Lenders.

(w) **REIT Status.** The Parent qualified as a REIT in the fiscal year most recently ended and is in compliance with all requirements and conditions imposed under the Internal Revenue Code to allow the Parent to maintain its status as a REIT.

(x) **Eligible Properties.** As of the Effective Date, **Schedule 6.1(x)** is a correct and complete list of all Eligible Properties. **Schedule 6.1(x)** sets forth as of the Effective Date whether such Eligible Property is a CBD or Urban Infill Property, an Acquisition Property or a Development Property. Each of the assets included by the Parent in calculations of Unencumbered NOI satisfies all of the requirements contained in the definition of "Eligible Property".

(y) **OFAC.** No Loan Party, nor any of their respective Subsidiaries, nor their respective directors, officers, nor, to the knowledge of any Loan Party and its respective Subsidiaries, any employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by one or more individuals or entities that are (a) currently the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals or HMT's Consolidated List of Financial Sanctions Targets, or any similar list enforced by any other relevant sanctions authority or (c) located, organized or resident in a Designated Jurisdiction. The Loan Parties and their Subsidiaries have 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.

(z) **Anti-Corruption Laws.** The Loan Parties and their Subsidiaries have conducted their businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(aa) **Patriot Act.** No Loan Party nor any of its Subsidiaries is an "enemy" or an "ally of the enemy" within the meaning of Section 2 of the Trading with the Enemy Act or enabling legislation or executive order relating thereto. Neither any Loan Party nor any of its Subsidiaries is in violation of, and neither the making of the Loans hereunder nor the use of the proceeds thereof will violate, (a) the Trading with Enemy Act, (b) any of the foreign assets control regulations of the United State Treasury Department (31 C.F.R., *Subtitle B, Chapter V*, as amended) or any enabling legislation or executive order relating thereto or (c) the Patriot Act. None of the Loan Parties (i) is a blocked person described in Section 1 of Executive Order 13224 of the President of the United States or (ii) to the best of its knowledge, engages in any dealings or transactions, or is otherwise associated, with any such blocked person.

(bb) **Affected Financial Institution.** No Loan Party is an Affected Financial Institution.

(cc) **Covered Entities.** No Loan Party is a Covered Entity.

(dd) **Beneficial Ownership.** As of the Effective Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

6.2 Survival of Representations and Warranties, Etc. All statements contained in any certificate, financial statement or other instrument delivered by or on behalf of the Parent, the Borrower, any Subsidiary or any other Loan Party to the Agent or any Lender pursuant to or in connection with this Agreement or any of the other Loan Documents (including, but not limited to, any such statement made in or in connection with any amendment hereto or thereto or any statement contained in any certificate, financial statement or other instrument delivered by or on behalf of the Parent or the Borrower prior to the Effective Date and delivered to the Agent or any Lender in connection with the underwriting or closing of the transactions contemplated hereby) shall constitute representations and warranties made by the Parent or the Borrower to the Agent and the Lenders under this Agreement. All representations and warranties made under this Agreement and the other Loan Documents shall be deemed to be made at and as of the Effective Date, the Effective Date, the date on which any extension of the Termination Date is effectuated pursuant to **Section 2.13**, except to the extent that such representations and warranties expressly relate solely to an

earlier date (in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents. All such representations and warranties shall survive the effectiveness of this Agreement, the execution and delivery of the Loan Documents and the making of the Loans.

VII. **AFFIRMATIVE COVENANTS.** For so long as this Agreement is in effect, unless the Requisite Lenders (or, if required pursuant to **Section 12.6**, all of the Lenders) shall otherwise consent in the manner provided for in **Section 12.6**, the Parent and the Borrower shall comply with the following covenants:

7.1 Preservation of Existence and Similar Matters. Except as otherwise permitted under **Section 9.7**, the Parent and the Borrower shall, and shall cause each Subsidiary to, preserve and maintain its respective existence, rights, franchises, licenses and privileges in the jurisdiction of its incorporation or formation and qualify and remain qualified and authorized to do business in each jurisdiction in which the character of its properties or the nature of its business requires such qualification and authorization and where the failure to be so authorized and qualified could reasonably be expected to have a Material Adverse Effect.

7.2 Compliance with Applicable Law. The Parent and the Borrower shall, and shall cause each Subsidiary to, comply with all Applicable Laws, including the obtaining of all Governmental Approvals, the failure with which to comply could reasonably be expected to have a Material Adverse Effect. The Borrower will conduct its businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

7.3 Maintenance of Property. In addition to the requirements of any of the other Loan Documents, the Parent and the Borrower shall, and shall cause each Subsidiary to, protect and preserve all of its respective material properties, including, but not limited to, all material Intellectual Property, and maintain in good repair, working order and condition all material tangible properties, ordinary wear and tear excepted.

7.4 Conduct of Business. The Parent and its Subsidiaries, taken as a whole shall carry on, their respective businesses as described in **Section 6.1(t)**.

7.5 Insurance. In addition to the requirements of any of the other Loan Documents, the Parent and the Borrower shall, and shall cause each Subsidiary and other Loan Party to, maintain insurance (on a replacement cost basis) with financially sound and reputable insurance companies against such risks and in such amounts as is customarily maintained by Persons engaged in similar businesses or as may be required by Applicable Law, and from time to time deliver to the Agent upon its request a detailed list, together with copies of all policies of the insurance then in effect, stating the names of the insurance companies, the amounts of the insurance, the dates of the expiration thereof and the properties and risks covered thereby.

7.6 Payment of Taxes and Claims. The Parent and the Borrower shall, and shall cause each Subsidiary and other Loan Party to, pay and discharge when due (a) all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or upon any properties belonging to it, and (b) all lawful claims of materialmen, mechanics, carriers, warehousemen and landlords for labor, materials, supplies and rentals which are more than 60 days past due and which, if unpaid, might become a Lien on any properties of such Person; *provided, however*, that this **Section** shall not require the payment or discharge of any such tax, assessment, charge, levy or claim which is being contested in good faith by appropriate proceedings which operate to suspend the collection thereof and for which adequate reserves have been established on the books of the Parent, the Borrower, such Subsidiary or such other Loan Party, as applicable, in accordance with GAAP.

7.7 Visits and Inspections. The Parent and the Borrower shall, and shall cause each Subsidiary to, permit representatives or agents of any Lender or the Agent, from time to time after reasonable prior notice if no Event of Default shall be in existence, as often as may be reasonably requested, but only during normal business hours and at the expense of such Lender or the Agent (unless a Default or Event of Default shall exist, in which case the exercise by the Agent or such Lender of its rights under this **Section** shall be at the expense of the Borrower), as the case may be, to: (a) visit and inspect all properties of the Parent, the Borrower or such Subsidiary to the extent any such right to visit or inspect is within the control of such Person; (b) inspect and make extracts from their respective books and records, including but not limited to management letters prepared by independent accountants; and (c) discuss with its officers and employees, and its independent accountants, its business, properties, condition (financial or otherwise), results of operations and performance. If requested by the Agent, the Parent and the Borrower shall execute an authorization letter addressed to its accountants authorizing the Agent or any Lender to discuss the financial affairs of the Parent and any Subsidiary with its accountants.

7.8 Use of Proceeds. The Borrower shall use the proceeds of the Loans for general corporate purposes only including, without limitation, for repayment of Indebtedness and the payment of dividends. No part of the proceeds of any Loan will be used for the purpose of buying or carrying “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or to extend credit to others for the purpose of purchasing or carrying any such margin stock; provided, however, the Borrower may use proceeds of the Loans to purchase the Parent’s capital stock and the Borrower’s partnership interests unless (i) such use will result in a violation of Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or (ii) such use will require the Agent or any Lender to file any form or other documentation or take any other action in compliance with Regulation U or Regulation X of the Board of Governors of the Federal Reserve System and the Borrower has failed to provide the Agent prior written notice of such use and to execute, complete and deliver all such forms and other documentation and to take any other action as may be necessary for such compliance by the Agent or any Lender. The Borrower will not request any Loan, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Loan (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Person in violation of any Sanctions or in any Designated Jurisdiction, that, at the time of such of funding, financing or facilitation, is subject of Sanctions, except to the extent permitted for a Person required to comply with Sanctions, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

7.9 Environmental Matters. The Parent and the Borrower shall, and shall cause each Subsidiary and each other Loan Party to, comply with all Environmental Laws the failure with which to comply could reasonably be expected to have a Material Adverse Effect. If the Parent, the Borrower, any Subsidiary or any other Loan Party shall (a) receive notice that any violation of any Environmental Law may have been committed or is about to be committed by such Person, (b) receive notice that any administrative or judicial complaint or order has been filed or is about to be filed against the Parent, the Borrower, any Subsidiary or any other Loan Party alleging violations of any Environmental Law or requiring the Parent, the Borrower, any Subsidiary or any other Loan Party to take any action in connection with the release of Hazardous Materials or (c) receive any notice from a Governmental Authority or private party alleging that the Parent, the Borrower, any Subsidiary or any other Loan Party may be liable or responsible for costs associated with a response to or cleanup of a release of Hazardous Materials or any

damages caused thereby, and the matters referred to in such notices, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, the Borrower shall provide the Agent with a copy of such notice promptly, and in any event within 10 Business Days, after the receipt thereof by the Parent, the Borrower, any Subsidiary or any other Loan Party. The Parent and the Borrower shall, and shall cause each Subsidiary and each other Loan Party to, take promptly all actions necessary to prevent the imposition of any Liens arising out of or related to any Environmental Laws on (i) any Eligible Property or (ii) any of their other respective properties, if (solely with respect to this **clause (ii)**), the imposition of such Lien could reasonably be expected to cause a Material Adverse Effect.

7.10 Books and Records. The Parent and the Borrower shall, and shall cause each Subsidiary to, maintain books and records pertaining to its respective business operations in such detail, form and scope as is consistent with good business practice and in accordance with GAAP.

7.11 Further Assurances. The Parent and the Borrower shall, at their cost and expense and upon request of the Agent, execute and deliver or cause to be executed and delivered, to the Agent such further instruments, documents and certificates, and do and cause to be done such further acts that may be reasonably necessary to effectuate the provisions and intent of this Agreement and the other Loan Documents.

7.12 New Subsidiaries/Guarantors.

(a) **Guarantors.** The Borrower may, at its option, cause any Subsidiary that is not already a Guarantor to become a Guarantor by executing and delivering to the Agent each of the following items, each in form and substance satisfactory to the Agent: (i) an Accession Agreement executed by such Subsidiary and (ii) the items that would have been delivered under **Sections 5.1(a)(iv)** through **(viii)** and **(xiii)** if such Subsidiary had been a Guarantor on the Effective Date.

(b) **Release of a Guarantor.** The Borrower may request in writing that the Agent release, and upon receipt of such request the Agent shall release, a Guarantor (other than the Parent) from the Facility Guaranty so long as: (i) no Default or Event of Default shall then be in existence or would occur as a result of such release, including without limitation, a Default or Event of Default resulting from a violation of any of the covenants contained in **Section 9.1**; (ii) the representations and warranties made or deemed made by the Parent, the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects on and as of the date of such release with the same force and effect as if made on and as of such date except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents; and (iii) the Agent shall have received such written request at least 5 Business Days (or such other period as may be acceptable to the Agent) prior to the requested date of release. Delivery by the Borrower to the Agent of any such request shall constitute a representation by the Borrower that the matters set forth in the preceding sentence (both as of the date of the giving of such request and as of the date of the effectiveness of such request) are true and correct with respect to such request.

7.13 REIT Status. The Parent shall at all times maintain its status as a REIT.

7.14 Exchange Listing. The Parent shall maintain at least one class of common shares of the Parent having trading privileges on the New York Stock Exchange, the American Stock Exchange or another nationally recognized stock exchange located in the United States and reasonably approved by the Agent or which is the subject of price quotations in the over the counter market as reported by the National Association of Securities Dealers Automated Quotation System.

VIII. **INFORMATION.** For so long as this Agreement is in effect, unless the Requisite Lenders (or, if required pursuant to **Section 12.6**, all of the Lenders) shall otherwise consent in the manner set forth in **Section 12.6**, the Parent and the Borrower, as applicable, shall furnish to each Lender (or to the Agent if so provided below) at its Lending Office:

8.1 Quarterly Financial Statements. Not later than 5 days after the same is filed with the Securities and Exchange Commission (but in no event later than 60 days after the end of each of the first, second and third fiscal quarters of the Parent), the unaudited consolidated balance sheet of the Parent and its Subsidiaries as at the end of such period and the related unaudited consolidated statements of income, shareholders' equity and cash flows of the Parent and its Subsidiaries for such period, setting forth in each case in comparative form the figures as of the end of and for the corresponding periods of the previous fiscal year, all of which shall be certified by the chief executive officer or chief financial officer of the Parent, in his or her opinion, to present fairly, in accordance with GAAP and in all material respects, the consolidated financial position of the Parent and its Subsidiaries as at the date thereof and the results of operations for such period (subject to normal year end audit adjustments).

8.2 Year End Statements. Not later than 5 days after the same is filed with the Securities and Exchange Commission (but in no event later than 90 days after the end of each fiscal year of the Parent), the audited consolidated balance sheet of the Parent and its Subsidiaries as at the end of such fiscal year and the related audited consolidated statements of income, shareholders' equity and cash flows of the Parent and its Subsidiaries for such fiscal year, setting forth in comparative form the figures as at the end of and for the previous fiscal year, all of which shall be (a) certified by the chief executive officer or chief financial officer of the Parent, in his or her opinion, to present fairly, in accordance with GAAP and in all material respects, the consolidated financial position of the Parent and its Subsidiaries as at the date thereof and the results of operations for such period and (b) accompanied by the report thereon of independent certified public accountants of recognized national standing, whose report shall be unqualified.

8.3 Compliance Certificate; Other Reports. At the time financial statements are furnished pursuant to **Sections 8.1** and **8.2**, and within 5 Business Days after the Agent's reasonable request with respect to any other fiscal period, a certificate substantially in the form of **Exhibit G** (a "**Compliance Certificate**") executed by the chief financial officer of the Parent: (a) setting forth in reasonable detail as at the end of such quarterly accounting period, fiscal year, or other fiscal period, as the case may be, the calculations required to establish whether or not the Parent was in compliance with the covenants contained in **Section 9.1** and (b) stating that, to the best of his or her knowledge, information and belief after due inquiry, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default and its nature, when it occurred, whether it is continuing and the steps being taken by the Parent and the Borrower with respect to such event, condition or failure. At the time financial statements are furnished pursuant to **Sections 8.1** and **8.2**, the Parent shall also deliver (A) a report, in form and detail reasonably satisfactory to the Agent, setting forth a statement of Funds From Operations for the period of four consecutive fiscal periods then ending; and (B) a report, in form and detail reasonably satisfactory to the Agent, setting forth a list of all Properties acquired by the Parent, the Borrower and the Subsidiaries since the date of the delivery of the previous such report, such list to identify such Property's name, location, date acquired, acquisition cost, amount of related mortgage Indebtedness, if any, and the Occupancy Rate and Net Operating Income for such Property.

8.4 Other Information.

(a) **Management Reports.** Promptly upon receipt thereof, copies of all management reports, if any, submitted to the Parent or its Board of Directors by its independent public accountants;

(b) **Securities Filings.** Within 5 Business Days after the filing thereof, copies of all registration statements (excluding the exhibits thereto (unless requested by the Agent) and any registration statements on Form S-8 or its equivalent), reports on Forms 10-K, 10-Q and 8-K (or their equivalents) and all other periodic reports which the Parent, the Borrower, any Subsidiary or any other Loan Party shall file with the Securities and Exchange Commission (or any Governmental Authority substituted therefor) or any national securities exchange;

(c) **Shareholder Information.** Promptly upon the mailing thereof to the shareholders of the Parent generally, copies of all financial statements, reports and proxy statements so mailed and promptly upon the issuance thereof copies of all press releases issued by the Parent, the Borrower, any Subsidiary or any other Loan Party;

(d) **Partnership Information.** Promptly upon the mailing thereof to the partners of the Borrower generally, copies of all financial statements, reports and proxy statements so mailed;

(e) **ERISA.** If and when any member of the ERISA Group (i) gives or is required to give notice to the PBGC of any “reportable event” (as defined in *Section 4043* of ERISA) with respect to any Plan which might constitute grounds for a termination of such Plan under *Title IV* of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under *Title IV* of ERISA or notice that any Multiemployer Plan is in reorganization, is insolvent or has been terminated, a copy of such notice; (iii) receives notice from the PBGC under *Title IV* of ERISA of an intent to terminate, impose liability (other than for premiums under *Section 4007* of ERISA) in respect of, or appoint a trustee to administer any Plan, a copy of such notice; (iv) applies for a waiver of the minimum funding standard under *Section 412* of the Internal Revenue Code, a copy of such application; (v) gives notice of intent to terminate any Plan under *Section 4041(c)* of ERISA, a copy of such notice and other information filed with the PBGC; (vi) gives notice of withdrawal from any Plan pursuant to *Section 4063* of ERISA, a copy of such notice; or (vii) fails to make any payment or contribution to any Plan or Multiemployer Plan or in respect of any Benefit Arrangement or makes any amendment to any Plan or Benefit Arrangement, and of which has resulted or could reasonably be expected to result in the imposition of a Lien or the posting of a bond or other security, a certificate of the chief executive officer or chief financial officer of the Parent setting forth details as to such occurrence and the action, if any, which the Parent or applicable member of the ERISA Group is required or proposes to take;

(f) **Litigation.** To the extent the Parent, the Borrower or any Subsidiary is aware of the same, prompt notice of the commencement of any proceeding or investigation by or before any Governmental Authority and any action or proceeding in any court or other tribunal or before any arbitrator against or in any other way relating adversely to, or adversely affecting, the Parent, the Borrower or any Subsidiary or any of their respective properties, assets or businesses which could reasonably be expected to have a Material Adverse Effect, and prompt notice of the receipt of notice that any United States income tax returns of the Parent, the Borrower or any Subsidiary are being audited;

(g) **Modification of Organizational Documents.** A copy of any amendment to the articles of incorporation, bylaws, partnership agreement, operating agreement or other similar organizational documents of the Parent, the Borrower or any other Loan Party within 15 Business Days after the effectiveness thereof;

(h) **Change of Financial Condition or Beneficial Ownership.** Prompt notice of (i) any change in the business, assets, liabilities, financial condition or results of operations of the Parent, the Borrower or any Subsidiary which has had or could reasonably be expected to have a Material Adverse Effect or (ii) any change in the information provided in any Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification;

(i) **Default.** Notice of the occurrence of any of the following promptly upon a Responsible Officer of the Parent or the Borrower obtaining knowledge thereof: (i) any Default or Event of Default or (ii) any event which constitutes or which with the passage of time, the giving of notice, or otherwise, would constitute a default or event of default by the Parent, the Borrower, any Subsidiary or any other Loan Party under any Material Contract to which any such Person is a party or by which any such Person or any of its respective properties may be bound;

(j) **Judgments.** Prompt notice of any order, judgment or decree in excess of \$10,000,000 having been entered against the Parent, the Borrower, any Subsidiary or any other Loan Party or any of their respective properties or assets;

(k) **Notice of Violations of Law.** Prompt notice if the Parent, the Borrower, any Subsidiary or any other Loan Party shall receive any notification from any Governmental Authority alleging a violation of any Applicable Law or any inquiry which, in either case, could reasonably be expected to have a Material Adverse Effect;

(l) **Change in Credit Rating.** Commercially reasonable efforts to provide prompt written notice of any change in the Credit Rating of the Parent or the Borrower that is announced by the applicable Rating Agency (it being acknowledged and agreed that the failure to provide such notice shall not result in a Default or Event of Default); and

(m) **Other Information.** From time to time and promptly upon each request, (i) such certificates, documents or information regarding the business, assets, liabilities, financial condition, results of operations or business prospects of the Parent, the Borrower or any Subsidiaries as the Agent or any Lender (through the Agent) may reasonably request, and (ii) information and documentation reasonably requested by the Agent or any Lender for purposes of compliance with applicable “*know-your-customer*” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.

8.5 Electronic Delivery of Certain Information.

(a) The Parent and the Borrower may deliver documents, materials and other information required to be delivered pursuant to **Article VIII** (collectively, “**Information**”) in an electronic format acceptable to the Agent by e-mailing any such Information to an e mail address of the Agent as specified to the Borrower by the Agent from time to time. The Agent shall promptly post such Information on the Parent’s or the Borrower’s behalf on an internet or intranet website to which each Lender and the Agent has access, whether a commercial, third-party website (such as Intralinks, ClearPar or SyndTrak) or any other electronic platform chosen by the Agent to be its electronic transmission system (the “**Platform**”). Such Information shall only be deemed to have been delivered to the Lenders on the date on which such Information is so posted.

(b) In addition, the Parent and the Borrower may deliver Information required to be delivered pursuant to **Sections 6.1(j), 8.1, 8.2, and 8.4(b)** and (c) by posting any such Information to the Parent's internet website (as of the Effective Date, www.piedmontreit.com) or to the website of the Securities and Exchange Commission (www.sec.gov). Any such Information provided in such manner shall only be deemed to have been delivered to the Agent or a Lender (i) on the date on which the Agent or such Lender, as applicable, receives notice from the Borrower that such Information has been posted and (ii) only if such Information is publicly available without charge on such website. If for any reason, the Agent or a Lender either did not receive such notice or after reasonable efforts was unable to access such website, then the Agent or such Lender, as applicable, shall not be deemed to have received such Information. In addition to any manner permitted by **Section 12.1**, the Borrower may notify the Agent or a Lender that Information has been posted to such a website by causing an e-mail notification to be sent to an e-mail address specified from time to time by the Agent or such Lender, as applicable. Notwithstanding the foregoing, (i) the Agent and each Lender is responsible for signing up, and agrees to sign up, for e-mail notifications by selecting "*E-mail Alerts*" on Parent's Investor Relations webpage at <http://investor.piedmontreit.com> and submitting the e-mail address to which the Agent or such Lender, as the case may be, desires to have e-mail notifications delivered to the Agent or such Lender and the Agent and each Lender hereby agree that such e-mail notifications to such e-mail addresses will satisfy the notification requirements of this **subsection (b)**, and (ii) failure of the Agent or any Lender to sign up for such e-mail notifications or to keep such e-mail addresses current shall relieve the Borrower from any obligation to provide e-mail notifications to the Agent or such Lender in order for the Information required to be delivered pursuant to **Sections 8.1, 8.2, and 8.4(b)** to be deemed to have been delivered by the Borrower by Borrower posting such Information to the Parent's internet website.

(c) Notwithstanding anything in this **Section** to the contrary (i) the Parent and the Borrower shall deliver paper copies of Information to the Agent or any Lender that requests the Parent and the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given to the Borrower by the Agent or such Lender and (ii) in every instance the Parent shall be required to provide to the Agent a paper original of the Compliance Certificate required by **Section 8.3**.

(d) The Parent and the Borrower acknowledge and agree that the Agent may make Information, as well as any other written information, notices, demands, reports, data, certificates, documents, instruments, agreements and other materials relating to the Parent, the Borrower, any Subsidiary or any other Loan Party or any other materials or matters relating to this Agreement, any of the other Loan Documents or any of the transactions contemplated by the Loan Documents, in each case to the extent that the Agent's communication thereof to the Lenders is otherwise permitted hereunder (collectively, the "**Communications**") available to the Lenders by posting the same on the Platform. Although the Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Agent from time to time in accordance with customary industry standards in effect from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Platform is secured through a per-deal authorization method whereby each user may access the Platform only on a deal-by-deal basis, each of the Lenders, the Parent and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added

to the Platform, and that there are confidentiality and other risks associated with such distribution. Each of the Lenders, the Parent and the Borrower hereby approves distribution of the Communications through the Platform and understands and assumes the risks of such distribution. THE PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE PLATFORM AND THE COMMUNICATIONS. 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 THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE AGENT, ANY CO-LEAD ARRANGER, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “**APPLICABLE PARTIES**”) HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY’S OR THE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE PLATFORM. Each Lender agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address. Each of the Lenders, the Parent and the Borrower agrees that the Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Platform in accordance with the Agent’s generally applicable document retention procedures and policies. Nothing herein shall prejudice the right of the Agent, any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

(e) The Agent shall have no obligation to request the delivery or to maintain copies of any of the Information or other materials referred to above, and in no event shall have any responsibility to monitor compliance by the Parent or the Borrower with any such requests. Each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such Information or other materials.

8.6 Public/Private Information. The Parent and the Borrower will cooperate with the Agent in connection with the publication of certain materials and/or information provided by or on behalf of the Parent or the Borrower to the Agent and the Lenders (collectively, “**Information Materials**”) pursuant to this **Article** and will designate Information Materials (a) that are either available to the public or not material with respect to the Parent, the Borrower and the Subsidiaries or any of their respective securities for purposes of United States federal and state securities laws, as “*Public Information*” and (b) that are not Public Information as “*Private Information*”. The Borrower hereby agrees that (w) all Information Materials that are to be made available to certain of the Lenders that may have personnel who do not wish to receive material non-public information with respect to the Borrower 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, a “**Public Lender**”) shall be clearly and conspicuously marked “*Public Information*” which, at a minimum, shall mean that the word “**PUBLIC**” shall appear

prominently on the first page thereof; (x) by marking Information Materials “*PUBLIC*,” the Borrower shall be deemed to have authorized the Agent, any Co-Lead Arranger, and the Lenders to treat such Information Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States Federal and state securities laws; (y) all Information Materials marked “*PUBLIC*” are permitted to be made available through a portion of the Platform designated “*Public Information*,” and (z) the Agent and any Co-Lead Arranger shall be entitled to treat any Information Materials that are not marked “*PUBLIC*” as being suitable only for posting on a portion of the Platform not designated “*Public Information*”.

IX. NEGATIVE COVENANTS. For so long as this Agreement is in effect, unless the Requisite Lenders (or, if required pursuant to Section 12.6, all of the Lenders) shall otherwise consent in the manner set forth in **Section 12.6**, the Parent and the Borrower shall comply with the following covenants:

9.1 Financial Covenants. The Parent shall not permit:

(a) **Maximum Leverage Ratio.** The ratio of (i) Total Indebtedness (net of, as of such date of determination, an amount equal to the lesser of (x) the amount of unrestricted cash and cash equivalents in excess of \$30,000,000 and (y) the amount of Total Indebtedness that matures within 24 months of such date of determination) to (ii) Total Asset Value (the “**Total Leverage Ratio**”), to exceed 0.60 to 1.00 at any time; provided, however, that if such ratio is greater than 0.60 to 1.00 but is not greater than 0.65 to 1.00, then such failure to comply with the foregoing covenant shall not constitute a Default or an Event of Default and the Parent shall be deemed to be in compliance with this **Section 9.1(a)** so long as (1) the Parent’s failure to comply with the foregoing covenant is in connection with the Parent’s (or any Consolidated Subsidiary’s) acquisition of a portfolio of Properties with a purchase price of at least 5.0% of Total Asset Value, (2) such acquisition is otherwise permitted hereunder, (3) such ratio does not exceed 0.60 to 1.00 for a period of more than four consecutive fiscal quarters (including the fiscal quarter in which such acquisition occurred) and (4) such ratio has not exceeded 0.60 to 1.00 at any other time during the current fiscal year of the Parent.

(b) **Minimum Fixed Charge Coverage Ratio.** The ratio of (i) Adjusted EBITDA for the period of four consecutive fiscal quarters of the Parent most recently ending to (ii) Fixed Charges of the Parent for such period, to be less than 1.50 to 1.00 at any time.

(c) **Maximum Secured Indebtedness Ratio.** The ratio of (i) Secured Indebtedness of the Parent to (ii) Total Asset Value, to exceed 0.40 to 1.00 at any time.

(d) **Minimum Unencumbered Leverage Ratio.** The ratio of (i) Unencumbered Asset Value to (ii) Unsecured Indebtedness of the Parent plus the Parent’s Share of Unsecured Indebtedness of its Consolidated Subsidiaries and Unconsolidated Affiliates (net of, as of such date of determination, an amount equal to the lesser of (x) the amount of unrestricted cash and cash equivalents in excess of \$30,000,000 and (y) the amount of such Unsecured Indebtedness that matures within 24 months of such date of determination), to be less than 1.60 to 1.00 at any time.

(e) **Minimum Unencumbered Interest Coverage Ratio.** The ratio of (i) Unencumbered NOI for the period of four consecutive fiscal quarters of the Parent most recently ending to (ii) Unsecured Interest Expense for such period, to be less than 1.75 to 1.00 at any time.

9.2 Restricted Payments. If a Default or Event of Default specified in **Section 10.1(a)** or **Section 10.1(b)** exists, or if as a result of the occurrence of any other Event of Default any of the Obligations have been accelerated pursuant to **Section 10.2(a)**, the Parent and the Borrower shall not, and shall not

permit any Subsidiary to, make any Restricted Payments to any Person; provided, however, that the Borrower may declare and make cash distributions to the Parent and its other partners on a pro rata basis with respect to any fiscal year to the extent necessary for the Parent to distribute, and the Parent may so distribute, an aggregate amount not to exceed the minimum amount necessary for the Parent to remain in compliance with **Section 7.13**.

9.3 Indebtedness. The Parent and the Borrower shall not, and shall not permit any Subsidiary or any other Loan Party to, incur, assume, or otherwise become obligated in respect of any Indebtedness after the Effective Date if immediately thereafter and after giving effect thereto, a Default or Event of Default would be in existence, including without limitation, a Default or Event of Default resulting from a violation of any of the covenants contained in **Section 9.1**.

9.4 [Reserved].

9.5 Investments Generally. The Parent and the Borrower shall not, and shall not permit any Subsidiary or other Loan Party to, directly or indirectly, acquire, make or purchase any Investment, or permit any Investment of such Person to be outstanding on and after the Effective Date, other than the following:

(a) ownership of Equity Interests in Subsidiaries and Unconsolidated Affiliates; provided that, notwithstanding anything to the contrary contained herein, the purchase or acquisition of additional Equity Interests in a Subsidiary or Unconsolidated Affiliate is permitted only so long as immediately prior to such purchase or acquisition, and after giving effect thereto, no Default or Event of Default is or would be in existence;

(b) Investments to acquire Equity Interests of a Subsidiary or any other Person who after giving effect to such acquisition would be a Subsidiary, so long as in each case immediately prior to such Investment, and after giving effect thereto, no Default or Event of Default is or would be in existence;

(c) [reserved];

(d) Investments in Cash Equivalents;

(e) intercompany Indebtedness among the Parent, the Borrower and other Loan Parties provided that such Indebtedness is permitted by the terms of **Section 9.3**;

(f) loans and advances to officers and employees for moving, entertainment, travel and other similar expenses in the ordinary course of business consistent with past practices; and

(g) any other Investment so long as immediately prior to making such Investment, and immediately thereafter and after giving effect thereto, no Default or Event of Default is or would be in existence.

9.6 Liens; Negative Pledges; Other Matters.

(a) The Parent and the Borrower shall not, and shall not permit any Subsidiary or other Loan Party to, create, assume, or incur any Lien (other than Permitted Liens) upon any of its properties, assets, income or profits of any character whether now owned or hereafter acquired if immediately following the creation, assumption or incurring of such Lien, a Default or Event of Default would be in existence, including without limitation, a Default or Event of Default resulting from a violation of any of the covenants contained in **Section 9.1**.

(b) The Parent and the Borrower shall not, and shall not permit any Subsidiary or other Loan Party to, enter into, assume or otherwise be bound by any Negative Pledge with respect to any Eligible Property or otherwise if, immediately prior to entering into, assuming or being bound by such Negative Pledge or immediately thereafter and after giving effect thereto, a Default or Event of Default is or would be in existence hereunder.

(c) The Parent and the Borrower shall not, and shall not permit any Subsidiary or other Loan Party to, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary (other than an Excluded Subsidiary or a Subsidiary that is not a Wholly Owned Subsidiary) to: (i) pay dividends or make any other distribution on any of such Subsidiary's capital stock or other equity interests owned by the Parent, the Borrower or any Subsidiary; (ii) pay any Indebtedness owed to the Parent, the Borrower or any Subsidiary; (iii) make loans or advances to the Parent, the Borrower or any Subsidiary; or (iv) transfer any of its property or assets to the Parent, the Borrower or any Subsidiary.

9.7 Merger, Consolidation, Sales of Assets and Other Arrangements. The Parent and the Borrower shall not, and shall not permit any Subsidiary or other Loan Party to: (i) enter into any transaction of merger or consolidation; (ii) liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution); or (iii) convey, sell, lease, sublease, transfer or otherwise dispose of, in one transaction or a series of transactions, and whether affected pursuant to a division or otherwise, all or substantially all of its business or assets, whether now owned or hereafter acquired; provided, however, that:

(a) any of the actions described in the immediately preceding **clauses (i)** through **(iii)** may be taken with respect to any Subsidiary or any Loan Party (other than the Parent or the Borrower) so long as:

(i) immediately prior to the taking of such action, and immediately thereafter and after giving effect thereto, no Default or Event of Default is or would be in existence; and

(ii) in the case of a merger involving a Loan Party or a Subsidiary that owns or leases an Eligible Property, (x) the Borrower shall have given the Agent and the Lenders at least 10 Business Days' prior written notice of such merger, such notice to include a certification to the effect that immediately after and after giving effect to such action, no Default or Event of Default is or would be in existence, (y) if the Subsidiary so merging is a Loan Party and the survivor entity is to be a Guarantor, the survivor entity shall, if requested by the Agent, have executed and delivered an assumption agreement in form and substance satisfactory to the Agent pursuant to which such survivor entity shall expressly assume all of such Loan Party's Obligations under the Loan Documents to which it is a party, and (z) within 30 days after consummation of such merger, the survivor entity, if a Loan Party delivers to the Agent items of the type referred to in **Sections 5.1(a)(v)** through (viii) with respect to the survivor entity as in effect after consummation of such merger (if not previously delivered to the Agent and still in effect);

(b) the Parent, the Borrower, its Subsidiaries and the other Loan Parties may lease and sublease their respective assets, as lessor or sublessor (as the case may be), in the ordinary course of their business;

(c) a Person may merge with or into the Parent or the Borrower so long as:

(i) the Parent or the Borrower, as the case may be, is the survivor of such merger, or if the Parent or the Borrower is not the survivor, (w) the survivor is a Person organized and existing under the laws of the United States, any State thereof or the District of Columbia, (x) the survivor shall expressly assume, pursuant to an agreement in form satisfactory to the Agent, all obligations of Parent or the Borrower, as applicable, under the Loan Documents to which it is a party, and (y) individuals who constituted the Board of Directors of the Parent immediately prior to such merger constitute a majority of the Board of Directors of the Parent immediately following such merger;

(ii) immediately prior to such merger, and immediately thereafter and after giving effect thereto, no Default or Event of Default is or would be in existence; and

(iii) the Borrower shall have given the Agent and the Lenders at least 10 Business Days' prior written notice of such merger, such notice to include a certification as to the matters described in the immediately preceding **clause (ii)** (except that such prior notice shall not be required in the case of the merger of a Subsidiary with and into the Parent or the Borrower);

(d) the Parent, the Borrower and each Subsidiary may sell, transfer or dispose of assets among themselves; provided that (1) any such sale, transfer or disposition of an Eligible Property shall not result in an Event of Default under **Section 9.1**, and if an Event of Default has occurred and is continuing, such sales, transfers or dispositions of Eligible Properties shall only be among the Borrower and Subsidiaries of the Borrower that meet the requirements of **clause (f)** of the definition of Eligible Property, and (2) if an Event of Default has occurred and is continuing, such sales, transfers or dispositions of assets other than Eligible Properties shall only be among the Parent, the Borrower and Wholly Owned Subsidiaries of the Borrower.

9.8 Fiscal Year. The Parent shall not change its fiscal year from that in effect as of the Effective Date.

9.9 Modifications of Organizational Documents. The Parent and the Borrower shall not, and shall not permit any Loan Party or other Subsidiary to, amend, supplement, restate or otherwise modify its articles or certificate of incorporation, by-laws, operating agreement, declaration of trust, partnership agreement or other applicable organizational document if such amendment, supplement, restatement or other modification could reasonably be expected to have a Material Adverse Effect.

9.10 Transactions with Affiliates. The Parent and the Borrower shall not, and shall not permit any Subsidiary or any other Loan Party to, permit to exist or enter into, any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate (other than a Loan Party), except (a) transactions in the ordinary course of and pursuant to the reasonable requirements of the business of the Parent, the Borrower or any Subsidiary and upon fair and reasonable terms which are no less favorable to the Parent, the Borrower or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person that is not an Affiliate and (b) transactions solely among the Parent, the Borrower, other Loan Parties and Wholly Owned Subsidiaries.

9.11 ERISA Exemptions. The Parent and the Borrower shall not, and shall not permit any Subsidiary to, permit any of its respective assets to become or be deemed to be "*plan assets*" within the meaning of ERISA, the Internal Revenue Code and the respective regulations promulgated thereunder.

9.12 **Sanctions.** The Parent and the Borrower shall not, directly or indirectly, use the proceeds of the Loan, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, to fund any activities of or business with any Person that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Arranger, Agent, or otherwise) of Sanctions.

9.13 **Anti-Corruption Laws.** The Parent and the Borrower shall not, directly or indirectly, use the proceeds of the Loan for any purpose which would cause the Borrower, the Parent or their Subsidiaries to not be in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions.

X. DEFAULT.

10.1 **Events of Default.** Each of the following shall constitute an Event of Default, whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of Applicable Law or pursuant to any judgment or order of any Governmental Authority:

(a) **Default in Payment of Principal.** The Borrower shall fail to pay when due (whether upon demand, at maturity, by reason of acceleration or otherwise) the principal of any of the Loans.

(b) **Default in Payment of Interest and Other Obligations.** (i) The Borrower shall fail to pay when due any interest on any of the Loans, and such failure shall continue for a period of 5 Business Days or (ii) the Borrower shall fail to pay when due any of the other payment Obligations owing by the Borrower under this Agreement or any other Loan Document, or any other Loan Party shall fail to pay when due any payment Obligation owing by such other Loan Party under any Loan Document to which it is a party, and in each case, such failure shall continue for a period of ten (10) calendar days after the date on which the Borrower or such Loan Party receives notice of such failure from the Agent.

(c) **Default in Performance.** (i) The Borrower or the Parent shall fail to perform or observe any term, covenant, condition or agreement contained in **Section 7.8, Section 8.1, Section 8.2, Section 8.3, Section 8.4(i)** or in **Article IX** or (ii) the Borrower, the Parent or any other Loan Party shall fail to perform or observe any term, covenant, condition or agreement contained in this Agreement or any other Loan Document to which it is a party and not otherwise mentioned in this **Section** and in the case of this **clause (ii)** only such failure shall continue for a period of 30 days after the date upon which the Borrower has received written notice of such failure from the Agent.

(d) **Misrepresentations.** Any written statement, representation or warranty made or deemed made by or on behalf of any Loan Party under this Agreement or under any other Loan Document, or any amendment hereto or thereto, or in any other writing or statement at any time furnished or made or deemed made by or on behalf of any Loan Party to the Agent or any Lender, shall at any time prove to have been incorrect or misleading, in light of the circumstances in which made or deemed made, in any material respect when furnished or made or deemed made.

(e) **Indebtedness Cross Default; Derivatives Contracts.**

(i) The Borrower, the Parent or any other Loan Party shall fail to pay when due and payable, within any applicable grace or cure period, the principal of, or interest on,

any Indebtedness (other than (x) Indebtedness which is Nonrecourse Indebtedness to the Borrower, the Parent and each other Loan Party, (y) the Loans and (z) Indebtedness in respect of Derivatives Contracts) having an aggregate outstanding principal amount of \$50,000,000 or more ("**Material Indebtedness**");

(ii) (x) the maturity of any Material Indebtedness shall have been accelerated in accordance with the provisions of any indenture, contract or instrument evidencing, providing for the creation of or otherwise concerning such Material Indebtedness or (y) any Material Indebtedness shall have been required to be prepaid or repurchased prior to the stated maturity thereof (other than as a result of actions taken by the Borrower, the Parent or a Loan Party in the ordinary course of business);

(iii) any other event shall have occurred and be continuing which permits any holder or holders of Material Indebtedness, any trustee or agent acting on behalf of such holder or holders or any other Person, to accelerate the maturity of any such Material Indebtedness or require any such Material Indebtedness to be prepaid or repurchased prior to its stated maturity; or

(iv) as a result of any Loan Party's failure to perform or observe any term, covenant, condition or agreement contained in any Derivatives Contract, such Derivatives Contract is terminated and the Derivatives Termination Value owed by such Loan Party as a result thereof is \$50,000,000 or more.

(f) **Voluntary Bankruptcy Proceeding.** The Parent, the Borrower, any other Loan Party or any Significant Subsidiary shall: (i) commence a voluntary case under the Bankruptcy Code of 1978, as amended, or other federal bankruptcy laws (as now or hereafter in effect); (ii) file a petition seeking to take advantage of any other Applicable Laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts; (iii) consent to, or fail to contest in a timely and appropriate manner, any petition filed against it in an involuntary case under such bankruptcy laws or other Applicable Laws or consent to any proceeding or action described in the immediately following subsection; (iv) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign; (v) admit in writing its inability to pay its debts as they become due; (vi) make a general assignment for the benefit of creditors; (vii) make a conveyance fraudulent as to creditors under any Applicable Law; or (viii) take any corporate or partnership action for the purpose of effecting any of the foregoing.

(g) **Involuntary Bankruptcy Proceeding.** A case or other proceeding shall be commenced against the Parent, the Borrower, any other Loan Party or any Significant Subsidiary in any court of competent jurisdiction seeking: (i) relief under the Bankruptcy Code of 1978, as amended, or other federal bankruptcy laws (as now or hereafter in effect) or under any other Applicable Laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts; or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of such Person, or of all or any substantial part of the assets, domestic or foreign, of such Person, and such case or proceeding shall continue undismissed or unstayed for a period of 60 consecutive calendar days, or an order granting the remedy or other relief requested in such case or proceeding against the Parent, the Borrower, such Significant Subsidiary or such other Loan Party (including, but not limited to, an order for relief under such Bankruptcy Code or such other federal bankruptcy laws) shall be entered.

(h) **Litigation; Enforceability.** The Parent, the Borrower or any other Loan Party shall disavow, revoke or terminate (or attempt to terminate) any Loan Document to which it is a party or shall otherwise challenge or contest in any action, suit or proceeding in any court or before any Governmental Authority the validity or enforceability of this Agreement, any Note or any other Loan Document or this Agreement, any Note, the Facility Guaranty or any other Loan Document shall cease to be in full force and effect (except as a result of the express terms thereof).

(i) **Judgment.** A judgment or order for the payment of money or for an injunction shall be entered against the Parent, the Borrower or any other Loan Party, by any court or other tribunal and (i) such judgment or order shall continue for a period of 30 days without being paid, stayed or dismissed through appropriate appellate proceedings and (ii) either (A) the amount of such judgment or order for which insurance has not been acknowledged in writing by the applicable insurance carrier (or the amount as to which the insurer has denied liability) exceeds, individually or together with all other such outstanding judgments or orders entered against the Parent, the Borrower and such other Loan Parties, \$50,000,000 or (B) in the case of an injunction or other non-monetary judgment, such injunction or judgment could reasonably be expected to have a Material Adverse Effect.

(j) **Attachment.** A warrant, writ of attachment, execution or similar process shall be issued against any property of the Parent, the Borrower or any other Loan Party which exceeds, individually or together with all other such warrants, writs, executions and processes, \$50,000,000 in amount and such warrant, writ, execution or process shall not be discharged, vacated, stayed or bonded for a period of 30 days; provided, however, that if a bond has been issued in favor of the claimant or other Person obtaining such warrant, writ, execution or process, the issuer of such bond shall execute a waiver or subordination agreement in form and substance satisfactory to the Agent pursuant to which the issuer of such bond subordinates its right of reimbursement, contribution or subrogation to the Obligations and waives or subordinates any Lien it may have on the assets of any Loan Party.

(k) **ERISA.** Any member of the ERISA Group shall fail to pay when due an amount or amounts aggregating in excess of \$50,000,000 which it shall have become liable to pay under *Title IV* of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Liabilities in excess of \$50,000,000 shall be filed under *Title IV* of ERISA by any member of the ERISA Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under *Title IV* of ERISA to terminate, to impose liability (other than for premiums under *Section 4007* of ERISA) in respect of, or to cause a trustee to be appointed to administer, any Plan or Plans having aggregate Unfunded Liabilities in excess of \$50,000,000; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan must be terminated; or there shall occur a complete or partial withdrawal from, or a default, within the meaning of *Section 4219(c)(5)* of ERISA, with respect to, one or more Multiemployer Plans which could cause one or more members of the ERISA Group to incur a current payment obligation in excess of \$50,000,000.

(l) **Loan Documents.** An Event of Default (as defined therein) shall occur under any of the other Loan Documents.

(m) **Change of Control/Change in Management.**

(i) Any “person” or “group” (as such terms are used in *Sections 13(d)* and *14(d)* of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”)), is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the

Exchange Act, except that a Person will be deemed to have “*beneficial ownership*” of all securities that such Person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 33% of the total voting power of the then outstanding voting stock of the Parent;

(ii) During any period of 12 consecutive months ending after the Effective Date, individuals who at the beginning of any such 12 month period constituted the Board of Directors of the Parent (together with any new directors whose election by such Board or whose nomination for election by the shareholders of the Parent was approved by a vote of a majority of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors of the Parent then in office; or

(iii) The Parent or a Wholly Owned Subsidiary of the Parent shall cease to be the sole general partner of the Borrower or shall cease to have the sole and exclusive power to exercise all management and control over the Borrower.

(n) An Event of Default under and as defined in any of the Existing Term Loan Facility 2018, the Existing Term Loan Facility 2022 or the Existing Revolving Credit Facility shall occur.

10.2 Remedies Upon Event of Default. Upon the occurrence of an Event of Default the following provisions shall apply:

(a) Acceleration; Termination of Facilities.

(i) **Automatic.** Upon the occurrence of an Event of Default specified in **Section 10.1(f)** or **10.1(g)**, (A)(i) the principal of, and all accrued interest on, the Loans and the Notes at the time outstanding, and (iii) all of the other Obligations (other than obligations in respect of Derivatives Contracts), including, but not limited to, the other amounts owed to the Lenders and the Agent under this Agreement, the Notes or any of the other Loan Documents shall become immediately and automatically due and payable without presentment, demand, protest, or other notice of any kind, all of which are expressly waived by the Borrower and (B) all of the Commitments and the obligation of the Lenders to make Loans shall all immediately and automatically terminate.

(ii) **Optional.** If any other Event of Default shall exist, the Agent shall, at the direction of the Requisite Lenders: (A) declare (1) the principal of, and accrued interest on, the Loans and the Notes at the time outstanding, and (2) all of the other Obligations (other than obligations in respect of Derivatives Contracts), including, but not limited to, the other amounts owed to the Lenders and the Agent under this Agreement, the Notes or any of the other Loan Documents to be forthwith due and payable, whereupon the same shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Borrower and (B) terminate the Commitments and the obligation of the Lenders to make Loans hereunder.

(b) Loan Documents. The Requisite Lenders may direct the Agent to, and the Agent if so directed shall, exercise any and all of its rights under any and all of the other Loan Documents.

(c) Applicable Law. The Requisite Lenders may direct the Agent to, and the Agent if so directed shall, exercise all other rights and remedies it may have under any Applicable Law.

(d) **Appointment of Receiver.** To the extent permitted by Applicable Law, the Agent and the Lenders shall be entitled to the appointment of a receiver for the assets and properties of the Parent, the Borrower and the Subsidiaries, without notice of any kind whatsoever and without regard to the adequacy of any security for the Obligations or the solvency of any party bound for its payment, to take possession of all or any portion of the business operations of the Parent, the Borrower and the Subsidiaries and to exercise such power as the court shall confer upon such receiver.

10.3 [Reserved].

10.4 **Allocation of Proceeds.** If an Event of Default shall exist and maturity of any of the Obligations has been accelerated, all payments received by the Agent under any of the Loan Documents, in respect of any principal of or interest on the Obligations or any other amounts payable by the Borrower hereunder or thereunder, shall be applied in the following order and priority:

- (a) amounts due the Agent in respect of fees and expenses due under **Section 12.2**;
- (b) amounts due the Lenders in respect of fees and expenses due under **Section 12.2**, *pro rata* in the amount then due each Lender;
- (c) payments of interest on all other Loans to be applied for the ratable benefit of the Lenders;
- (d) payments of principal of all other Loans to be applied for the ratable benefit of the Lenders;
- (e) amounts due the Agent and the Lenders pursuant to **Section 12.9**;
- (f) payment of all other Obligations and other amounts due and owing by the Borrower and the other Loan Parties under any of the Loan Documents, if any, to be applied for the ratable benefit of the Lenders; and
- (g) any amount remaining after application as provided above, shall be paid to the Borrower or whomever else may be legally entitled thereto.

10.5 **Performance by Agent.** If the Borrower, the Parent or any other Loan Party shall fail to perform any covenant, duty or agreement contained in any of the Loan Documents, the Agent may, after notice to the Borrower, perform or attempt to perform such covenant, duty or agreement on behalf of the Borrower, the Parent or such Loan Party after the expiration of any cure or grace periods set forth herein. In such event, the Borrower shall, at the request of the Agent, promptly pay any amount reasonably expended by the Agent in such performance or attempted performance to the Agent, together with interest thereon at the applicable Post Default Rate from the date of such expenditure until paid. Notwithstanding the foregoing, neither the Agent nor any Lender shall have any liability or responsibility whatsoever for the performance of any obligation of the Borrower, the Parent or any other Loan Party under this Agreement or any other Loan Document.

10.6 **Rights Cumulative.** The rights and remedies of the Agent and the Lenders under this Agreement and each of the other Loan Documents shall be cumulative and not exclusive of any rights or remedies which any of them may otherwise have under Applicable Law. In exercising their respective rights

and remedies the Agent and the Lenders may be selective and no failure or delay by the Agent or any of the Lenders in exercising any right shall operate as a waiver of it, nor shall any single or partial exercise of any power or right preclude its other or further exercise or the exercise of any other power or right.

XI. THE AGENT.

11.1 Appointment and Authority. Each of the Lenders hereby irrevocably appoints Bank of America to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this **Article XI** are solely for the benefit of the Agent and the Lenders 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 Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. 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.

11.2 Rights as a Lender. The Person serving as the 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 Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the 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 the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

11.3 Exculpatory Provisions. Neither the Agent nor any Co-Lead Arranger, as applicable, shall 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, the Agent or any Co-Lead Arranger, 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 Agent is required to exercise as directed in writing by the Requisite 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 Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the 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, 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 Agent, the Co-Lead Arrangers 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 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 Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Sections 12.6** and **10.2**) 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 Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Agent by the Borrower or a Lender; 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 V** or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

11.4 Reliance by the Agent. The 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 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 that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Agent may consult with legal counsel (who may be counsel for the Borrower), 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.

11.5 Delegation of Duties. The 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 Agent. The 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 XI** shall apply to any such sub-agent and to the Related Parties of the 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 Agent. The 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 nonappealable judgment that the Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

11.6 Resignation of the Agent.

(a) The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Requisite Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a 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 Requisite Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Requisite Lenders) (the “**Resignation Effective Date**”), then the retiring Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above, provided that in no event shall any such successor Agent be a Defaulting Lender. 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 Agent is a Defaulting Lender pursuant to **clause (d)** of the definition thereof, the Requisite Lenders may, to the extent permitted by Applicable Law, by notice in writing to the Borrower and such Person remove such Person as Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Requisite 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 Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Agent, all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time, if any, as the Requisite Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor’s appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Agent (other than as provided in **Section 3.11(g)** and other than any rights to indemnity payments or other amounts owed to the retiring or removed Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed 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 11.6**). The fees payable by the Borrower to a successor 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 Agent’s resignation or removal hereunder and under the other Loan Documents, the provisions of this **Article XI** and **Section 12.9** shall continue in effect for the benefit of such retiring or removed 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 Agent was acting as 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 in respect of any actions taken in connection with transferring the agency to any successor Agent.

11.7 Non-Reliance on the Agent, the Co-Lead Arrangers and the Other Lenders. Each Lender expressly acknowledges that none of the Agent nor any Co-Lead Arranger has made any representation or warranty to it, and that no act by the Agent or the Co-Lead Arrangers 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 Agent or the Co-Lead Arrangers to any Lender as to any matter, including whether the Agent or the Co-Lead Arrangers have disclosed material information in their (or their Related Parties’) possession. Each Lender represents to the Agent and the Co-Lead Arrangers that it has, independently and without reliance upon the Agent, the Co-Lead Arrangers, or 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 also acknowledges that it will, independently and without reliance upon the Agent, the Co-Lead Arrangers, 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 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 for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender agrees not to assert a claim in contravention of the foregoing. Each Lender 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.

11.8 No Other Duties, Etc.. Anything herein to the contrary notwithstanding, none of the Titled 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 Agent or a Lender hereunder.

11.9 The 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 Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the 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 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 and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agent and their respective agents and counsel and all other amounts due the Lenders and the Agent under **Section 3.5**, **Section 12.9** and **Section 12.2**) 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 to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under **Section 3.5**, **Section 12.9** and **Section 12.2**.

Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Agent to vote in respect of the claim of any Lender in any such proceeding.

11.10 **Guaranty Matters.** Without limiting the provisions of **Section 11.9**, the Lenders and the Lenders irrevocably authorize the Agent, at its option and in its discretion, to release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

11.11 **Certain ERISA Matters.**

(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 Agent and not, for the avoidance of doubt, to or for the benefit of the Parent, 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 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 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 Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of *subsections (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 Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) **subclause (i)** in the immediately preceding **clause (a)** is true with respect to a Lender or (2) such Lender has provided another representation, warranty and covenant in accordance with **subclause (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 Agent and each Co-Lead Arranger

and not, for the avoidance of doubt, to or for the benefit of the Parent, the Borrower or any other Loan Party, that none of the Agent, any co-Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Agent, and each Co-Lead Arranger hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

XII. MISCELLANEOUS.

12.1 **Notices.** Unless otherwise provided herein, communications provided for hereunder shall be in writing and shall be mailed, telecopied or delivered to the addresses set forth on **Schedule 10.02**; or, as to each party at such other address as shall be designated by such party in a written notice to the other parties delivered in compliance with this **Section**. All such notices and other communications shall be effective (i) if mailed, when received; (ii) if telecopied, when successfully transmitted during the hours of 9:00 A.M. and 5:00 P.M. (in the time zone of the recipient thereof) (any telecopied notice received after 5:00 P.M. in such time zone shall be effective on the next succeeding day); or (iii) if hand delivered or sent by overnight courier, when delivered. Notwithstanding the immediately preceding sentence, all notices or communications to the Agent or any Lender under **Article II** shall be effective only when actually received. Neither the Agent nor any Lender shall incur any liability to any Loan Party (nor shall the Agent incur any liability to the Lenders) for acting upon any telephonic notice referred to in this Agreement which the Agent or such Lender, as the case may be, believes in good faith to have been given by a Person authorized to deliver such notice or for otherwise acting in good faith hereunder. Failure of a Person designated to get a copy of a notice to receive such copy shall not affect the validity of notice properly given to any other Person.

Notices and other communications to the Lenders may be delivered or furnished by using Platform pursuant to procedures approved by the Agent; provided that the foregoing shall not apply to notices pursuant to **Article II** unless otherwise agreed by the Agent and the applicable Lender. The Agent or the Borrower may, 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 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)** above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

12.2 Expenses. The Borrower agrees (a) to pay or reimburse the Agent for all reasonable third party out-of-pocket costs and expenses incurred in connection with the preparation, due diligence, administration, initial syndication (and any subsequent syndication resulting from the Borrower's election to increase the Loans pursuant to **Section 2.16**), negotiation and execution of, and any amendment, supplement or modification to, any of the Loan Documents (including due diligence expenses and travel expenses relating to closing), and the consummation of the transactions contemplated thereby, including the reasonable fees and disbursements of counsel to the Agent and costs and expenses in connection with the use of IntraLinks, Inc., ClearPar, SyndTrak or other similar information transmission systems in connection with the Loan Documents, (b) to pay or reimburse the Agent and the Lenders for all their reasonable costs and expenses incurred in connection with the enforcement or preservation of any rights or any "work-out" under the Loan Documents, including the reasonable fees and disbursements of their respective counsel (including the allocated fees and expenses of in-house counsel) and, without duplication of **Section 12.9**, any payments in indemnification or otherwise payable by the Lenders to the Agent pursuant to the Loan Documents, (c) to pay, and indemnify and hold harmless the Agent and the Lenders from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any failure to pay or delay in paying, documentary, stamp, excise and other similar taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of any of the Loan Documents, or consummation of any amendment, supplement or modification of, or any waiver or consent under or in respect of, any Loan Document and (e) to the extent not already covered by any of the preceding subsections, to pay or reimburse the Agent and the Lenders for all their reasonable costs and expenses incurred in connection with any bankruptcy or other proceeding of the type described in **Section 10.1(f)** or **10.1(g)**, including the reasonable fees and disbursements of counsel to the Agent and any Lender, whether such fees and expenses are incurred prior to, during or after the commencement of such proceeding or the confirmation or conclusion of any such proceeding. If the Borrower shall fail to pay any amounts required to be paid by it pursuant to this **Section**, the Agent and/or the Lenders may pay such amounts on behalf of the Borrower and either deem the same to be Loans outstanding hereunder or otherwise Obligations owing hereunder.

12.3 Setoff. Subject to **Section 3.2** and in addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, the Borrower hereby authorizes the Agent, each Lender and each Affiliate of the Agent or any Lender, at any time while an Event of Default exists, without prior notice to the Borrower or to any other Person, any such notice being hereby expressly waived, but in the case of a Lender or an Affiliate of a Lender subject to receipt of the prior written consent of the Agent exercised in its sole discretion, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured) and any other indebtedness at any time held or owing by the Agent, such Lender or any such Affiliate of the Agent or such Lender, to or for the credit or the account of the Borrower against and on account of any of the Obligations, irrespective of whether or not any or all of the Loans and all other Obligations have been declared to be, or have otherwise become, due and payable as permitted by **Section 10.2**, and although such obligations shall be contingent or unmatured. If any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of **Section 3.10** 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 Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff.

12.4 Litigation; Jurisdiction; Other Matters; Waivers.

(a) 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 12.4(a).

(b) EACH OF THE PARENT, THE BORROWER, THE AGENT AND EACH LENDER HEREBY AGREES THAT THE FEDERAL DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN AND IF SUCH COURT LACKS SUBJECT MATTER JURISDICTION (PURSUANT TO §5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW) THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN OR AMONG THE PARENT, THE BORROWER, THE AGENT OR ANY OF THE LENDERS, PERTAINING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT, THE LOANS, THE NOTES OR ANY OTHER LOAN DOCUMENT OR TO ANY MATTER ARISING HEREFROM OR THEREFROM. THE PARENT, THE BORROWER AND EACH OF THE LENDERS EXPRESSLY SUBMIT AND CONSENT IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED IN SUCH COURTS WITH RESPECT TO SUCH CLAIMS OR DISPUTES. EACH PARTY FURTHER WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT SUCH ACTION OR PROCEEDING WAS BROUGHT IN AN INCONVENIENT FORUM, AND EACH AGREES NOT TO PLEAD OR CLAIM THE SAME. THE CHOICE OF FORUM SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE BRINGING OF ANY ACTION BY THE AGENT OR ANY LENDER OR THE ENFORCEMENT BY THE AGENT OR ANY LENDER OF ANY JUDGMENT OBTAINED IN SUCH FORUM IN ANY OTHER APPROPRIATE JURISDICTION.

(c) THE PROVISIONS OF THIS SECTION HAVE BEEN CONSIDERED BY EACH PARTY WITH THE ADVICE OF COUNSEL AND WITH A FULL UNDERSTANDING OF THE LEGAL CONSEQUENCES THEREOF, AND SHALL SURVIVE THE PAYMENT OF THE LOANS AND ALL OTHER AMOUNTS PAYABLE HEREUNDER OR UNDER THE OTHER LOAN DOCUMENTS AND THE TERMINATION OF THIS AGREEMENT.

12.5 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 the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Agent and each Lender and

no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of the immediately following **subsection (b)**, (ii) by way of participation in accordance with the provisions of the immediately following **subsection (d)** or (iii) by way of pledge or assignment of a security interest subject to the restrictions of the immediately following **subsection (f)** (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 the immediately following **subsection (d)** and, to the extent expressly contemplated hereby, the Related Parties of the Agent and the Lenders and of their respective Affiliates) 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 Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Loans at the time owing to it); provided that 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 Loans at the time owing to it 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 the immediately preceding **subsection (A)**, the principal outstanding balance of the 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 Agent or, if "*Trade Date*" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than, and the amount of Loans not subject to such assignment and not participated by such Lender shall be at least equal to, \$5,000,000 unless each of the Agent and, so long as no Default or Event of Default shall exist, 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 Loan assigned.

(iii) **Required Consents.** No consent shall be required for any assignment except to the extent required by **clause (i)(B)** of this **subsection (b)** and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) a Default or Event of Default shall exist at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender which Affiliate is a Qualified Institution, or an Approved Fund which is a Qualified Institution; provided that the Borrower shall be deemed to have consented to an assignment of all or a portion of the Loans unless it shall have objected thereto by written notice to the Agent within ten (10) Business Days after having received written notice thereof; and

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments if such assignment is to a Person that is not already a Lender.

(iv) **Assignment and Assumption.** The parties to each assignment shall execute and deliver to the Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500 for each assignment, and the assignee, if it is not a Lender, shall deliver to the Agent an Administrative Details Form in which the assignee designates one or more Persons to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Parent and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws.

(v) **No Assignment to Borrower.** No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) **No Assignment to Natural Persons.** No such assignment shall be made (A) to the Borrower or any of the Borrower'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).

Subject to acceptance and recording thereof by the Agent pursuant to the immediately following **subsection (c)**, 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 4.4, 12.2 and 12.9** and the other provisions of this Agreement and the other Loan Documents as provided in **Section 12.10** with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this **paragraph** 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 the immediately following **subsection (d)**.

(c) **Register.** The Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, and the Borrower, the Agent and the Lenders may 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, notwithstanding notice to the contrary. 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 Agent, sell participations to any Person (other than a Defaulting Lender, a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof, 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 Loans); 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 Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. 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, modification or waiver of any provision of any Loan Document described in the second sentence of **Section 12.6** that adversely affects such Participant. Subject to the immediately following **subsection (e)**, the Borrower agrees that each Participant shall be entitled to the benefits of **Sections 3.11, 4.1, 4.4** to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **paragraph (b)** of this **Section**. To the extent permitted by Applicable Law, each Participant also shall be entitled to the benefits of **Section 12.3** as though it were a Lender, provided such Participant agrees to be subject to **Section 3.2** as though it were a Lender. Upon request from the Agent or the Borrower through the Agent, a Lender shall notify the Agent and the Borrower of the sale of any participation hereunder.

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 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 Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) **Limitations upon Participant Rights.** A Participant shall not be entitled to receive any greater payment under **Sections 3.11** and **4.1** than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless such entitlement to receive a greater payment results from a Regulatory Change that occurs after the Participant acquired the applicable participation or the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of **Section 3.11** unless such Participant agrees, for the benefit of the Borrower and the Agent, to comply with **Section 3.11(g)** as though it were a Lender.

(f) **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 to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) **No Registration.** Each Lender agrees that, without the prior written consent of the Borrower and the Agent, it will not make any assignment hereunder in any manner or under any circumstances that would require registration or qualification of, or filings in respect of, any Loan or Note under the Securities Act or any other securities laws of the United States of America or of any other jurisdiction.

12.6 Amendments.

(a) Subject to **Section 4.2** and **Section 12.6(f)**, except as otherwise expressly provided in this Agreement, any consent or approval required or permitted by this Agreement or any other Loan Document to be given by the Lenders may be given, and any term of this Agreement or of any other Loan Document may be amended, and the performance or observance by the Borrower or any other Loan Party or any Subsidiary of any terms of this Agreement or such other Loan Document or the continuance of any Default or Event of Default may be waived (either generally or in a particular instance and either retroactively or prospectively) with, but only with, the written consent of the Requisite Lenders (and, in the case of an amendment to any Loan Document, the written consent of each Loan Party a party thereto).

(b) Notwithstanding the foregoing, without the prior written consent of each Lender adversely affected thereby, no amendment, waiver or consent shall do any of the following:

(i) increase the amount of the Commitment or Loans of any Lender, increase the aggregate amount of the Commitments and Loans of all of the Lenders (except for any increase in the Loans effectuated pursuant to **Section 2.16**) or subject the Lenders to any additional obligations;

(ii) reduce the principal of, or interest that has accrued or the rates of interest that will be charged on the outstanding principal amount of, any Loans or other Obligations;

(iii) reduce the amount of any Fees payable hereunder or postpone any date fixed for payment thereof;

(iv) modify the definition of the term "*Termination Date*" (except as contemplated under **Section 2.13**) or otherwise postpone any date fixed for any payment of any principal of, or interest on, any Loans or any other Obligations (including the waiver of any Default or Event of Default as a result of the nonpayment of any such Obligations as and when due) beyond the Termination Date;

(v) amend or otherwise modify the provisions of **Section 3.2** or, if an Event of Default exists, **Section 10.4**;

(vi) subordinate, or have the effect of subordinating, the Obligations hereunder to any other Indebtedness or other obligation without the written consent of each Lender directly affected thereby;

(vii) modify the definition of the term “*Requisite Lenders*” or otherwise modify in any other manner the number or percentage of the Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof, including without limitation, any modification of this **Section 12.6** if such modification would have such effect; or

(viii) release any Guarantor from its obligations under the Facility Guaranty (except as otherwise permitted under **Section 7.12(b)**).

(c) Each request by the Borrower for the consent of any Lender to any amendment, waiver or consent shall be given in the form of a written notice to such Lender, and (b) shall be accompanied by a description of the matter or issue as to which such determination, approval, consent or disapproval is requested, or shall advise such Lender where information, if any, regarding such matter or issue may be inspected, or shall otherwise describe the matter or issue to be resolved. Each Lender shall reply promptly, but in any event within 10 Business Days (or such lesser or greater period as may be specifically required under the Loan Documents) of receipt of such communication. Except as otherwise provided in this Agreement and except for matters that require the consent of all Lenders or each Lender adversely affected thereby, unless a Lender shall give written notice to the Agent that it specifically objects to the requested amendment, waiver or consent within the applicable time period for reply, such Lender shall be deemed to have conclusively approved of or consented to such amendment, waiver or consent.

(d) No amendment, waiver or consent, unless in writing and signed by the Agent, in such capacity, in addition to the Lenders required hereinabove to take such action, shall affect the rights or duties of the Agent under this Agreement or any of the other Loan Documents.

(e) No waiver shall extend to or affect any obligation not expressly waived or impair any right consequent thereon and any amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose set forth therein. No course of dealing or delay or omission on the part of the Agent or any Lender in exercising any right or power shall operate as a waiver thereof or otherwise be prejudicial thereto, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of any steps to enforce such right or power, preclude any other or further exercise of such right or power or any other right or power. Any Event of Default occurring hereunder shall continue to exist until such time as such Event of Default is waived in writing in accordance with the terms of this **Section**, notwithstanding any attempted cure or other action by the Borrower, any other Loan Party or any other Person subsequent to the occurrence of such Event of Default. Except as otherwise explicitly provided for herein or in any other Loan Document, no notice to or demand upon the Borrower shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

(f) If the Agent and the Borrower acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Agent and the Borrower shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement. The Agent shall promptly provide a copy of such amendment to the Lenders.

12.7 No Fiduciary Duty, Etc. Each of the Parent and the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan

Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

Each of the Parent and the Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, each of the Parent and the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

12.8 Confidentiality.

(a) Each of the Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, service providers advisors and other representatives (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 requested by, or required to be disclosed to, any nationally recognized rating agency or regulatory or similar authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners) having or purporting to have jurisdiction over it, (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 under any Loan Document (or any Derivatives Contract with a Lender or the Agent) or any action or proceeding relating to any Loan Document (or any such Derivatives Contract) 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 actual or proposed Eligible Assignee or Participant, or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Parent or the Borrower and its obligations, (g) with the consent of the Borrower, (h) to bank trade publications, such information to consist of

deal terms and other information customarily found in such publications, and (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this **Section** actually known by the Agent or such Lender to be a breach of this **Section** or (y) becomes available to the Agent, any Lender or any Affiliate of the Agent or any Lender on a nonconfidential basis from a source other than the Parent or the Borrower, provided that such source is not actually known by the Agent, such Lender or such Affiliate of the Agent or any Lender to be bound by, and in violation of, a confidentiality agreement with the Parent, the Borrower or another Loan Party. Neither Agent nor any Lender will use, nor will they consent to their respective Affiliates or such Affiliates' respective partners, directors, officers, employees, agents, advisors or other representatives use of, Information obtained by the Agent or such Lender by virtue of the transactions contemplated by the Loan Documents or other relationships of the Agent or such Lender with the Borrower or the Parent in connection with the performance by the Agent or such Lender of services for other companies, and neither Agent nor any Lender will furnish any such Information to other companies, in either case, if prohibited by this **Section**. Notwithstanding the foregoing, the Agent and each Lender may disclose any such confidential information, without notice to the Parent or the Borrower or any other Loan Party, to Governmental Authorities in connection with any regulatory examination of the Agent or such Lender or in accordance with the regulatory compliance policy of the Agent or such Lender. As used in this **Section**, the term "**Information**" means all information received from the Parent, the Borrower, any other Loan Party or any Subsidiary or Affiliate relating to any Loan Party or any of their respective businesses, other than any such information that is available to the Agent or any Lender on a nonconfidential basis prior to disclosure by the Parent, the Borrower, any other Loan Party or any Subsidiary or Affiliate and other than information pertaining to this Agreement routinely provided by arrangers and lenders to data service providers, including league table providers, that serve the lending industry, provided that, in the case of any such information received from the Parent, the Borrower, any other Loan Party or any Subsidiary or Affiliate after the date hereof, such information is clearly identified at the time of delivery as confidential or non-public. 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.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN **SECTION 12.8(a)** FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER, THE PARENT AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE PARENT AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE DETAILS FORM A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

12.9 Indemnification.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable out of pocket expenses incurred by the Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the 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, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all out of pocket expenses incurred by the Agent or any Lender (including the fees, charges and disbursements of any counsel for the Agent or any Lender) 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 12.9(a)**, or (B) in connection with the Loans made hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Agent (and any sub-agent thereof) and each Lender, 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), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) 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 the parties hereto of their respective obligations hereunder or thereunder, or the consummation of the transactions contemplated hereby or thereby, or, in the case of the 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 3.11**), (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower 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; *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 not involving an act or omission of the Borrower and that is brought by an Indemnitee against another Indemnitee (other than against the Arranger or the Agent in their capacities as such). Without limiting the provisions of **Section 3.11**, this **Section** 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 Borrower for any reason fails to indefeasibly pay any amount required under **clauses (a) or (b)** of this this **Section** to be paid by it to the Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Agent (or any such sub-agent) 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 Loans 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' Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), *provided* 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 Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this **clause (c)** are subject to the provisions of **Section 3.1**.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Law, the Borrower 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 the use of the proceeds thereof. No Indemnitee referred to in **clause (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 except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that such Indemnitee acted with gross negligence or willful misconduct in the distribution of such information or other materials.

(e) Payments. All amounts due under this **Section** shall be payable not later than fifteen (15) Business Days after demand therefor.

(a) Survival. The agreements in this **Section** and the indemnity provisions of **Section 11.4** shall survive the resignation of the Agent, the replacement of any Lender, the termination of the Loans and the repayment, satisfaction or discharge of all the other Obligations.

12.10 Termination; Survival. At such time as (a) all of the Loans have been terminated, (b) none of the Lenders is obligated any longer under this Agreement to make any Loans and (c) all Obligations have been paid and satisfied in full, this Agreement shall terminate.

12.11 Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction.

12.12 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THEREOF (OTHER THAN §5-1401 AND §5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

EACH OF THE LENDERS AND THE AGENT HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT, NOTWITHSTANDING THE GOVERNING LAW PROVISIONS OF ANY APPLICABLE LOAN DOCUMENT, ANY CLAIMS BROUGHT AGAINST THE AGENT BY ANY LENDER RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE CONSUMMATION OR ADMINISTRATION OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

12.13 **Patriot Act.** The Lenders and the Agent each hereby notifies the Borrower that pursuant to the requirements of the Patriot Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Borrower and the other Loan Parties, which information includes the name and address of the Borrower and the other Loan Parties and other information that will allow such Lender or the Agent, as applicable, to identify the Borrower and the other Loan Parties in accordance with the Patriot Act and the Beneficial Ownership Regulation.

12.14 **Electronic Execution; Electronic Records; Counterparts.** This Agreement, any Loan Document and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a "**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 Agent and the Lenders agree 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 Agent and each of the Lenders 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, the Agent is under no 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 Agent has agreed to accept such Electronic Signature, the Agent and each of the Lenders shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Lender without further verification and (b) upon the request of the Agent or any Lender, any Electronic Signature shall be promptly followed by such manually executed counterpart.

The Agent shall not 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 Agent's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Agent 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 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 and/or such other Loan Document, and (ii) waives any claim against the Agent, each Lender and each Related Party for any liabilities arising solely from the Agent's and/or any Lender'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.

This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Except as provided in **Section 5.1**, this Agreement shall become effective when it shall have been executed by the Agent and when the Agent shall have received counterparts hereof which, 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.

12.15 Obligations with Respect to Loan Parties. The obligations of the Parent and the Borrower to direct or prohibit the taking of certain actions by the Subsidiaries and the other Loan Parties as specified herein shall be absolute and not subject to any defense the Parent or the Borrower may have that the Parent or the Borrower does not control such Subsidiaries or other Loan Parties.

12.16 Limitation of Liability.

(a) Neither the Agent nor any Lender nor any Co-Lead Arranger, nor any Related Party of the foregoing Persons (each such Person being called a “**Lender-Related Person**”) shall have any liability with respect to, and each of the Parent and the Borrower hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Parent or the Borrower in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents. Each of the Parent and the Borrower hereby waives, releases, and agrees not to sue or assert against any Lender-Related Person for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or financed hereby. No Lender-Related Person shall be liable for any damages (and the Borrower agrees not to assert any claim for damages) arising from the use by unintended recipients of any information or other materials distributed by it 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, except to the extent arising from such Lender-Related Person’s gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment.

(b) None of the Parent, the Borrower, any other Loan Party or any Related Party of the foregoing Persons shall have any liability with respect to, and each of the Agent and the Lenders hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Agent or the Lenders in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents. Each of the Agent and the Lenders hereby waives, releases, and agrees not to sue the Parent, the Borrower or any other Loan Party or any Related Party of the foregoing Persons for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or financed hereby. Notwithstanding the foregoing, nothing in this **clause (b)** shall relieve the Borrower of any obligation it may have to indemnify the Agent or a Lender against special, indirect, consequential or punitive damages required to be paid by such Person to a third party.

12.17 Entire Agreement. This Agreement, the Notes, and the other Loan Documents referred to herein embody the final, entire agreement among the parties hereto and supersede any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and thereof and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto. There are no oral agreements among the parties hereto.

12.18 Construction. The Agent, the Parent, the Borrower and each Lender acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement and the other Loan Documents with its legal counsel and that this Agreement and the other Loan Documents shall be construed as if jointly drafted by the Agent, the Parent, the Borrower and each Lender.

12.19 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. 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 Affected Financial Institution arising under any Loan Document 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 an the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto 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 entity, 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 the applicable Resolution Authority.

12.20 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Derivatives Contracts 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):

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.

As used in this **Section 12.20**, 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).

[Signatures on Following Pages]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officers all as of the day and year first above written.

PIEDMONT OPERATING PARTNERSHIP, LP

By: Piedmont Office Realty Trust, Inc., its general partner

By: /s/ Edward H. Guilbert, III

Name: Edward H. Guilbert, III

Title: Executive Vice President, Finance and Treasurer

PIEDMONT OFFICE REALTY TRUST, INC.

By: /s/ Edward H. Guilbert, III

Name: Edward H. Guilbert, III

Title: Executive Vice President, Finance and Treasurer

Signature Page to
Term Loan Agreement

BANK OF AMERICA, N.A., as Agent

By: /s/ Carolyn LaBatte-Leavitt

Name: Carolyn LaBatte-Leavitt

Title: Vice President

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BANK OF AMERICA, N.A., as a lender

By: /s/ Helen Chan

Name: Helen Chan

Title: Vice President

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TD BANK, N.A.

By: /s/ D. Randolph Bryan Wilson

Name: D. Randolph Bryan Wilson

Title: Vice President

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WELLS FARGO BANK, N.A.

By: /s/ Craig V. Koshkarian

Name: Craig V. Koshkarian

Title: Director

Signature Page to
Term Loan Agreement

By: /s/ Chelsea McCune

Name: Chelsea McCune

Title: Director

Signature Page to
Term Loan Agreement

By: /s/ Cody A. Canafax

Name: Cody A. Canafax

Title: Vice President

Signature Page to
Term Loan Agreement

By: /s/ Michael King

Name: Michael King

Title: Authorized Signatory

Signature Page to
Term Loan Agreement

Schedule IA

Commitments

<u>Lender</u>	<u>Commitment</u>
BANK OF AMERICA, N.A.	\$ 50,000,000.00
JPMORGAN CHASE BANK, N.A.	\$ 50,000,000.00
TD BANK, N.A.	\$ 50,000,000.00
WELLS FARGO BANK, N.A.	\$ 30,000,000.00
THE BANK OF NOVA SCOTIA	\$ 25,000,000.00
MORGAN STANLEY BANK, N.A.	\$ 10,000,000.00
TOTAL	\$ 215,000,000.00

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [the] [each]¹ Assignor identified in *item 1* below ([the][each, an] “Assignor”) and [the][each]² Assignee identified in *item 2* below ([the][each, an] “Assignee”). [It is understood and agreed that the rights and obligations of [the Assignors] [the Assignees]³ hereunder are several and not joint.]⁴ Capitalized terms used but not defined herein shall have the meanings given to them in the Term Loan Agreement identified below (as amended, the “Term Loan Agreement”), receipt of a copy of which is hereby acknowledged by [the] [each] Assignee. The Standard Terms and Conditions set forth in *Annex 1* attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the] [each] Assignor hereby irrevocably sells and assigns to [the Assignee] [the respective Assignees], and [the] [each] Assignee hereby irrevocably purchases and assumes from [the Assignor] [the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Term Loan Agreement, as of the Effective Date inserted by the Agent as contemplated below (i) all of [the Assignor’s][the respective Assignors’] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Term Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor] [the respective Assignors] under the respective facilities identified below (including without limitation any guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)] [the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Term Loan Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to *clause (i)* above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to *clauses (i)* and *(ii)* above being referred to herein collectively as [the][an] “Assigned Interest”). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: _____

2. Assignee[s]: _____

_____ [for each Assignee, indicate [Affiliate][Approved Fund] of [identify Lender]

¹ For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

² For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

³ Select as appropriate.

⁴ Include bracketed language if there are either multiple Assignors or multiple Assignees.

3. Borrower(s): Piedmont Operating Partnership, LP
4. The Agent: Bank of America, N.A., as the Agent under the Term Loan Agreement
5. Term Loan Agreement: The \$215,000,000 Term Loan Agreement dated as of January 31, 2023 Bank of America, N.A., as the Agent, and the other agents parties thereto
6. Assigned Interest[s]:

Assignor[s] ⁵	Assignee[s] ⁶	Facility Assigned	Aggregate Amount of Loans for all Lenders ⁷	Amount of Loans Assigned	Percentage Assigned of Loans ⁸	CUSIP Number
			\$	\$	%	
			\$	\$	%	

Effective Date: _____, 20__ [TO BE INSERTED BY THE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Agent a completed Administrative Questionnaire in which the Assignee designates one or more Credit Contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including Federal and state securities laws.

⁵ List each Assignor, as appropriate.

⁶ List each Assignee, as appropriate.

⁷ Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

⁸ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S]⁹

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE[S]¹⁰

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

⁹ Add additional signature blocks as needed.

¹⁰ Add additional signature blocks as needed.

[Consented to and]¹¹ Accepted:

[Bank of America, N.A.], as the Agent

By: _____
Name:
Title:

[Consented to:]¹²

[NAME OF RELEVANT PARTY]

By: _____
Name:
Title:

¹¹ To be added only if the consent of the Agent is required by the terms of the Term Loan Agreement.

¹² To be added only if the consent of the Borrower and/or other parties is required by the terms of the Term Loan Agreement.

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 **Assignor[s]**. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Term Loan Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, (iv) any requirements under applicable law for [the][each] Assignee to become a lender under the Term Loan Agreement or to charge interest at the rate set forth therein from time to time or (v) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. **Assignee[s]**. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Term Loan Agreement, (ii) it meets all the requirements to be an assignee under the definition of Eligible Assignee and *Section 12.5(b)(iii)*, (v) and (vi) of the Term Loan Agreement (subject to such consents, if any, as may be required under *Section 12.5(b)(iii)* of the Term Loan Agreement), (iii) from and after the Effective Date specified for this Assignment and Assumption, it shall be bound by the provisions of the Term Loan Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Term Loan Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to *Section 8.1* or *8.2*, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the] [such] Assigned Interest, (vi) it has, independently and without reliance upon [the] [any] Assignor, the Agent, any Co-Lead Arranger, or any other Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, and (vii) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Term Loan Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance on [the] [any] Assignor, the Agent, any Co-Lead Arranger, or any other Lender or any of their respective Related Parties, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. **Payments.** From and after the Effective Date, the Agent shall make all payments in respect of [the][each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignee whether such amounts have accrued prior to, on or after the Effective Date specified for this Assignment and Assumption. The Assignor[s] and the Assignee[s] shall make all appropriate adjustments in payments by the Agent for periods prior to such Effective Date or with respect to the making of this assignment directly between themselves.

3. **General Provisions.** This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Assumption by [the] [each] Assignee and [the] [each] Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Platform shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B

LOAN NOTICE

_____, 20__

Date: _____, _____

To: Bank of America, N.A., as the Agent

Bank of America, N.A.
NC1-026-02-07 Gateway Village-900 Building
900 W Trade St
Charlotte, NC, 28255-0001

Ladies and Gentlemen:

Reference is made to that certain **TERM LOAN AGREEMENT**, dated as of January 31, 2023 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Term Loan Agreement**;" by and among **PIEDMONT OPERATING PARTNERSHIP, LP** (the "**Borrower**"), **PIEDMONT OFFICE REALTY TRUST, INC.** (the "**Parent**"), the financial institutions party thereto and their assignees under **Section 12.5** thereof (the "**Lenders**"), **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**"), and the other parties thereto. Capitalized terms used herein, and not otherwise defined herein, have their respective meanings given them in the Term Loan Agreement.

The undersigned hereby requests (select one):

A borrowing of Loans

1. On _____ (a Business Day).
2. In the amount of \$ _____.
3. Comprised of [Base Rate Loans] [Daily SOFR Rate Loans] [Term SOFR Rate Loans].
4. For Term SOFR Rate Loans: with an Interest Period of [[1] [3] months].

A continuation of Term SOFR Rate Loans

1. On _____ (a Business Day).
2. In the amount of \$ _____.

The aggregate principal amount of Loans subject to the requested continuation is \$ _____ and was originally borrowed by the Borrower on _____, 20____.

The portion of such principal amount subject to such continuation is \$ _____.

The current Interest Period for each of the Loans subject to such continuation ends on _____, 20__.

The duration of the new Interest Period for each of such Loans or portion thereof subject to such continuation is:

[Check one box only]

- 1 month
- 3 months

A conversion of Loans

1. On _____ (a Business Day).
2. In the amount of \$_____.

The Loans to be converted pursuant hereto are currently:

[Check one box only]

- Base Rate Loans
- Term SOFR Rate Loans
- Daily SOFR Rate Loans

The aggregate principal amount of Loans subject to the requested conversion is _____ and was originally borrowed by the Borrower on _____, 20__.

The portion of such principal amount subject to such conversion is \$_____.

The amount of such Loans to be so converted is to be converted into Loans of the following Type:

[Check one box only]

- Base Rate Loans
- Daily SOFR Rate Loans
- Term SOFR Rate Loans, each with an initial Interest Period for a duration of:

[Check one box only]

- 1 month
- 3 months

[The Borrower hereby certifies to the Agent and the Lenders that as of the date hereof and as of the proposed date of the requested continuation or conversion and after giving effect thereto, (a) no Default or Event of Default exists or will exist, and (b) the representations and warranties made or deemed made by the Parent, the Borrower and each other Loan Party in the Loan Documents to which any of them is a party are and shall be true and correct in all material respects, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents.

If notice of the requested continuation or conversion was given previously by telephone, this notice is to be considered the written confirmation of such telephone notice required by *Section 2.9* or *Section 2.10*, as applicable, of the Term Loan Agreement.]¹³

[SIGNATURE PAGE FOLLOWS]

¹³ Include these two paragraphs for conversions and continuations

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Loan Notice as of the date first written above.

PIEDMONT OPERATING PARTNERSHIP, LP

By: Piedmont Office Realty Trust, Inc., its general partner

By: _____
Name:
Title:

EXHIBIT C

FORM OF NOTICE OF LOAN PREPAYMENT

_____, 20__

To: Bank of America, N.A., as the Agent

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement, dated as of January 31, 2023 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “*Agreement*”), among **PIEDMONT OPERATING PARTNERSHIP, LP** (the “*Borrower*”), **PIEDMONT OFFICE REALTY TRUST, INC.** (the “*Parent*”), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the “*Lenders*”), **BANK OF AMERICA, N.A.**, as Agent (the “*Agent*”), and the other parties thereto. Capitalized terms used herein, and not otherwise defined herein, have their respective meanings given them in the Term Loan Agreement.

The Borrower hereby requests to prepay:

<u>Indicate:</u> Requested Amount	<u>Indicate:</u> Base Rate Loan, Daily SOFR Rate or Term SOFR Rate Loan	For Term SOFR Rate Loans <u>Indicate:</u> Interest Period
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Notice of Loan Prepayment as of the date first written above.

PIEDMONT OPERATING PARTNERSHIP, LP

By: Piedmont Office Realty Trust, Inc., its general partner

By: _____
Name:
Title:

EXHIBIT D

[RESERVED]

Exhibit D – Page 1

EXHIBIT E

FORM OF TERM LOAN NOTE

\$ _____, 20____

FOR VALUE RECEIVED, the undersigned, **PIEDMONT OPERATING PARTNERSHIP, LP**, a limited partnership formed under the laws of the State of Delaware (the "**Borrower**"), hereby promises to pay to the order of _____ (the "**Lender**"), in care of **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**"), the principal sum of \$_____ (or such lesser amount as shall equal the aggregate unpaid principal amount of Loans made by the Lender to the Borrower under the Term Loan Agreement (as herein defined)), on the dates and in the principal amounts provided in the Term Loan Agreement, and to pay interest on the unpaid principal amount owing hereunder, at the rates and on the dates provided in the Term Loan Agreement.

All payments of principal and interest shall be made to the Agent for the account of Lender in Dollars in immediately available funds at the Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid in accordance with the Term Loan Agreement, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Term Loan Agreement.

This Note is one of the Notes referred to in the Term Loan Agreement dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Term Loan Agreement**"), by and among the Borrower, Piedmont Office Realty Trust, Inc., the financial institutions party thereto and their assignees under *Section 12.5* thereof (the "**Lenders**"), the Agent, and the other parties thereto. Capitalized terms used herein, and not otherwise defined herein, have their respective meanings given them in the Term Loan Agreement.

The Term Loan Agreement provides for the acceleration of the maturity of this Note upon the occurrence of certain events and for prepayments of Loans upon the terms and conditions specified therein.

Except as permitted by *Section 12.5* of the Term Loan Agreement, this Note may not be assigned by the Lender to any Person.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THEREOF (OTHER THAN §5-1401 AND §5-1402 OF THE NEW YORK GENERAL OBLIGATION LAW OF THE STATE OF NEW YORK).

The Borrower hereby waives presentment for payment, demand, notice of demand, notice of non-payment, protest, notice of protest and all other similar notices.

Time is of the essence for this Note.

[SIGNATURE PAGE FOLLOWS]

Exhibit E

IN WITNESS WHEREOF, the undersigned has executed and delivered this Term Loan Note under seal as of the date first written above.

PIEDMONT OPERATING PARTNERSHIP, LP

By: Piedmont Office Realty Trust, Inc., its general partner

By: _____

Name:

Title:

Signature Page to
Term Loan Note

EXHIBIT F-1

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the **TERM LOAN AGREEMENT** dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Term Loan Agreement**"), by and among **PIEDMONT OPERATING PARTNERSHIP, LP**, a Delaware limited partnership (the "**Borrower**"), **PIEDMONT OFFICE REALTY TRUST, INC.**, a Maryland corporation (the "**Parent**"), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the "**Lenders**"), **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**") and the other parties thereto.

Pursuant to the provisions of *Section 3.11(g)(ii)(B)(iii)* of the Term Loan Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of *Section 881(c)(3)(A)* of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of *Section 881(c)(3)(B)* of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in *Section 881(c)(3)(C)* of the Code.

The undersigned has furnished the Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Term Loan Agreement and used herein shall have the meanings given to them in the Term Loan Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20__

Exhibit F-1

EXHIBIT F-2

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the **TERM LOAN AGREEMENT** dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Term Loan Agreement**"), by and among **PIEDMONT OPERATING PARTNERSHIP, LP**, a Delaware limited partnership (the "**Borrower**"), **PIEDMONT OFFICE REALTY TRUST, INC.**, a Maryland corporation (the "**Parent**"), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the "**Lenders**"), **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**") and the other parties thereto.

Pursuant to the provisions of *Section 3.11(g)(ii)(B)(iv)* of the Term Loan Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of *Section 881(c)(3)(A)* of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of *Section 881(c)(3)(B)* of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in *Section 881(c)(3)(C)* of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Term Loan Agreement and used herein shall have the meanings given to them in the Term Loan Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 20__

Exhibit F-2

EXHIBIT F-3

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the **TERM LOAN AGREEMENT** dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Term Loan Agreement**"), by and among **PIEDMONT OPERATING PARTNERSHIP, LP**, a Delaware limited partnership (the "**Borrower**"), **PIEDMONT OFFICE REALTY TRUST, INC.**, a Maryland corporation (the "**Parent**"), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the "**Lenders**"), **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**") and the other parties thereto.

Pursuant to the provisions of *Section 3.11(g)(ii)(B)(iv)* of the Term Loan Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect to such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of *Section 881(c)(3)(A)* of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of *Section 881(c)(3)(B)* of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in *Section 881(c)(3)(C)* of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Term Loan Agreement and used herein shall have the meanings given to them in the Term Loan Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____, 20__

EXHIBIT F-4

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the **TERM LOAN AGREEMENT** dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Term Loan Agreement**"), by and among **PIEDMONT OPERATING PARTNERSHIP, LP**, a Delaware limited partnership (the "**Borrower**"), **PIEDMONT OFFICE REALTY TRUST, INC.**, a Maryland corporation (the "**Parent**"), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the "**Lenders**"), **BANK OF AMERICA, N.A.**, as Agent (the "**Agent**") and the other parties thereto.

Pursuant to the provisions of *Section 3.11(g)(ii)(B)(iv)* of the Term Loan Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Term Loan Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of *Section 881(c)(3)(A)* of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of *Section 881(h)(3)(B)* of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in *Section 881(c)(3)(C)* of the Code.

The undersigned has furnished the Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Term Loan Agreement and used herein shall have the meanings given to them in the Term Loan Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20__

EXHIBIT G

FORM OF COMPLIANCE CERTIFICATE

_____, 20____

Bank of America, N.A.
as the Agent
Agency Management
Bank of America N.A
Mail Location IL4-540-22-27, 540 W Madison St., Chicago, IL 60661

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the “**Term Loan Agreement**”), by and among Piedmont Operating Partnership, LP (the “**Borrower**”), Piedmont Office Realty Trust, Inc. (the “**Parent**”), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the “**Lenders**”), Bank of America, N.A., as Agent (the “**Agent**”) and the other parties thereto. Capitalized terms used herein, and not otherwise defined herein, have their respective meanings given them in the Term Loan Agreement.

Pursuant to *Section 8.3* of the Term Loan Agreement, the undersigned hereby certifies to the Agent and the Lenders (not in his/her individual capacity but solely as an officer of the Parent) as follows:

(1) The undersigned is the _____ of the Parent.

(2) The undersigned has examined the books and records of the Parent and the Borrower and has conducted such other examinations and investigations as are reasonably necessary to provide this Compliance Certificate.

(3) To the best of the undersigned’s knowledge, information and belief after due inquiry, no Default or Event of Default exists [if such is not the case, specify such Default or Event of Default and its nature, when it occurred and whether it is continuing and the steps being taken by the Borrower with respect to such event, condition or failure].

(4) The representations and warranties made or deemed made by the Parent, the Borrower and the other Loan Parties in the Loan Documents to which any is a party, are true and correct in all material respects on and as of the date hereof except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents.

(5) Attached hereto as **Schedule 1** are reasonably detailed calculations establishing whether or not the Parent, the Borrower and its Subsidiaries were in compliance with the covenants contained in *Section 9.1* of the Term Loan Agreement.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first above written.

By: _____
Name:
Title:

CALCULATIONS

[Calculations to be Attached]

Schedule 1

EXHIBIT H

FORM OF FACILITY GUARANTY

THIS FACILITY GUARANTY (this “*Guaranty*”) dated as of January 31, 2023, executed and delivered by each of the undersigned and the other Persons from time to time party hereto pursuant to the execution and delivery of an Accession Agreement in the form of *Annex I* hereto (all of the undersigned, together with such other Persons each a “*Guarantor*” and collectively, the “*Guarantors*”) in favor of (a) BANK OF AMERICA, N.A., in its capacity as Agent (the “*Agent*”) for the Lenders under that certain TERM LOAN AGREEMENT dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the “*Term Loan Agreement*”), by and among PIEDMONT OPERATING PARTNERSHIP, LP (the “*Borrower*”), PIEDMONT OFFICE REALTY TRUST, INC. (the “*Parent*”), the financial institutions party thereto and their assignees under Section 12.5 thereof (the “*Lenders*”), the Agent, and the other parties thereto, and (b) the Lenders.

WHEREAS, pursuant to the Term Loan Agreement, the Agent and the Lenders have agreed to make available to the Borrower certain financial accommodations on the terms and conditions set forth in the Term Loan Agreement;

WHEREAS, the Borrower and each of the Guarantors, though separate legal entities, are mutually dependent on each other in the conduct of their respective businesses as an integrated operation and have determined it to be in their mutual best interests to obtain financing from the Agent and the Lenders through their collective efforts;

WHEREAS, each Guarantor acknowledges that it will receive direct and indirect benefits from the Agent and the Lenders making such financial accommodations available to the Borrower under the Term Loan Agreement and, accordingly, each Guarantor is willing to guarantee the Borrower’s obligations to the Agent and the Lenders on the terms and conditions contained herein; and

WHEREAS, each Guarantor’s execution and delivery of this Guaranty is a condition to the Agent and the Lenders making, or, with respect to the Persons becoming a party hereto after the date hereof, continuing to make, such financial accommodations to the Borrower.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Guarantor, each Guarantor agrees as follows:

Section 1. **Guaranty.** Each Guarantor hereby absolutely, irrevocably and unconditionally guaranties the due and punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all of the following (collectively referred to as the “*Guarantied Obligations*”): (a) all indebtedness and obligations owing by the Borrower to any Lender or the Agent under or in connection with the Term Loan Agreement and any other Loan Document, including without limitation, the repayment of all principal of the Loans, and the payment of all interest, Fees, charges, attorneys’ fees and other amounts payable to any Lender or the Agent thereunder or in connection therewith; (b) any and all extensions, renewals, modifications, amendments or substitutions of the foregoing; (c) all expenses, including, without limitation, reasonable attorneys’ fees and disbursements, that are incurred by the Lenders and the Agent in the enforcement of any of the foregoing or any obligation of such Guarantor hereunder; and (d) all other Obligations.

Section 2. **Guaranty of Payment and Not of Collection.** This Guaranty is a guaranty of payment, and not of collection, and a debt of each Guarantor for its own account. Accordingly, none of the Lenders or the Agent shall be obligated or required before enforcing this Guaranty against any Guarantor: (a) to

pursue any right or remedy any of them may have against the Borrower, any other Guarantor or any other Person or commence any suit or other proceeding against the Borrower, any other Guarantor or any other Person in any court or other tribunal; (b) to make any claim in a liquidation or bankruptcy of the Borrower, any other Guarantor or any other Person; or (c) to make demand of the Borrower, any other Guarantor or any other Person or to enforce or seek to enforce or realize upon any collateral security held by the Lenders or the Agent which may secure any of the Guaranteed Obligations.

Section 3. **Guaranty Absolute.** Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the documents evidencing the same, regardless of any Applicable Law now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Agent or the Lenders with respect thereto. The liability of each Guarantor under this Guaranty shall be absolute, irrevocable and unconditional in accordance with its terms and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any of the following (whether or not such Guarantor consents thereto or has notice thereof):

(a) (i) any change in the amount, interest rate or due date or other term of any of the Guaranteed Obligations, (ii) any change in the time, place or manner of payment of all or any portion of the Guaranteed Obligations, (iii) any amendment or waiver of, or consent to the departure from or other indulgence with respect to, the Term Loan Agreement, any other Loan Document, or any other document or instrument evidencing or relating to any Guaranteed Obligations, or (iv) any waiver, renewal, extension, addition, or supplement to, or deletion from, or any other action or inaction under or in respect of the Term Loan Agreement, any of the other Loan Documents, or any other documents, instruments or agreements relating to the Guaranteed Obligations or any other instrument or agreement referred to therein or evidencing any Guaranteed Obligations or any assignment or transfer of any of the foregoing;

(b) any lack of validity or enforceability of the Term Loan Agreement, any of the other Loan Documents, or any other document, instrument or agreement referred to therein or evidencing any Guaranteed Obligations or any assignment or transfer of any of the foregoing;

(c) any furnishing to the Agent or the Lenders of any security for the Guaranteed Obligations, or any sale, exchange, release or surrender of, or realization on, any collateral securing any of the Obligations;

(d) any settlement or compromise of any of the Guaranteed Obligations, any security therefor, or any liability of any other party with respect to the Guaranteed Obligations, or any subordination of the payment of the Guaranteed Obligations to the payment of any other liability of the Borrower or any other Loan Party;

(e) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to such Guarantor, the Borrower, any other Loan Party or any other Person, or any action taken with respect to this Guaranty by any trustee or receiver, or by any court, in any such proceeding;

(f) any act or failure to act by the Borrower, any other Loan Party or any other Person which may adversely affect such Guarantor's subrogation rights, if any, against the Borrower to recover payments made under this Guaranty;

(g) any nonperfection or impairment of any security interest or other Lien on any collateral, if any, securing in any way any of the Obligations;

(h) any application of sums paid by the Borrower, any other Guarantor or any other Person with respect to the liabilities of the Borrower to the Agent or the Lenders, regardless of what liabilities of the Borrower remain unpaid;

(i) any defect, limitation or insufficiency in the borrowing powers of the Borrower or in the exercise thereof;

(j) any defense, set-off, claim or counterclaim (other than indefeasible payment and performance in full) which may at any time be available to or be asserted by the Borrower, any other Loan Party or any other Person against the Agent or any Lender;

(k) any change in the corporate existence, structure or ownership of the Borrower or any other Loan Party;

(l) any statement, representation or warranty made or deemed made by or on behalf of the Borrower, any Guarantor or any other Loan Party under any Loan Document, or any amendment hereto or thereto, proves to have been incorrect or misleading in any respect; or

(m) any other circumstance which might otherwise constitute a defense available to, or a discharge of, a Guarantor hereunder (other than indefeasible payment and performance in full).

Section 4. Action with Respect to Guaranteed Obligations. The Lenders and the Agent may, at any time and from time to time, without the consent of, or notice to, any Guarantor, and without discharging any Guarantor from its obligations hereunder, take any and all actions described in **Section 3** and may otherwise: (a) amend, modify, alter or supplement the terms of any of the Guaranteed Obligations, including, but not limited to, extending or shortening the time of payment of any of the Guaranteed Obligations or changing the interest rate that may accrue on any of the Guaranteed Obligations; (b) amend, modify, alter or supplement the Term Loan Agreement or any other Loan Document; (c) sell, exchange, release or otherwise deal with all, or any part, of any collateral securing any of the Obligations; (d) release any other Loan Party or other Person liable in any manner for the payment or collection of the Guaranteed Obligations; (e) exercise, or refrain from exercising, any rights against the Borrower, any other Guarantor or any other Person; and (f) apply any sum, by whomsoever paid or however realized, to the Guaranteed Obligations in such order as the Lenders shall elect.

Section 5. Representations and Warranties. Each Guarantor hereby makes to the Agent and the Lenders all of the representations and warranties made by the Borrower with respect to or in any way relating to such Guarantor in the Term Loan Agreement and the other Loan Documents, as if the same were set forth herein in full.

Section 6. Covenants. Each Guarantor will comply with all covenants which the Borrower is to cause such Guarantor to comply with under the terms of the Term Loan Agreement or any of the other Loan Documents.

Section 7. Waiver. Each Guarantor, to the fullest extent permitted by Applicable Law, hereby waives notice of acceptance hereof or any presentment, demand, protest or notice of any kind, and any other act or thing, or omission or delay to do any other act or thing, which in any manner or to any extent might vary the risk of such Guarantor or which otherwise might operate to discharge such Guarantor from its obligations hereunder.

Section 8. Inability to Accelerate Loan. If the Agent and/or the Lenders are prevented under Applicable Law or otherwise from demanding or accelerating payment of any of the Guaranteed Obligations by reason of any automatic stay or otherwise, the Agent and/or the Lenders shall be entitled to receive from each Guarantor, upon demand therefor, the sums which otherwise would have been due had such demand or acceleration occurred.

Section 9. Reinstatement of Guaranteed Obligations. If claim is ever made on the Agent or any Lender for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations, and the Agent or such Lender repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body of competent jurisdiction, or (b) any settlement or compromise of any such claim effected by the Agent or such Lender with any such claimant (including the Borrower or a trustee in bankruptcy for the Borrower), then and in such event each Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding on it, notwithstanding any revocation hereof or the cancellation of the Term Loan Agreement, any of the other Loan Documents, or any other instrument evidencing any liability of the Borrower, and such Guarantor shall be and remain liable to the Agent or such Lender for the amounts so repaid or recovered to the same extent as if such amount had never originally been paid to the Agent or such Lender.

Section 10. Subrogation. Upon the making by any Guarantor of any payment hereunder for the account of the Borrower, such Guarantor shall be subrogated to the rights of the payee against the Borrower; provided, however, that such Guarantor shall not enforce any right or receive any payment by way of subrogation or otherwise take any action in respect of any other claim or cause of action such Guarantor may have against the Borrower arising by reason of any payment or performance by such Guarantor pursuant to this Guaranty, unless and until all of the Guaranteed Obligations have been indefeasibly paid and performed in full. If any amount shall be paid to such Guarantor on account of or in respect of such subrogation rights or other claims or causes of action, such Guarantor shall hold such amount in trust for the benefit of the Agent and the Lenders and shall forthwith pay such amount to the Agent to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms of the Term Loan Agreement or to be held by the Agent as collateral security for any Guaranteed Obligations existing.

Section 11. Payments Free and Clear. All sums payable by each Guarantor hereunder, whether of principal, interest, Fees, expenses, premiums or otherwise, shall be paid in full, without set-off or counterclaim or any deduction or withholding whatsoever (including any Taxes), and if any Guarantor is required by Applicable Law or by a Governmental Authority to make any such deduction or withholding, such Guarantor shall pay to the Agent and the Lenders such additional amount as will result in the receipt by the Agent and the Lenders of the full amount payable hereunder had such deduction or withholding not occurred or been required.

Section 12. Set-off. In addition to any rights now or hereafter granted under any of the other Loan Documents or Applicable Law and not by way of limitation of any such rights, each Guarantor hereby authorizes the Agent, each Lender and any of their respective Affiliates, at any time while an Event of Default exists, without any prior notice to such Guarantor or to any other Person, any such notice being hereby expressly waived, but in the case of a Lender or an Affiliate of a Lender subject to receipt of the prior written consent of the Agent exercised in its sole discretion, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured) and any other indebtedness at any time held or owing by the Agent, such Lender, or any Affiliate of the Agent or such Lender, to or for the credit or the account of such Guarantor against and on account of any of the Guaranteed Obligations, although such obligations shall be contingent or unmatured. Each Guarantor agrees, to the fullest extent permitted by Applicable Law, that any Participant may exercise rights of setoff or counterclaim and other rights with respect to its participation as fully as if such Participant were a direct creditor of such Guarantor in the amount of such participation.

Section 13. **Subordination.** Each Guarantor hereby expressly covenants and agrees for the benefit of the Agent and the Lenders that all obligations and liabilities of the Borrower to such Guarantor of whatever description, including without limitation, all intercompany receivables of such Guarantor from the Borrower (collectively, the “**Junior Claims**”) shall be subordinate and junior in right of payment to all Guaranteed Obligations. If an Event of Default shall exist, then no Guarantor shall accept any direct or indirect payment (in cash, property or securities, by setoff or otherwise) from the Borrower on account of or in any manner in respect of any Junior Claim until all of the Guaranteed Obligations have been indefeasibly paid in full.

Section 14. **Avoidance Provisions.** It is the intent of each Guarantor, the Agent and the Lenders that in any Proceeding, such Guarantor’s maximum obligation hereunder shall equal, but not exceed, the maximum amount which would not otherwise cause the obligations of such Guarantor hereunder (or any other obligations of such Guarantor to the Agent and the Lenders) to be avoidable or unenforceable against such Guarantor in such Proceeding as a result of Applicable Law, including without limitation, (a) *Section 548* of the Bankruptcy Code of 1978, as amended (the “**Bankruptcy Code**”) and (b) any state fraudulent transfer or fraudulent conveyance act or statute applied in such Proceeding, whether by virtue of *Section 544* of the Bankruptcy Code or otherwise. The Applicable Laws under which the possible avoidance or unenforceability of the obligations of such Guarantor hereunder (or any other obligations of such Guarantor to the Agent and the Lenders) shall be determined in any such Proceeding are referred to as the “*Avoidance Provisions*”. Accordingly, to the extent that the obligations of any Guarantor hereunder would otherwise be subject to avoidance under the Avoidance Provisions, the maximum Guaranteed Obligations for which such Guarantor shall be liable hereunder shall be reduced to that amount which, as of the time any of the Guaranteed Obligations are deemed to have been incurred under the Avoidance Provisions, would not cause the obligations of such Guarantor hereunder (or any other obligations of such Guarantor to the Agent and the Lenders), to be subject to avoidance under the Avoidance Provisions. This **Section** is intended solely to preserve the rights of the Agent and the Lenders hereunder to the maximum extent that would not cause the obligations of any Guarantor hereunder to be subject to avoidance under the Avoidance Provisions, and no Guarantor or any other Person shall have any right or claim under this **Section** as against the Agent and the Lenders that would not otherwise be available to such Person under the Avoidance Provisions.

Section 15. **Information.** Each Guarantor assumes all responsibility for being and keeping itself informed of the financial condition of the Parent, the Borrower and the other Guarantors, and of all other circumstances bearing upon the risk of nonpayment of any of the Guaranteed Obligations and the nature, scope and extent of the risks that such Guarantor assumes and incurs hereunder, and agrees that neither the Agent nor any of the Lenders shall have any duty whatsoever to advise any Guarantor of information regarding such circumstances or risks.

Section 16. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THEREOF (OTHER THAN §5-1401 AND §5-1402 OF THE NEW YORK GENERAL OBLIGATION LAW OF THE STATE OF NEW YORK).

SECTION 17. **WAIVER OF JURY TRIAL.**

(a) 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 GUARANTY 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 GUARANTY AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) EACH OF THE GUARANTORS, THE AGENT AND EACH LENDER HEREBY AGREES THAT THE FEDERAL DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN AND, IF SUCH COURT LACKS SUBJECT MATTER JURISDICTION, THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, SHALL HAVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN OR AMONG ANY GUARANTOR, THE AGENT OR ANY OF THE LENDERS, PERTAINING DIRECTLY OR INDIRECTLY TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR TO ANY MATTER ARISING HEREFROM OR THEREFROM. EACH GUARANTOR AND EACH OF THE LENDERS EXPRESSLY SUBMIT AND CONSENT IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED IN SUCH COURTS WITH RESPECT TO SUCH CLAIMS OR DISPUTES. EACH PARTY FURTHER WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT SUCH ACTION OR PROCEEDING WAS BROUGHT IN AN INCONVENIENT FORUM AND EACH AGREES NOT TO PLEAD OR CLAIM THE SAME. THE CHOICE OF FORUM SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE BRINGING OF ANY ACTION BY THE AGENT OR ANY LENDER OR THE ENFORCEMENT BY THE AGENT OR ANY LENDER OF ANY JUDGMENT OBTAINED IN SUCH FORUM IN ANY OTHER APPROPRIATE JURISDICTION.

(c) THE PROVISIONS OF THIS SECTION HAVE BEEN CONSIDERED BY EACH PARTY WITH THE ADVICE OF COUNSEL AND WITH A FULL UNDERSTANDING OF THE LEGAL CONSEQUENCES THEREOF, AND SHALL SURVIVE THE PAYMENT OF THE LOANS AND ALL OTHER AMOUNTS PAYABLE HEREUNDER OR UNDER THE OTHER LOAN DOCUMENTS AND THE TERMINATION OF THIS GUARANTY.

Section 18. **Loan Accounts.** The Agent and each Lender may maintain books and accounts setting forth the amounts of principal, interest and other sums paid and payable with respect to the Guaranteed Obligations, and in the case of any dispute relating to any of the outstanding amount, payment or receipt of any of the Guaranteed Obligations or otherwise, the entries in such books and accounts shall be deemed conclusive evidence of the amounts and other matters set forth herein, absent manifest error. The failure of the Agent or any Lender to maintain such books and accounts shall not in any way relieve or discharge any Guarantor of any of its obligations hereunder.

Section 19. **Waiver of Remedies.** No delay or failure on the part of the Agent or any Lender in the exercise of any right or remedy it may have against any Guarantor hereunder or otherwise shall operate as a waiver thereof, and no single or partial exercise by the Agent or any Lender of any such right or remedy shall preclude any other or further exercise thereof or the exercise of any other such right or remedy.

Section 20. **Termination.** This Guaranty shall remain in full force and effect until indefeasible payment in full of the Guaranteed Obligations and the other Obligations and the termination or cancellation of the Term Loan Agreement in accordance with its terms or, as to any Guarantor, until such Guarantor is released in accordance with *Section 7.12(b)* of the Term Loan Agreement.

Section 21. **Successors and Assigns.** Each reference herein to the Agent or the Lenders shall be deemed to include such Person's respective successors and assigns (including, but not limited to, any holder of the Guaranteed Obligations) in whose favor the provisions of this Guaranty also shall inure, and each reference herein to each Guarantor shall be deemed to include such Guarantor's successors and assigns, upon whom this Guaranty also shall be binding. The Lenders may, in accordance with the applicable provisions of the Term Loan Agreement, assign, transfer or sell any Guaranteed Obligation, or grant or sell participations in any Guaranteed Obligations, to any Person without the consent of, or notice to, any Guarantor and without releasing, discharging or modifying any Guarantor's obligations hereunder. Subject to Section 12.8 of the Term Loan Agreement, each Guarantor hereby consents to the delivery by the Agent or any Lender to any Assignee or Participant (or any prospective Assignee or Participant) of any financial or other information regarding the Parent, the Borrower or any Guarantor. No Guarantor may assign or transfer its rights or obligations hereunder to any Person without the prior written consent of all Lenders and any such assignment or other transfer to which all of the Lenders have not so consented shall be null and void.

Section 22. **JOINT AND SEVERAL OBLIGATIONS.** THE OBLIGATIONS OF THE GUARANTORS HEREUNDER SHALL BE JOINT AND SEVERAL, AND ACCORDINGLY, EACH GUARANTOR CONFIRMS THAT, SUBJECT TO THE PROVISIONS OF **SECTION 14** HEREOF, IT IS LIABLE FOR THE FULL AMOUNT OF THE "GUARANTIED OBLIGATIONS" AND ALL OF THE OBLIGATIONS AND LIABILITIES OF EACH OF THE OTHER GUARANTORS HEREUNDER.

Section 23. **Amendments.** This Guaranty may not be amended except in writing signed by the Requisite Lenders (or all of the Lenders if required under the terms of the Term Loan Agreement), the Agent and each Guarantor.

Section 24. **Payments.** All payments to be made by any Guarantor pursuant to this Guaranty shall be made in Dollars, in immediately available funds to the Agent at the Principal Office, not later than 2:00 p.m. on the date of demand therefore, provided that such demand is received by such Guarantor prior to 10:00 a.m. on such date (if any such demand is received after 10:00 a.m. on such date, such payment shall be made not later than 2:00 p.m. on the immediately following Business Day).

Section 25. **Notices.** All notices, requests and other communications hereunder shall be in writing (including facsimile transmission or similar writing) and shall be given (a) to each Guarantor at its address set forth below its signature hereto, (b) to the Agent or any Lender at its respective address for notices provided for in the Term Loan Agreement, or (c) as to each such party at such other address as such party shall designate in a written notice to the other parties. Each such notice, request or other communication shall be effective (i) if mailed, when received; (ii) if telecopied, when successfully transmitted during the hours of 9:00 a.m. and 5:00 p.m. (in the time zone of the recipient thereof (any telecopied notice received after 5:00 p.m. in such time zone shall be effective on the next succeeding day); or (iii) if hand delivered or sent by overnight courier, when delivered; provided, however, that any notice of a change of address for notices shall not be effective until received.

Section 26. **Severability.** In case any provision of this Guaranty shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 27. **Headings.** Section headings used in this Guaranty are for convenience only and shall not affect the construction of this Guaranty.

Section 28. Limitation of Liability.

(a) Neither the Agent nor any Lender, nor any Affiliate, officer, director, employee, attorney, or agent of the Agent or any Lender, shall have any liability with respect to, and each Guarantor hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by a Guarantor in connection with, arising out of, or in any way related to, this Guaranty or any of the other Loan Documents, or any of the transactions contemplated by this Guaranty, the Term Loan Agreement or any of the other Loan Documents. Each Guarantor hereby waives, releases, and agrees not to sue the Agent or any Lender or any of the Agent's or any Lender's Affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Guaranty, the Term Loan Agreement or any of the other Loan Documents, or any of the transactions contemplated by the Term Loan Agreement or financed thereby.

(b) No Guarantor nor any Affiliate, officer, director, employee, attorney, or agent thereof shall have any liability with respect to, and each of the Agent and the Lenders hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Agent or the Lenders in connection with, arising out of, or in any way related to, this Guaranty or any of the other Loan Documents, or any of the transactions contemplated by this Guaranty, the Term Loan Agreement or any of the other Loan Documents. Each of the Agent and the Lenders hereby waives, releases, and agrees not to sue any Guarantor or any of their respective Affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Guaranty, the Term Loan Agreement or any of the other Loan Documents, or any of the transactions contemplated by the Term Loan Agreement or financed hereby.

Section 29. Definitions.

(a) For the purposes of this Guaranty:

"Proceeding" means any of the following: (i) a voluntary or involuntary case concerning any Guarantor shall be commenced under the Bankruptcy Code of 1978, as amended; (ii) a custodian (as defined in such Bankruptcy Code or any other applicable bankruptcy laws) is appointed for, or takes charge of, all or any substantial part of the property of any Guarantor; (iii) any other proceeding under any Applicable Law, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding-up or composition for adjustment of debts, whether now or hereafter in effect, is commenced relating to any Guarantor; (iv) any Guarantor is adjudicated insolvent or bankrupt; (v) any order of relief or other order approving any such case or proceeding is entered by a court of competent jurisdiction; (vi) any Guarantor makes a general assignment for the benefit of creditors; (vii) any Guarantor shall fail to pay, or shall state that it is unable to pay, or shall be unable to pay, its debts generally as they become due; (viii) any Guarantor shall call a meeting of its creditors with a view to arranging a composition or adjustment of its debts; (ix) any Guarantor shall by any act or failure to act indicate its consent to, approval of or acquiescence in any of the foregoing; or (x) any corporate action shall be taken by any Guarantor for the purpose of effecting any of the foregoing.

(b) Terms not otherwise defined herein are used herein with the respective meanings given them in the Term Loan Agreement.

Section 30. **Integration; Effectiveness.** This Guaranty sets forth the entire understanding of each Guarantor and the Credit Parties relating to the guarantee of the Guaranteed Obligations and constitutes the

entire contract between 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. This Guaranty shall become effective when it shall have been executed and delivered by each Guarantor to the Agent. Delivery of an executed counterpart of a signature page of this Guaranty that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Guaranty. The words "**execution**," "**signed**," "**signature**," "**delivery**," and words of like import in or relating to this Guaranty shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be.

[Signature on Next Page]

Exhibit H – Page 9

IN WITNESS WHEREOF, each Guarantor has duly executed and delivered this Guaranty as of the date and year first written above.

PIEDMONT OFFICE REALTY TRUST, INC.

By: _____
Name:
Title:

[OTHER GUARANTORS]

By: _____
Name:
Title:

Address for Notices:

c/o Piedmont Operating Partnership, LP
5565 Glenridge Connector, Suite 450
Atlanta, GA 30342
Attn: Chief Financial Officer
Telephone: (770) 418-8800
Telecopy: (770) 418-8900

With a copy to:

King & Spalding LLP
1180 Peachtree Street
Atlanta, GA 30309

Signature Page to
Facility Guaranty

ANNEX I

FORM OF ACCESSION AGREEMENT

THIS ACCESSION AGREEMENT dated as of _____, 20____, executed and delivered by _____, a _____ (the “*New Guarantor*”), in favor of (a) **BANK OF AMERICA, N.A.**, in its capacity as Agent (the “*Agent*”) for the Lenders under that certain **TERM LOAN AGREEMENT** dated as of January 31, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the “*Term Loan Agreement*”), by and among **PIEDMONT OPERATING PARTNERSHIP, LP** (the “*Borrower*”), **PIEDMONT OFFICE REALTY TRUST, INC.** (the “*Parent*”), the financial institutions party thereto and their assignees under *Section 12.5* thereof (the “*Lenders*”), the Agent, and the other parties thereto, and (b) the Lenders.

WHEREAS, pursuant to the Term Loan Agreement, the Agent and the Lenders have agreed to make available to the Borrower certain financial accommodations on the terms and conditions set forth in the Term Loan Agreement;

WHEREAS, the Borrower, the New Guarantor, and the existing Guarantors, though separate legal entities, are mutually dependent on each other in the conduct of their respective businesses as an integrated operation and have determined it to be in their mutual best interests to obtain financing from the Agent and the Lenders through their collective efforts;

WHEREAS, the New Guarantor acknowledges that it will receive direct and indirect benefits from the Agent and the Lenders making such financial accommodations available to the Borrower under the Term Loan Agreement and, accordingly, the New Guarantor is willing to guarantee the Borrower’s obligations to the Agent and the Lenders on the terms and conditions contained herein; and

WHEREAS, the New Guarantor’s execution and delivery of this Agreement is a condition to the Agent and the Lenders continuing to make such financial accommodations to the Borrower.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the New Guarantor, the New Guarantor agrees as follows:

Section 1. Accession to Guaranty. The New Guarantor hereby agrees that it is a “*Guarantor*” under that certain Facility Guaranty dated as of January 31, 2023 (as amended, supplemented, restated or otherwise modified from time to time, the “*Guaranty*”), made by the Parent and each Subsidiary of the Borrower a party thereto in favor of the Agent and the Lenders and assumes all obligations of a “*Guarantor*” thereunder and agrees to be bound thereby, all as if the New Guarantor had been an original signatory to the Guaranty. Without limiting the generality of the foregoing, the New Guarantor hereby:

(a) irrevocably and unconditionally guarantees the due and punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all Guaranteed Obligations (as defined in the Guaranty), subject to the provisions of *Section 14* of the Guaranty;

(b) makes to the Agent and the Lenders as of the date hereof each of the representations and warranties contained in *Section 5* of the Guaranty and agrees to be bound by each of the covenants contained in *Section 6* of the Guaranty; and

(c) consents and agrees to each provision set forth in the Guaranty.

SECTION 2. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THEREOF (OTHER THAN §5-1401 AND §5-1402 OF THE NEW YORK GENERAL OBLIGATION LAW OF THE STATE OF NEW YORK).

Section 3. **Definitions.** Capitalized terms used herein and not otherwise defined herein shall have their respective defined meanings given them in the Term Loan Agreement.

[Signatures on Next Page]

Annex I – Page 2

IN WITNESS WHEREOF, the New Guarantor has caused this Accession Agreement to be duly executed and delivered under seal by its duly authorized officers as of the date first written above.

[NEW GUARANTOR]

By: _____
Name:
Title:

Address for Notices:
c/o Piedmont Operating Partnership, LP
5565 Glenridge Connector, Suite 450
Atlanta, GA 30342
Attn: Chief Financial Officer
Telephone: (770) 418-8800
Telecopy: (770) 418-8900

With a copy to:
King & Spalding LLP
1180 Peachtree Street
Atlanta, GA 30309

Accepted:

BANK OF AMERICA, N.A., as Agent

By: _____
Name:
Title: