

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): February 10, 2020

**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 Suite 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:**

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
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 2.01 Completion of Acquisition or Disposition of Assets.**

On February 12, 2020, Piedmont Office Realty Trust, Inc. ("Piedmont" or "the Registrant") purchased the "Galleria Office Towers", three Class A office towers totaling approximately 1.4 million square feet of office space, associated parking garages, and a 1.9-acre land parcel located within a 3.7 million square foot mixed-use development in Dallas, Texas that includes the Galleria Dallas retail destination, encompassing over 30 dining options and 1.5 million square feet of shopping, along with the 448-room Westin Galleria Hotel, creating a vibrant and highly amenitized destination. The Galleria Office Towers were acquired for a net purchase price of \$396.0 million, or approximately \$275 per square foot, from SPUS7 Galleria, LP, a special purpose vehicle controlled by CBRE Global Investors - U.S. Strategic Partner Fund 7. The acquisition was initially funded with cash on hand and borrowings under the Registrant's \$500 Million 2018 Line of Credit; however, the Registrant anticipates ultimately funding the majority of the acquisition using proceeds from the anticipated sale of 1901 Market in Philadelphia, Pennsylvania. The foregoing does not purport to be a complete description of the terms of the acquisition and is qualified in its entirety by reference to the Purchase and Sale Agreement, which is attached as Exhibit 2.1 hereto and 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 February 10, 2020, the Registrant entered into an agreement with Truist Bank whereby Truist will extend the Registrant a \$150 million-term loan at Libor plus 95 basis points. The loan was unfunded at closing and can be funded in up to four draws at the Registrant's discretion. The original term of the loan is six months, with the option to extend for two additional three month periods upon payment of applicable extension fees. The foregoing does not purport to be a complete description of the terms of the \$150 million term loan and is qualified in its entirety by reference to the \$150 million term loan agreement, which is attached as Exhibit 10.1 hereto and incorporated herein by reference.

### **Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On February 12, 2020, Donald A. Miller, CFA, former Chief Executive Officer of the Registrant, resigned from Piedmont's Board of Directors effective immediately. Mr. Miller's resignation is the culmination of Piedmont's succession planning efforts as a result of Mr. Miller's June 2019 retirement whereby C. Brent Smith was appointed President and Chief Executive Officer and member of Piedmont's Board of Directors. Piedmont and its Board of Directors express their deepest gratitude to Mr. Miller for his many years of dedicated service. Pursuant to Mr. Miller's retirement agreement entered into in March 2019, he is entitled to receive outside director compensation for his service as a director, including equity compensation. Upon Mr. Miller's resignation from the Board of Directors, Piedmont made a cash payment of approximately \$104,000 to cover the value of the stock award and director fees he would have otherwise been entitled to through the end of his current director term.

Mr. Miller's decision to resign was not due to any disagreement with Piedmont on any matter relating to its operations, policies or practices.

On February 12, 2020, Piedmont issued a press release in connection with Mr. Miller's resignation which is attached hereto as Exhibit 99.1.

### **Item 8.01 Other Events**

On February 12, 2020, the Registrant issued a press release announcing the completion of the acquisition of the Galleria Office Towers. A copy of this press release is attached hereto as Exhibit 99.2 and is incorporated herein by reference.

### **Item 9.01 Financial Statement and Exhibits.**

(a) Financial Statements.

As it is impractical to provide the required financial statements for the acquired real property described above at the time of this filing, and no financial statements (audited or unaudited) are available at this time, Piedmont hereby confirms that it intends to

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file the required financial statements by amendment to this Current Report on Form 8-K not later than 71 days after the date that the disclosure required by Item 2.01 of this Current Report on Form 8-K was required to be filed.

(b) Pro Forma Financial Information.

See paragraph (a) above.

(d) Exhibits.

<b>Exhibit Number</b>	<b>Description</b>
2.1 *	<a href="#"><u>Purchase and Sale Agreement Between SPUS7 Galleria, LP, as Seller and Piedmont Dallas Galleria, LLC, as Purchaser</u></a>
10.1	<a href="#"><u>\$150 Million Term Loan Agreement</u></a>
99.1	<a href="#"><u>Press Release Announcing Successful Completion of Leadership Transition dated February 12, 2020</u></a>
99.2	<a href="#"><u>Press Release Announcing Acquisition of Dallas Galleria Office Towers dated February 12, 2020</u></a>

\* The Registrant has omitted certain information contained in this exhibit pursuant to Rule 601(b)(2) of Regulation S-K. The omitted information is not material and, if publicly disclosed, would likely cause competitive harm to the Registrant.

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**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 12, 2020

By: /s/ Robert E. Bowers

Robert E. Bowers  
Chief Financial Officer and Executive Vice President

Certain portions of this exhibit have been redacted pursuant to Item 601(b)(2)(ii) as they are both not material and would likely cause competitive harm to the Company if publicly disclosed. Spaces corresponding to the deleted portions are represented by brackets with [\* \* \*].

**PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**SPUS7 GALLERIA, LP,**

**AS SELLER**

**AND**

**PIEDMONT DALLAS GALLERIA, LLC,**

**AS PURCHASER**

**DATED JANUARY 31, 2020**

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**PURCHASE AND SALE AGREEMENT** \*

Galleria Towers, Dallas, Texas

This Purchase and Sale Agreement (this "**Agreement**") is made and entered into by and between Purchaser and Seller.

**RECITALS**

A. Defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth.

B. Purchaser desires to purchase the Property and Seller desires to sell the Property, all upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Purchaser to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Purchaser and Seller agree as follows:

**ARTICLE I**  
**BASIC INFORMATION**

**1.1 Certain Basic Terms.** The following defined terms shall have the meanings set forth below:

- 1.1.1 **Seller:** **SPUS7 GALLERIA, LP, a Delaware limited partnership**
- 1.1.2 **Purchaser:** **PIEDMONT DALLAS GALLERIA, LLC, a Delaware limited liability company**
- 1.1.3 **Purchase Price:** \$395,000,000.
- 1.1.4 **Earnest Money:** \$10,000,000 (the "**Initial Earnest Money**"), including interest thereon, to be deposited in accordance with Section 3.1 below, to be increased by \$10,000,000 (the "**Additional Earnest Money**") to \$20,000,000, plus interest thereon, pursuant to Section 3.1.
- 1.1.5 **Title Company:** Chicago Title Insurance Company  
3100 Monticello Avenue, Suite 800  
Dallas, Texas 75205
- 1.1.6 **Escrow Agent:** Chicago Title Insurance Company  
3100 Monticello Avenue, Suite 800  
Dallas, Texas 75205
- 1.1.7 **Broker:** Holliday GP Corp.
- 1.1.8 **Effective Date:** The date on which this Agreement is executed by the latter to sign of Purchaser or Seller, as indicated on the signature page of this Agreement. If the execution date is left blank by either Purchaser or Seller, the Effective Date shall be the execution date inserted by the other party.



- 1.1.9 **Title and Survey Review Period:** The period beginning on the Effective Date and ending on January 22, 2020.
- 1.1.10 **Inspection Period:** The period beginning on the Effective Date and ending on January 31, 2020.
- 1.1.11 **Closing Date:** February 12, 2020.

1.2 **Closing Costs.** Closing costs shall be allocated and paid as follows:

COST	RESPONSIBLE PARTY
Title Commitment required to be delivered pursuant to Section 5.1	Seller
Premium for standard form Title Policy required to be delivered pursuant to Section 5.5	Seller
Premium for any upgrade of Title Policy for extended or additional coverage and any deletions or endorsements to the Title Policy desired by Purchaser, any inspection fee charged by the Title Company, tax certificates, municipal and utility lien certificates, and any other Title Company charges	Purchaser
Costs of the existing Survey	Purchaser ½ Seller ½
Costs of any updates, revisions, modifications or recertifications to the existing Survey requested by Purchaser	Purchaser
Costs of any zoning reports for the Property performed in the six months prior to the Effective Date and provided to Purchaser	Purchaser
Recording fees	Purchaser
Any escrow fee charged by Escrow Agent for holding the Earnest Money or conducting the Closing	Purchaser ½ Seller ½
Real Estate Sales Commission to Broker	Seller
All other closing costs, expenses, charges and fees	Allocated based on custom in Dallas County, Texas. If no custom, then Purchaser ½, Seller ½.

**1.3 Notice Addresses**

Purchaser: Piedmont Office Realty Trust, Inc.  
5565 Glenridge Connector, Suite 450  
Atlanta, GA 30342

Copy to: Piedmont Office Realty Trust, Inc.  
5565 Glenridge Connector, Suite 450  
Atlanta, GA 30342

And to: DLA Piper LLP  
444 West Lake Street, Suite 900  
Chicago, IL 60606

Seller: SPUS7 Galleria, LP  
c/o CBRE Global Investors – Strategic Partners  
601 S. Figueroa Street, 49<sup>th</sup> Floor  
Los Angeles, CA 90017

Copy to: SPUS7 Galleria, LP  
c/o CBRE Global Investors – Strategic Partners  
601 S. Figueroa Street, 49<sup>th</sup> Floor  
Los Angeles, CA 90017

And to: Vinson & Elkins L.L.P.  
2001 Ross Avenue, Suite 3900  
Dallas, TX 75201

## **ARTICLE 2** **PROPERTY**

2.1 **Property**. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the following property (collectively, the “**Property**”):

2.1.1 **Real Property**. The land described in Exhibit A hereto (the “**Land**”), together with (a) all improvements located thereon, but expressly excluding improvements and structures owned by any tenant pursuant to the provisions of its respective Lease during the term of such tenant’s Lease or other third party pursuant to the Permitted Exceptions (“**Improvements**”), (b) all right, title and interest of Seller, if any, in and to the rights, benefits, privileges, easements, tenements, hereditaments, and appurtenances thereon or in anywise appertaining thereto, and (c) all right, title and interest of Seller, if any, in and to all strips and gores and any land lying in the bed of any street, road or alley, open or proposed, adjoining the Land (collectively, the “**Real Property**”).

2.1.2 **Leases**. All of Seller’s right, title and interest in all leases, licenses and occupancy agreements covering all or any portion of the Real Property and amendments thereto (other than License Agreements), including leases which may be made by Seller after the Effective Date and prior to Closing as permitted by this Agreement (the “**Leases**”).

2.1.3 **Tangible Personal Property**. All of Seller’s right, title and interest in the equipment, machinery, furniture, furnishings, supplies and other tangible personal property owned by Seller and now or hereafter located in and used in connection with the operation, ownership or management of the Real Property, excluding any items of personal property owned or leased by Seller’s property manager or tenants at or on the Real Property and further excluding any items of personal property owned by third parties and leased to Seller, but specifically including, without limitation, the items listed on Exhibit O hereto (collectively, the “**Tangible Personal Property**”).

2.1.4 **Intangible Personal Property**. All of Seller’s right, title and interest, if any, in all intangible personal property used or useful solely in connection with the Real Property and the Improvements, including, without limitation: all trade names and trademarks associated with the Real Property and the Improvements, including Seller’s rights and interests, if any, in the name of the Real Property (including, without limitation, all rights to use the names “Galleria”, “One Galleria Tower”, “Two Galleria Tower”, “Three Galleria Tower” and “Four Galleria Tower” under that certain Trademark and Service Mark License dated January 13, 1999 by and between Galleria, Inc., a Texas corporation, as Owner and University Town Center Associates, a California limited partnership, EWH 1979 Development Company, L.P., a California limited partnership and Park Meadows Mall, Ltd., a Colorado limited partnership, as Users); the plans and specifications and other architectural and engineering drawings for the Improvements, if any (to the extent assignable without cost to Seller); contract rights related to the operation, ownership or management of the Real Property, including maintenance, service,

construction, supply and equipment rental contracts, if any, but not including Leases or License Agreements (collectively, the “**Service Contracts**”) (but only to the extent assignable without cost to Seller and Seller’s obligations thereunder are expressly assumed by Purchaser pursuant to this Agreement); warranties (to the extent assignable without cost to Seller); governmental permits, approvals and licenses, if any (to the extent assignable without cost to Seller); marketing materials for the Real Property, including electronic photography, graphics and images; and all rights with respect to the websites at www.galleriaofficedallas.com and www.galleriaofficetowersdallas.com (all of the items described in this Section 2.1.4 collectively referred to as the “**Intangible Personal Property**”); provided, however, the foregoing Intangible Personal Property shall be expressly limited to such property used or useful solely in connection with the Real Property and the Improvements and shall in no event include any property otherwise related to any other business operations conducted by any of Seller’s affiliates. Tangible Personal Property and Intangible Personal Property shall not include (a) all cash on hand or on deposit in any bank, operating account or other account maintained in connection with the ownership, operation or management of the Property, cash equivalents (including certificates of deposit), deposits held by third parties (e.g., utility companies) and bank accounts, (b) all insurance policies maintained in connection with the ownership, operation or management of the Property, (c) any appraisals or other economic evaluations of, or projections with respect to, all or any portion of the Property, including, without limitation, budgets prepared by or on behalf of Seller or any affiliate of Seller, (d) any documents, materials or information which are subject to attorney/client, work product or similar privilege, which constitute attorney communications with respect to the Property and/or Seller, or which are subject to a confidentiality agreement, (e) any documents pertaining solely to the marketing of the Property and any direct or indirect interest therein for sale to prospective purchasers, (f) [\*\*\*] and (g) [\*\*\*].

2.1.5 **License Agreements.** All of Seller’s right, title and interest in and to (a) the agreements (other than Leases) for the leasing or licensing of rooftop space or equipment, telecommunications equipment, cable access and other space, equipment and facilities that are located on or within the Real Property listed on Exhibit P hereto and (b) any such agreements which may be made by Seller after the Effective Date and prior to Closing as permitted by this Agreement (the “**License Agreements**”). Anything in this Agreement to the contrary notwithstanding, Purchaser shall assume the obligations of the “lessor” or “licensor” under all License Agreements first accruing from and after the Closing Date, some or all of which may be non-cancelable.

### **ARTICLE 3** **EARNEST MONEY**

3.1 **Deposit and Investment of Earnest Money.** Within two Business Days after the Effective Date, Purchaser shall deposit the Initial Earnest Money with Escrow Agent and deliver a completed, executed Form W-9 to Escrow Agent and Seller. If upon the expiration of the Inspection Period, this Agreement is still in force and effect, Purchaser shall, no later than one Business Day after the last day of the Inspection Period, deposit the Additional Earnest Money, if any, as specified in Section 1.1.4 above, with Escrow Agent. Escrow Agent shall invest the Earnest Money in government insured interest-bearing accounts satisfactory to Seller and Purchaser, shall not commingle the Earnest Money with any funds of Escrow Agent or others, and shall promptly provide Purchaser and Seller with confirmation of the investments made. Such account shall have no penalty for early withdrawal.

3.2 **Independent Consideration.** If Purchaser elects to terminate this Agreement for any reason and is entitled to receive a return of the Earnest Money pursuant to the terms of this Agreement, the Escrow Agent shall first disburse to Seller \$100.00 as independent consideration for Seller’s performance under this Agreement (“**Independent Consideration**”), which shall be retained by Seller in all instances.

3.3 **Form; Failure to Deposit.** The Earnest Money shall be in the form of a certified or cashier’s check or a wire transfer to Escrow Agent of immediately available U.S. federal funds. If Purchaser fails to timely deposit any portion of the Earnest Money within the time periods required, Seller may terminate this Agreement by written notice to Purchaser, in which event any Earnest Money that has previously been deposited by Purchaser with Escrow Agent shall be immediately delivered to Seller and thereafter the parties hereto shall have no further rights or obligations hereunder, except for rights and obligations which, by their terms, survive the termination of this Agreement.

3.4 **Disposition of Earnest Money.** Earnest Money shall be applied as a credit to the Purchase Price at Closing. However, if Purchaser timely elects to terminate this Agreement prior to the expiration of the Inspection Period pursuant to Section 4.3, Escrow Agent shall pay the entire Earnest Money (less the Independent Consideration and any escrow cancellation charges, which shall be paid by Purchaser) to Purchaser one Business Day following Escrow Agent's receipt of the Due Diligence Termination Notice from Purchaser (as long as the current investment can be liquidated and disbursed in one Business Day and, if not, as promptly as possible). No notice to Escrow Agent from Seller shall be required for the release of the Earnest Money to Purchaser by Escrow Agent if Purchaser terminates this Agreement pursuant to Section 4.3. In the event of a termination of this Agreement by either Seller or Purchaser for any reason other than pursuant to Section 4.3, Escrow Agent is authorized to deliver the Earnest Money to the party hereto entitled to same pursuant to the terms hereof on or before the fifth Business Day following receipt by Escrow Agent and the non-terminating party of written notice of such termination from the terminating party, unless the other party hereto notifies Escrow Agent that it disputes the right of the other party to receive the Earnest Money. In such event, Escrow Agent may interplead the Earnest Money into a court of competent jurisdiction in the county in which the Earnest Money has been deposited. All attorneys' fees and costs and Escrow Agent's costs and expenses incurred in connection with such interpleader shall be assessed against the party that is not awarded the Earnest Money, or if the Earnest Money is distributed in part to both parties, then in the inverse proportion of such distribution.

#### **ARTICLE 4 DUE DILIGENCE**

4.1 **Due Diligence Materials.** On or before the Effective Date, Seller has delivered, caused to be delivered, or made available to Purchaser (a) lease files, correspondence, reconciliation information, security deposit check copies, build out information and approvals, capital expenditure projects and correspondence, and service contract files in the three drawer lateral files located in the common work area in the property management office [\*\*\*], (b) plans and specifications located in the building engineer's office in each tower of the Improvements and (c) those items contained in the Data Site (as defined below) (collectively, the "**Property Information**"). To the extent not previously provided, Seller shall deliver to Purchaser, within two (2) Business Days after Purchaser's request, and to the extent received by Seller after the expiration of the Inspection Period, within one (1) Business Day of Seller's receipt thereof, any other items reasonably requested by Purchaser, in each case to the extent any or all of the same are in the possession of Seller or its agents and all items posted to the Data Site shall be deemed to be included in the definition of Property Information, provided that Seller shall not be required to deliver or make available to Purchaser any appraisals or third party property condition reports (other than the Existing Environmental Report) obtained by Seller in connection with the Property, strategic plans for the Property, internal analyses, information regarding the marketing for sale of the Property, submissions relating to Seller's obtaining of corporate or partnership authorization, attorney and accountant work product, attorney-client privileged documents or any other items expressly excluded from the Property pursuant to Section 2.1.4 above.

4.2 **Physical Due Diligence.** Commencing on the Effective Date and continuing until the Closing or earlier termination of this Agreement, Purchaser shall have reasonable access to the Property at all reasonable times during normal business hours, upon appropriate notice to tenants as permitted or required under the Leases, for the purpose of conducting reasonably necessary tests, including surveys and architectural, engineering and geotechnical inspections and tests and an ASTM standard Phase I environmental site assessment (individually, a "**Purchaser Investigation**", and collectively, the "**Purchaser Investigations**"), provided that (a) Purchaser must give Seller one full Business Day's written notice of any Purchaser Investigation (which notice may be delivered by electronic mail to [\*\*\*], and with respect to any Purchaser Investigation of an intrusive nature (including, without limitation, collection of air, soil, groundwater, or building material samples or soil cores or any test designed to identify the presence of Hazardous Materials) must obtain Seller's prior written consent (which consent may be given, withheld or conditioned in Seller's sole discretion, including, without limitation, on Seller's right to take split or duplicate samples from any such intrusive inspection or test for purposes of conducting, at Seller's sole cost, its own inspection or test thereof), (b) prior to performing any Purchaser Investigation, Purchaser must deliver a certificate of insurance to Seller evidencing that Purchaser and its contractors, agents and representatives have in place (and Purchaser and its contractors, agents and representatives shall maintain during the pendency of this Agreement) (1) commercial general liability insurance with limits of at least [\*\*\*] for bodily or personal injury or death, (2) property damage insurance in the amount of at least [\*\*\*], including coverage for contractual liability and personal and advertising injury with respect to Purchaser's obligations hereunder, and (3) workers' compensation and employers' liability insurance in accordance with applicable law, but in all cases with limits of at least [\*\*\*] each accident, [\*\*\*] each employee and [\*\*\*]

policy limit, all covering any accident arising in connection with the presence of Purchaser, its contractors, agents and representatives on the Property, which insurance, except for workers' compensation and employers' liability, shall (A) name as additional insureds thereunder Seller and such other parties holding insurable interests as Seller may designate and (B) be written by a reputable insurance company having a rating of at least "A-:VIII" by Best's Rating Guide (or a comparable rating by a successor rating service), and (C) all Purchaser Investigations shall be conducted by Purchaser in compliance with Purchaser's responsibilities set forth in Section 4.8 below. Seller shall have the right, but not the obligation, to be present, or have one or more of its own consultants present, during any interview or Purchaser Investigation. Purchaser shall bear the cost of all Purchaser Investigations and shall be responsible for and act as the generator with respect to any wastes generated by those tests, which obligation shall survive the termination of this Agreement; provided, however, that such responsibility shall not include any responsibility for pre-existing liabilities for matters merely discovered by Purchaser (i.e., latent environmental contamination) so long as Purchaser's actions do not aggravate any pre-existing liability of the Seller. Subject to the provisions of Section 4.6 hereof, Purchaser or Purchaser's representatives may communicate with any tenant; provided, however, Purchaser must notify Seller at least five full Business Days in advance of Purchaser's intended communication with any tenant and to allow Seller the opportunity to participate in such communication if Seller desires. Subject to the provisions of Section 4.6 hereof, Purchaser or Purchaser's representatives may communicate with any governmental authority for the sole purpose of gathering information regarding then-current zoning compliance of the Real Property and the then-current entitlements with respect to the Real Property in connection with the transaction contemplated by this Agreement and searching publicly available databases regarding the Property. However, with respect to any other communications with governmental authorities, Purchaser must contact Seller at least five full Business Days in advance by telephone to inform Seller of Purchaser's intended communication with any governmental authority and to obtain Seller's consent with respect thereto, and if Seller so consents, to allow Seller the opportunity to participate in such communication if Seller desires. As used in this Section, "communicate" and "communication" shall include the initiation of, response to, or sharing or exchange of information, knowledge or messages, whether by oral, written or electronic methods or media, or by any other means for the purpose of knowingly subverting the provisions of this Section regarding Purchaser's obligations to provide Seller with prior notice of such communication and Seller's ability to participate in such communication. All policies of insurance required under this Agreement shall contain a waiver of subrogation endorsement, shall provide that the coverage is primary and is not in excess of or contributing with any insurance or self-insurance maintained by Seller or any of its affiliates, investors, lenders or consultants, and shall be kept and maintained in force during the term of this Agreement and so long thereafter as necessary to cover any claims of damages suffered by persons or property resulting from any acts or omissions of Purchaser, its employees, agents, contractors, suppliers, consultants or other related parties.

**4.3 Due Diligence Termination Right.** Purchaser shall have through the last day of the Inspection Period in which to (a) examine, inspect, and investigate the Property Information and any other information posted by Seller on the data site located at [\*\*\*] (the "**Data Site**") in connection with the transactions contemplated by this Agreement (the "**Property Documents**") and the Property and, in Purchaser's sole and absolute judgment and discretion, determine whether the Property is acceptable to Purchaser, and (b) obtain all necessary internal approvals. Notwithstanding anything to the contrary in this Agreement, Purchaser may terminate this Agreement for any reason or no reason by giving written notice of termination to Seller and Escrow Agent (the "**Due Diligence Termination Notice**") on or before the last day of the Inspection Period. If Purchaser does not give a Due Diligence Termination Notice, this Agreement shall continue in full force and effect, Purchaser shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 4.3, Purchaser shall be deemed to have knowledge of all information contained in the Property Documents as of the expiration of the Inspection Period and in any Reports (as defined below), and Purchaser shall be deemed to have acknowledged that it has received or had access to all Property Documents and conducted all inspections and tests of the Property that it considers important.

**4.4 Return of Documents and Reports.** If this Agreement is terminated for any reason other than a default by Seller, and only if Seller provides a written request within 60 days following such termination and reimburses Purchaser for the actual, third party, out-of-pocket costs and expenses thereof, Purchaser shall promptly deliver to Seller copies of any and all Reports, except Environmental Reports (unless specifically and expressly requested), prepared for Purchaser. The Reports shall be delivered to Seller without any representation or warranty as to the completeness or accuracy of the Reports or any other matter relating thereto. Purchaser shall have no obligation to cause any Reports to be completed. "**Reports**" mean third-party reports, tests, test results, investigations and studies regarding the physical condition or state of the Property. "**Environmental Reports**" means any third party reports, tests, test results, investigations, and studies that pertain to contamination or other environmental condition of the Property. Additionally, if Purchaser terminates this Agreement, within

three Business Days following receipt of a written request for the same by Seller if such request is made within six months after such termination, Purchaser shall return all Property Documents and copies thereof to Seller. Purchaser's obligation to deliver the Property Documents and the Reports to Seller shall survive the termination of this Agreement.

4.5 **Service Contracts.** On or prior to the last day of the Inspection Period, Purchaser will advise Seller in writing of which Service Contracts it will assume at Closing and for which Service Contracts Purchaser requests that Seller deliver written termination at or prior to Closing, provided Seller shall have no obligation to terminate, and Purchaser shall be obligated to assume, any Service Contracts which by their terms cannot be terminated without penalty or payment of a fee. For the avoidance of doubt, if a Service Contract provides that it will terminate automatically upon the sale of the Property, Purchaser shall not be permitted to assume such Service Contract. If Purchaser fails to timely notify Seller with respect to a specific Service Contract, Purchaser will be deemed to have elected to assume such Service Contract and to have waived its right to require Seller to give a termination notice with respect to such Service Contract at Closing. Seller shall deliver at Closing notices of termination of all Service Contracts that are not so assumed. Purchaser must assume the obligations first accruing from and after the Closing Date under those Service Contracts (a) that Purchaser has agreed to assume or deemed to have elected to assume, or that Purchaser is obligated to assume pursuant to this Section 4.5, and (b) for which a termination notice is delivered as of or prior to Closing but for which termination is not effective until after Closing. Notwithstanding anything to the contrary contained in this Agreement, at the Closing, (1) Seller shall assign to Purchaser, and Purchaser shall assume from Seller, the tenant brokerage commission agreements listed in Exhibit M, (2) Purchaser shall not assume, and Seller shall terminate as of Closing at no cost to Purchaser, the existing property management and leasing agreement, and (3) Purchaser shall not assume, and Seller shall terminate as of the Closing only with respect to the Property, the security service contract designated as Participation Agreement No. 8 dated September 1, 2015, between CBRE, Inc., a Delaware corporation, as manager, and Seller, as amended by First Amendment to Participation Agreement No. 8 dated September 14, 2015.

4.6 **Proprietary Information; Confidentiality.** Purchaser acknowledges that the Property Documents are proprietary and confidential and have been and will be delivered or made available to Purchaser solely to assist Purchaser in determining the feasibility of purchasing the Property. Prior to Closing, Purchaser shall not use the Property Documents for any purpose other than as set forth in the preceding sentence. Purchaser shall not disclose the contents to any person other than to those persons who have agreed to preserve the confidentiality of such information as required hereby (collectively, "**Permitted Outside Parties**"). Purchaser shall not divulge the contents of the Property Documents and other information except in strict accordance with the confidentiality standards set forth in this Section 4.6. In permitting Purchaser to review the Property Documents or any other information, Seller has not waived any privilege or claim of confidentiality with respect thereto, and no third-party benefits or relationships of any kind, either express or implied, have been offered, intended or created. Purchaser's obligations under this Section 4.6 shall survive the termination of this Agreement.

4.7 **No Representation or Warranty by Seller.** Purchaser acknowledges that, except as expressly set forth in this Agreement, neither Seller, nor any other party acting, or claiming to act, on behalf of Seller, has made or does make any warranty or representation regarding the truth, accuracy or completeness of the Property Documents or the source(s) thereof. Purchaser further acknowledges that some if not all of the Property Documents were prepared by third parties other than Seller. Except for any express representations and warranties made by Seller in this Agreement, Seller expressly disclaims any and all liability for representations or warranties, express or implied, statements of fact and other matters contained in such information, or for omissions from the Property Documents, or in any other written or oral communications transmitted or made available to Purchaser. Except for any express representations and warranties made by Seller in this Agreement, Purchaser shall rely solely upon its own investigation with respect to the Property, including, without limitation, the Property's physical, environmental or economic condition, compliance or lack of compliance with any ordinance, order, permit or regulation or any other attribute or matter relating thereto. Seller has not undertaken any independent investigation as to the truth, accuracy or completeness of the Property Documents and is providing the Property Documents solely as an accommodation to Purchaser.

4.8 **Purchaser's Responsibilities** In conducting any Purchaser Investigations and/or review of the Property Documents, Purchaser and its agents and representatives shall: (a) not unreasonably disturb any tenants or unreasonably interfere with their use of the Property pursuant to their respective Leases or unreasonably disturb or unreasonably interfere with the rights of any third parties; (b) not unreasonably interfere with the operation and maintenance of the Property; (c) not damage any part of the Property or any personal property owned or held by any tenant or any third party; (d) not injure or otherwise cause bodily harm to Seller or its agents, guests, invitees, contractors and employees or any tenants or other third

parties or their respective agents, guests, invitees, contractors or employees; (e) comply with all applicable laws; (f) promptly pay when due the costs of all tests, investigations, and examinations done by or on behalf of Purchaser with regard to the Property; (g) not permit any liens to attach to the Real Property by reason of the exercise of its rights hereunder; (h) repair any damage to the Real Property resulting directly or indirectly from any such inspection or tests to the condition the Property was in immediately prior to such inspection or test; and (i) not reveal or disclose prior to Closing any information obtained concerning the Property and the Property Documents to anyone other than the Permitted Outside Parties, in accordance with the confidentiality standards set forth in Section 4.6 above, or except as may be otherwise required by law (in which case Purchaser shall provide prior written notice to Seller before revealing or disclosing any such information and shall otherwise use reasonable efforts, but at no material cost or expense to Purchaser, to ensure the confidential treatment of such information by any party to whom Purchaser is required by law to reveal or disclose such information). Purchaser's obligations under this Section 4.8 shall survive the termination of this Agreement.

4.9 **Purchaser's Agreement to Indemnify.** Purchaser hereby agrees to indemnify, defend and hold Seller, its partners, shareholders, members, managers, owners and affiliates and their respective officers, managers, directors, employees, agents and representatives (collectively, the "**Seller Parties**") harmless from and against any and all liens, claims, causes of action, damages, liabilities and expenses (including reasonable attorneys' fees) to the extent caused by the Purchaser Investigations or any violation of the provisions of Sections 4.2, 4.6 and 4.8; provided, however, such indemnity shall not extend to protect the Seller Parties from any pre-existing liabilities for matters merely discovered by Purchaser (i.e., latent environmental contamination) so long as Purchaser's actions do not aggravate any pre-existing liability of the Seller Parties. Purchaser also hereby agrees to indemnify, defend and hold any tenant harmless from and against any and all claims, causes of action, damages, liabilities and expenses which such tenant may suffer or incur due to Purchaser's breach of its obligation under Section 4.6 above to maintain the confidential nature of any Property Documents or other information relative to such tenant. Purchaser's obligations under this Section 4.9 shall survive the termination of this Agreement and shall survive the Closing.

4.10 **Asbestos.** Purchaser acknowledges and agrees that the Property Documents include records indicating that asbestos-containing materials ("**ACM**") are present within the Improvements and that because of the age of the Improvements, other ACM that is not described in the Property Documents may be present in the Improvements. Purchaser acknowledges and agrees that Seller has not made and does not make any representation or warranty regarding the accuracy or completeness of any information concerning ACM in the Property Documents, nor the presence, absence, or nature of ACM in any portion of the Improvements or on the Property.

## **ARTICLE 5**

### **TITLE AND SURVEY**

5.1 **Title Commitment.** On or before the Effective Date, Seller has delivered, caused to be delivered or made available to Purchaser in Broker's electronic data room: (a) a current commitment for title insurance or preliminary title report (the "**Title Commitment**") issued by the Title Company, in the amount of the Purchase Price and on a Texas T-7 Form commitment, with Purchaser as the proposed insured, and (b) copies of all documents of record referred to in the Title Commitment as exceptions to title to the Property.

5.2 **Survey.** On or before the Effective Date, Seller has delivered, caused to be delivered, or made available to Purchaser in Broker's electronic data room a copy of the most-current survey of the Real Property in Seller's possession (the "**Survey**"). Purchaser may revise, modify or recertify the Survey as necessary in order for the Title Company to delete the survey exception from the Title Policy or otherwise satisfy Purchaser's objectives.

5.3 **Title Review.** During the Title and Survey Review Period, Purchaser shall review title to the Property as disclosed by the Title Commitment and the Survey, and shall notify Seller in writing of any objections to title on or before the expiration of the Title and Survey Review Period. Seller shall have no obligation to cure title objections except for Required Removal Items (as defined below), which Required Removal Items Seller shall cause to be released at or prior to Closing (with Seller having the right to apply the Purchase Price or a portion thereof for such purpose), and Seller shall deliver the Property free and clear of any such Required Removal Items. The term "**Permitted Exceptions**" shall mean: the specific exceptions (including exceptions that are a part of the promulgated title insurance form) in the Title Commitment that the Title Company has not agreed to remove from the Title Commitment as of the end of the Title and Survey Review Period and that are not Required Removal Items; matters created by, through or under Purchaser; items shown on the Survey which have

not been removed as of the end of the Inspection Period; real estate taxes not yet due and payable; rights of tenants (as tenants only) under the Leases; local, state and federal laws, ordinances or governmental regulations, including, but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Property; and rights of tenants or licensees (as tenants or licensees only) under License Agreements. Purchaser's failure to provide title objections shall be deemed acceptance of the state of title reflected in the Title Commitment and Survey, and Seller's failure to respond to any notice delivered by Purchaser within three (3) Business Days after receipt thereof shall be deemed Seller's election not to address any of the objections. The term "**Required Removal Items**" shall mean (a) any financing liens created by Seller, (b) any mechanics or materialmen's liens for work done by or on behalf of any tenant or occupant of the Property whose Lease requires that such work be performed on a lien free basis), (c) the lien of ad valorem real or personal property taxes, assessments and governmental charges affecting all or any portion of the Property which are delinquent, (d) any judgment of record against Seller in the county or other applicable jurisdiction in which the Property is located, (e) any matters caused by Seller or any Seller affiliate after the Effective Date without Purchaser's consent, and (f) any matter that Seller has agreed in writing to remove.

5.4 **Subsequent Title Review.** If any revision or update to the Title Commitment or Survey after the Title and Survey Review Period discloses exceptions to title that, (w) are not acceptable to Purchaser, (x) are not Permitted Exceptions and (y) have a material adverse effect on the operation, value, access or ownership of the Property (collectively, "**Title Objections**"), then Purchaser shall notify Seller in writing (the "**Subsequent Title Notice**") of the Title Objections within [\*\*\*] after receipt of such updated Title Commitment or Survey, TIME BEING OF THE ESSENCE with respect to such date and time (in each case, the "**Subsequent Title Exam Deadline**"). Any such Title Objections disclosed in any update to the Title Commitment or the Survey to which Purchaser does not object to by the Subsequent Title Exam Deadline or are otherwise Permitted Exceptions shall be deemed Permitted Exceptions. If Purchaser notifies Seller in writing that Purchaser objects to any Title Objections prior to the Subsequent Title Exam Deadline, Seller shall have the right, but not the obligation, to attempt to remove, satisfy or otherwise cure any such exceptions on or prior to Closing. Within [\*\*\*] after receipt of Purchaser's Subsequent Title Notice, subject to Seller's obligation to cure Required Removal Items, Seller shall give written notice to Purchaser stating that, either (a) Seller will remove such Title Objections from title on or before the Closing; provided that Seller may extend the Closing Date for such period as shall be required to effect such cure (to a maximum of thirty (30) days); or (b) Seller elects not to cause such Title Objections to be removed or cured. If Seller fails to give written notice of its election within such [\*\*\*] period, then Seller shall be deemed to have elected not to attempt to cure the Title Objection set forth in the Subsequent Title Notice. If Seller elects or is deemed to have made the election under clause (b) above, Purchaser shall have the right, within [\*\*\*] after Seller's election or deemed election under clause (b) above (and in any event prior to the Closing Date), to notify Seller that Purchaser will either (1) proceed with the purchase of the Property, in which case title to the Property shall be subject to such Title Objection (i.e., such Title Objection set forth in the Subsequent Title Notice will be deemed to constitute a Permitted Exception), or (2) terminate this Agreement. If this Agreement is terminated pursuant to clause (2) above, then no party shall have any further rights or obligations hereunder (except for those obligations of a party that expressly survive the termination of this Agreement), the Earnest Money shall be returned to Purchaser, the Independent Consideration shall be retained by Seller, and each party shall bear its own costs incurred hereunder. If Purchaser shall fail to timely notify Seller of its election, Purchaser shall be deemed to have elected to proceed with the purchase of the Property and title to the Property shall be subject to such Title Objection (i.e., such Title Objection set forth in the Subsequent Title Notice shall be deemed to constitute a Permitted Exception).

5.5 **Delivery of Title Policy at Closing.** In the event that the Title Company does not issue at Closing, or unconditionally commit at Closing to issue, to Purchaser, an owner's title policy in accordance with the Title Commitment, insuring Purchaser's fee simple title to the Real Property in the amount of the Purchase Price, subject only to the standard exceptions and exclusions from coverage contained in such policy and the Permitted Exceptions (the "**Title Policy**") (it being expressly agreed by Purchaser that it shall not be a condition to Purchaser's obligations to close that any endorsements be issued to the Title Policy), Purchaser shall have the right to terminate this Agreement, in which case the Earnest Money shall be immediately returned to Purchaser and the parties hereto shall have no further rights or obligations, other than those that by their terms survive the termination of this Agreement.



**ARTICLE 6**  
**OPERATIONS AND RISK OF LOSS; TENANT ESTOPPELS**

**6.1 Ongoing Operations.**

6.1.1 **New Contracts.** Except as provided in Section 6.1.3 and except Service Contracts entered into in the ordinary course of business that (a) are not materially and adversely different from the Service Contracts as of the Effective Date, and (b) are terminable without cause and without the payment of any termination penalty on not more than 30 days' prior notice, from and after the expiration of the Inspection Period through Closing or the earlier termination of this Agreement, Seller will not enter into any new Service Contract or otherwise amend any existing Service Contract that will be an obligation affecting the Property subsequent to the Closing without first providing Purchaser (1) all relevant supporting documentation as reasonably determined by Seller to the extent in Seller's possession, and (2) subject to the exception above, obtaining Purchaser's approval which Purchaser may withhold in its sole and absolute discretion. If Purchaser's consent is requested by Seller as to any amendment of a Service Contract, or as to a new Service Contract, Purchaser agrees to give Seller written notice of approval or disapproval within three Business Days after Purchaser's receipt of Seller's request for consent. If Purchaser does not respond to Seller's request within such time period, then Purchaser will be deemed to have approved such amendment or new Service Contract.

6.1.2 **Maintenance/Operation.** From the Effective Date through Closing or the earlier termination of this Agreement (a) subject to Sections 6.2 and 6.3, Seller shall maintain and operate the Property in all material respects in the same manner as prior to the Effective Date pursuant to its normal course of business (such maintenance obligations not including capital expenditures or expenditures not incurred in such normal course of business), (b) subject to Section 6.1.3, Seller shall not sell, encumber or grant any interest in the Property or any part thereof in any form or manner whatsoever, (c) Seller will maintain in effect all policies of casualty and liability insurance, or similar policies of insurance, with the same limits of coverage which it now carries with respect to the Property, and (d) Seller shall notify Purchaser promptly if Seller becomes aware of any transaction or occurrence prior to the Closing Date which would make any of the representations or warranties of Seller contained in Section 9.1 untrue in any material respect.

6.1.3 **Leasing; License Agreements.** From the Effective Date through Closing or the earlier termination of this Agreement, Seller will not amend or terminate any existing Lease or License Agreement or enter into any new Lease or new License Agreement without first providing Purchaser (a) all relevant supporting documentation, as reasonably determined by Seller, including, without limitation, all Leasing Costs to be incurred and tenant financial information to the extent in Seller's possession, and (b) as to any such amendment or termination of a Lease or License Agreement or new Lease or new License Agreement which is to be executed after the expiration of the Inspection Period, Seller's request for Purchaser's approval. If Purchaser's consent is requested by Seller as to any amendment or termination of a Lease or License Agreement, or as to a new Lease or new License Agreement, Purchaser agrees to give Seller written notice of approval or disapproval of a proposed amendment or termination of a Lease or License Agreement or new Lease or new License Agreement within three Business Days after Purchaser's receipt of the items in Sections 6.1.3(a) and 6.1.3(b). If Purchaser does not respond to Seller's request within such time period, then Purchaser will be deemed to have approved such amendment, termination or new Lease or new License Agreement. Purchaser's approval rights and obligations will vary depending on whether the request for approval from Seller is delivered to Purchaser before or after three Business Days before expiration of the Inspection Period, as follows:

(1) With respect to a request for approval delivered by Seller to Purchaser not later than three Business Days before the expiration of the Inspection Period, Purchaser's consent shall not be required. Moreover, whether or not Purchaser consents to an amendment or termination of a Lease or License Agreement or the entering into of a new Lease or License Agreement, Seller may amend or terminate a Lease or License Agreement or enter into a new Lease or License Agreement at any time prior to the third Business Day before the expiration of the Inspection Period; however, if Purchaser does not consent to same or is not deemed to have approved same, and if Seller elects to amend or terminate a Lease or License Agreement or enter into a new Lease or License Agreement notwithstanding Purchaser's failure

to approve same, then Purchaser may, at the time Seller notifies Purchaser of the execution of said amendment, termination or new Lease or License Agreement, elect to terminate this Agreement and receive a return of the Earnest Money; provided that if Purchaser does not elect to terminate within five days after said notification from Seller, then Purchaser shall have waived its right to terminate pursuant to this Section 6.1.3.

(2) With respect to a request for approval delivered by Seller to Purchaser after the third Business Day before the expiration of the Inspection Period, Purchaser may withhold its consent in its sole discretion, and Seller may not amend or terminate a Lease or License Agreement or enter into a new Lease or new License Agreement without Purchaser's written consent; however, Purchaser shall not have any approval rights if Seller is contractually obligated as of the Effective Date to take such action under the terms of any such Lease or License Agreement (in which case Purchaser's consent shall not be required but Seller shall notify Purchaser thereof in writing).

6.2 **Damage.** If prior to Closing the Property is damaged by fire or other casualty, Seller shall estimate the cost to repair and the time required to complete repairs and will provide Purchaser written notice of Seller's estimation (the "**Casualty Notice**") as soon as reasonably possible after the occurrence of the casualty.

6.2.1 **Material.** In the event of any Material Damage to or destruction of the Property or any portion thereof prior to Closing, Purchaser may, at its option, terminate this Agreement by delivering written notice to Seller on or before the expiration of 30 days after the date Seller delivers the Casualty Notice to Purchaser (and if necessary, the Closing Date shall be extended to give Purchaser the full 30-day period to make such election and to obtain insurance settlement agreements with Seller's insurers). Upon any such termination, the Earnest Money shall be returned to Purchaser and the parties hereto shall have no further rights or obligations hereunder, other than those that by their terms survive the termination of this Agreement. If Purchaser does not so terminate this Agreement within said 30-day period, then Purchaser shall be deemed to have waived its right to terminate under this Section 6.2.1 and the parties shall proceed under this Agreement and close on schedule (subject to extension of Closing as provided above), and as of Closing Seller shall assign to Purchaser, without representation or warranty by or recourse against Seller, all of Seller's rights in and to any resulting insurance proceeds (including any rent loss insurance applicable to any period on and after the Closing Date) due Seller as a result of such damage or destruction and Purchaser shall assume full responsibility for all needed repairs, and Purchaser shall receive a credit at Closing for any deductible amount under such insurance policies (but the amount of the deductible plus insurance proceeds shall not exceed the lesser of the cost of repair or the sum of the Purchase Price and that portion of Seller's rental or business loss proceeds relating to the time period after Closing, if any). For the purposes of this Agreement, "**Material Damage**" and "**Materially Damaged**" means damage which either (1) in Seller's reasonable estimation, exceeds [\*\*\*] to repair, (2) results in any tenant(s) under Lease(s) in the aggregate demising [\*\*\*] rentable square feet or more having the right to terminate their respective Leases and who have not waived such right, (3) results in the interruption of services to the Property from the central plant providing fire protection, chilled and heated water services to the Property (the "**Central Plant**") anticipated by the owner of the Central Plant to extend 60 or more days following the Closing Date or in the event of interruption in services to the Property from the Central Plant for less than 60 days following the Closing Date, Purchaser not receiving from Seller (through the assignment of Seller's rent loss insurance proceeds or otherwise) sufficient compensation to cover all rent loss applicable to any period on and after the Closing Date.

6.2.2 **Not Material.** If the Property is not Materially Damaged, then neither Purchaser nor Seller shall have the right to terminate this Agreement, and Seller shall, at its option, either repair the damage before the Closing in a manner reasonably satisfactory to Purchaser (and if necessary, Seller may extend the Closing Date up to 30 days to complete such repairs), or credit Purchaser at Closing for the cost to complete the repair (in which case Seller shall retain all insurance proceeds and Purchaser shall assume full responsibility for all needed repairs).

6.3 **Condemnation.** If proceedings in eminent domain are instituted with respect to the Property, the Central Plant, any material portion of either, Purchaser may, at its option, by written notice to Seller given within ten days after Seller notifies Purchaser of such proceedings (and if necessary the Closing Date shall be automatically extended to give Purchaser the full ten-day period to make such election), either: (a) terminate this Agreement, in which case the Earnest Money shall be

immediately returned to Purchaser and the parties hereto shall have no further rights or obligations, other than those that by their terms survive the termination of this Agreement, or (b) proceed under this Agreement, in which event Seller shall, at the Closing, assign to Purchaser its entire right, title and interest in and to any condemnation award, and Purchaser shall have the sole right (as between Seller and Purchaser) after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. If Purchaser does not give Seller written notice of its election within the time required above, then Purchaser shall be deemed to have elected option (b) above. If proceedings in eminent domain are instituted with respect to a portion of the Property or Central Plant that is not material, then the parties shall proceed under this Agreement in the same manner as described in clause (b) above. As used in this Section 6.3 a proceeding shall involve a “**material**” portion of the Property or Central Plant if either (1) it involves the permanent elimination of rentable space, points of access to the Real Property or parking spaces to a material degree such that the Property is no longer in compliance with legal requirements as a result of such taking, (2) as a result thereof, any tenant(s) under Lease(s) in the aggregate demising [\*\*\*] rentable square feet or more have the right to terminate their respective Lease(s) and have not waived such right, (3) the portion of the Property subject to proceedings in eminent domain has a value which, in Seller’s reasonable estimation, exceeds [\*\*\*], (4) it results in the interruption of services to the Property from the Central Plant anticipated by the owner of the Central Plant to extend 60 or more days following the Closing Date or (5) in the event of interruption in services to the Property from the Central Plant for less than 60 days following the Closing Date, Purchaser not receiving from Seller (through the assignment of Seller’s rent loss insurance proceeds or otherwise) sufficient compensation to cover all rent loss applicable to any period on and after the Closing Date.

**6.4 Uniform Vendor and Purchaser Risk Act Not Applicable.** It is the express intent of the parties hereto that the provisions of Sections 6.2 and 6.3 above govern the rights of the parties in the event of damage to or condemnation of the Property, and that the Uniform Vendor and Purchaser Risk Act (Section 5.007 of the Texas Property Code) shall not apply to this Agreement.

**6.5 Tenant Estoppel Certificates.** It is a condition precedent to Purchaser’s obligation to proceed to close hereunder that, not later than three Business Days before the Closing Date, Seller shall have received and provided to Purchaser tenant estoppels certificates executed by tenants satisfying the Required Estoppel Percentage, dated not more than 30 days prior to the originally scheduled Closing Date, in all material respects in the form of Exhibit G (or, if a tenant’s Lease specifies or contemplates another form of tenant estoppel certificate, then such other specified or contemplated form) and which do not in the aggregate disclose any matter that would have a material adverse impact on the Property from and after Closing which Purchaser had no knowledge prior to the expiration of the Inspection Period and, if the matter can be cured with the payment of money, for which Seller is unwilling or unable to give Purchaser a credit in cash at Closing in an amount reasonably acceptable to Purchaser (each, a “**Tenant Estoppel**”). Seller shall include in the estoppel certificate distributed to tenants the last sentence in Section 5 of Exhibit G and Section 13 of Exhibit G, but the deletion of either such provision shall not be a basis for Purchaser’s rejection of such estoppel certificate. As used herein, “**Required Estoppel Percentage**” means a Tenant Estoppel from tenants (including the Major Tenants) occupying not less than [\*\*\*] of the square feet in the Improvements leased to and occupied by tenants. As used herein, “**Major Tenants**” means [\*\*\*], [\*\*\*], [\*\*\*] and any other tenants leasing at least [\*\*\*] rentable square feet in the Improvements. Seller agrees to use commercially reasonable efforts to obtain a Tenant Estoppel from each tenant to which space in the Improvements is leased, but Seller shall not be obligated to expend any funds in connection with obtaining any such Tenant Estoppels, and the failure of Seller to obtain any such Tenant Estoppels shall not be a breach or default hereunder. Seller shall provide copies of all proposed tenant estoppel certificates to Purchaser, for Purchaser’s review and reasonable approval pursuant to this Section 6.5, prior to delivery of any such proposed tenant estoppel certificate to any tenants at the Property, and Purchaser shall provide its consent or any objections to the proposed tenant estoppel certificate within [\*\*\*] after Purchaser’s receipt thereof, failing which such completed tenant estoppel certificates shall be deemed in an approved form. Seller shall deliver to Purchaser any and all tenant estoppel certificates received from tenants (including, without limitation, tenant marked drafts), whether or not such tenant estoppel certificates meet the requirements of this Section 6.5 and whether or not Seller intends to seek a revised or updated tenant estoppel certificate for such tenant. Upon delivery of any Tenant Estoppel, Seller shall be released from liability under Seller’s representations and warranties (including, without limitation, any updates of the same) related to the Lease addressed in such Tenant Estoppel to the extent that the information contained in such Tenant Estoppel confirms the accuracy of such representations and warranties. Notwithstanding anything herein to the contrary, if Seller is unable to provide Purchaser with Tenant Estoppels for the Required Estoppel Percentage of Tenant Estoppels in compliance with the provisions of this Section 6.5, either Purchaser or Seller shall be entitled (but shall not be obligated) to adjourn the Closing for a period not to exceed [\*\*\*]. If either Purchaser or Seller does not elect to adjourn the Closing, or if either does so elect

but Seller is nevertheless unable to provide Purchaser with Tenant Estoppels for the Required Estoppel Percentage of Tenant Estoppels in compliance with the provisions of this Section 6.5, then Purchaser's sole remedies and recourses shall be limited to either (A) waiving the requirement for the tenant estoppel certificate(s) in question and proceeding to Closing without reduction of the Purchase Price or (B) terminating this Agreement by immediate notification to Seller and Escrow Agent, in which event the Earnest Money shall be immediately returned to Purchaser and the parties hereto shall have no further rights or obligations hereunder, other than those that by their terms survive the termination of this Agreement. Purchaser may not object to any Tenant Estoppels unless the tenants disclose facts or circumstances that would have, in the aggregate, any material adverse impact on the Property from and after Closing which Purchaser had no knowledge prior to the expiration of the Inspection Period and, if the matter can be cured with the payment of money, for which Seller is unwilling or unable to give Purchaser a credit in cash at Closing in an amount reasonably acceptable to Purchaser. If Purchaser does not object to an executed Tenant Estoppel within [\*\*\*] after its receipt thereof, then Purchaser will be deemed to have approved such Tenant Estoppel.

6.6 **SNDAs.** If requested by Purchaser after the expiration of the Inspection Period and Purchaser's written approval of the applicable tenant's signed Tenant Estoppel, Seller shall deliver to each of the tenants under the Leases Purchaser's (or its lender's) form of subordination, non-disturbance and attornment agreement (collectively, the "**SNDAs**"), which shall be fully completed with all blanks filled in by Purchaser or its lender, be factually accurate and not contain any manifest errors, and shall request that such tenants provide the executed SNDAs to Purchaser prior to Closing. Notwithstanding anything to the contrary contained herein, (a) it shall not be a condition to Purchaser's obligation to close hereunder that any or every such tenant execute an SNDA or that Seller deliver any SNDAs to Purchaser, (b) in no event shall the failure of any tenant to execute an SNDA or the failure of any SNDA to be delivered to Purchaser be deemed a default by Seller hereunder, and (c) nothing contained in this Section 6.5 shall make Purchaser's obligations under this Agreement contingent in any way upon Purchaser obtaining financing from any lender requesting the SNDAs.

6.7 **Recorded Document Estoppels.** Seller shall use commercially reasonable efforts to obtain an estoppel certificate from (a) [\*\*\*] (the "**Records**"), (b) [\*\*\*] and (c) [\*\*\*] (collectively, the "**Recorded Document Estoppels**") it being agreed, however, that Seller or its property manager shall not be required to incur any expense or liability for the applicable counterparty's failure to deliver any such Recorded Document Estoppel. It is a condition precedent to Purchaser's obligation to proceed to close hereunder that, not later than three Business Days before the Closing Date, Seller shall have received and provided to Purchaser Recorded Document Estoppels executed by the counterparty thereto, dated not more than 30 days prior to the originally scheduled Closing Date, in all material respects in the required form and which do not disclose any matter that has a material adverse impact on the Property from and after Closing which Purchaser had no knowledge prior to the expiration of the Inspection Period and, if the matter can be cured with the payment of money, for which Seller is unwilling or unable to give Purchaser a credit in cash at Closing in an amount reasonably acceptable to Purchaser. Notwithstanding anything herein to the contrary, if Seller is unable to provide Purchaser with any Recorded Document Estoppel in compliance with the provisions of this Section 6.7, either Purchaser or Seller shall be entitled (but shall not be obligated) to adjourn the Closing for a period not to exceed 30 days. If either Purchaser or Seller does not elect to adjourn the Closing, or if either does so elect but Seller is nevertheless unable to provide Purchaser with any Recorded Document Estoppel in compliance with the provisions of this Section 6.7, then Purchaser's sole remedies and recourses shall be limited to either (1) waiving the requirement for the Recorded Document Estoppel(s) in question and proceeding to Closing without reduction of the Purchase Price or (2) terminating this Agreement by immediate notification to Seller and Escrow Agent, in which event the Earnest Money shall be immediately returned to Purchaser and the parties hereto shall have no further rights or obligations hereunder, other than those that by their terms survive the termination of this Agreement.

## **ARTICLE 7** **CLOSING**

7.1 **Closing.** The consummation of the transaction contemplated herein ("**Closing**") shall occur on the Closing Date at the offices of Escrow Agent (or such other location as may be mutually agreed upon by Seller and Purchaser) and which may be in person or by mail. Funds shall be deposited into and held by Escrow Agent in a closing escrow account with a bank satisfactory to Purchaser and Seller. Seller and Purchaser agree to use reasonable efforts to complete all requirements for the Closing (e.g., delivery of all documents to the Title Company, but not funds) on the Business Day immediately preceding the then-scheduled Closing Date. Upon satisfaction or completion of all closing conditions and

deliveries, the parties shall direct Escrow Agent to immediately record and deliver the closing documents to the appropriate parties and make disbursements according to the closing statements executed by Seller and Purchaser.

## 7.2 Conditions to Parties' Obligation to Close.

7.2.1 **Seller's Conditions.** In addition to all other conditions set forth herein, the obligation of Seller to consummate the transactions contemplated hereunder are conditioned upon the following:

(a) **Representations and Warranties.** Purchaser's representations and warranties contained herein shall be true and correct in all material respects as of the Effective Date and as of the Closing Date (as if made on the Closing Date), except for representations and warranties made as of, or limited by, a specific date, which will be true and correct in all material respects only as of the specified date or as limited by the specified date;

(b) **Deliveries.** As of the Closing Date, Purchaser shall have tendered all deliveries to be made at Closing; and

(c) **Actions, Suits, etc.** There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, against Purchaser that would materially and adversely affect Purchaser's ability to perform its obligations under this Agreement.

7.2.2 **Purchaser's Conditions.** In addition to all other conditions set forth herein, including, without limitation, the conditions set forth in Sections 5.5 (entitled "Delivery of Title Policy at Closing"), 6.5 (entitled "Tenant Estoppel Certificates") and 6.7 (entitled "Recorded Document Estoppels"), the obligation of Purchaser to consummate the transactions contemplated hereunder are conditioned upon the following:

(a) **Representations and Warranties.** Seller's representations and warranties contained herein shall be true and correct as of the Effective Date and as of the Closing Date (as if made on the Closing Date) such that in the aggregate no Material Adverse Effect (defined below) has occurred, except for (1) representations and warranties made as of, or limited by, a specific date, which will be true and correct in all material respects only as of the specified date or as limited by the specified date, and (2) a qualification to a representation that derives from an act taken by Seller, or an omission made by Seller, in either case that is permitted to be taken or made by Seller under this Agreement. As used in this Section 7.2.2(a), a "**Material Adverse Effect**" shall mean one or more material liquidated monetary claims, material offset rights or aggregate damages resulting from the untruth, inaccuracy or incorrectness of Seller's representations and warranties in excess of [\*\*\*], which Purchaser had no knowledge prior to the expiration of the Inspection Period and for which Seller is unwilling or unable to give Purchaser a credit in cash at Closing in an amount reasonably acceptable to Purchaser.

(b) **Deliveries.** As of the Closing Date, Seller shall have tendered all deliveries to be made at Closing and is not otherwise in default hereunder (subject to the cure periods set forth in Article 10); and

(c) **Actions, Suits, etc.** There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, against Seller that would materially and adversely affect Seller's ability to perform its obligations under this Agreement.

7.2.3 **Non-Satisfaction of Conditions.** If any condition to such party's obligation to proceed with the Closing hereunder (a "**Closing Condition**") has not been satisfied as of the Closing Date (or such earlier date as is provided herein), such party may, as its sole remedies and recourses (except as provided in the last sentence of this Section 7.2.3 if the other party is in default), either (a) terminate this Agreement by delivering written notice to the other party on or before the Closing Date (or such earlier date as is provided herein) and the Earnest Money shall be disbursed to the Purchaser (except as provided in Article 10), or (b) elect to close (or to permit any such earlier termination deadline to pass) notwithstanding the non-satisfaction of such Closing Condition, in which event such party shall be deemed to have waived such Closing Condition. In the event such party elects to close (or to permit

any such earlier termination deadline to pass), notwithstanding the non-satisfaction of such Closing Condition, such party shall be deemed to have waived such Closing Condition, and there shall be no liability on the part of any other party hereto for breaches of representations and warranties of which the party electing to close had knowledge at the Closing. Notwithstanding any provision of this Section to the contrary, if the Closing Condition set forth in either Section 7.2.1(b) or 7.2.2(b) is not satisfied, or if a party is otherwise in default hereunder at or prior to Closing, the provisions of Article 10 of this Agreement (including the applicable notice and cure periods set forth therein) shall govern the rights and remedies of the parties hereunder with respect to such default.

7.3 **Seller's Deliveries in Escrow.** As of or prior to the Closing Date, Seller shall deliver in escrow to Escrow Agent the following:

7.3.1 **Deed.** A Special Warranty Deed in the form of Exhibit B hereto (the "**Deed**"). Any discrepancy between the description of the Property in the deed from Seller's immediate grantor and in the Survey of the Property shall be quitclaimed by Seller;

7.3.2 **Bill of Sale, Assignment and Assumption.** A Bill of Sale, Assignment and Assumption of Leases and Contracts in the form of Exhibit C hereto (the "**Assignment**"), executed by Seller, vesting in Purchaser, without warranty, Seller's right, title and interest in and to the property described therein free of any claims, except for the Permitted Exceptions (as defined in the Deed) to the extent applicable;

7.3.3 **FIRPTA.** A Foreign Investment in Real Property Tax Act affidavit in the form of Exhibit D hereto executed by Seller;

7.3.4 **Notice to Tenants.** A notice to tenants in the form of Exhibit F attached hereto, in number sufficient for Purchaser to comply with Section 7.9 hereof;

7.3.5 **Notice to Contractors.** A notice of assignment to all contractors under the Service Contracts assigned by Seller to Purchaser at Closing in the form of Exhibit L;

7.3.6 **Authority.** Evidence of the existence, organization and authority of Seller and of the authority of the persons executing documents on behalf of Seller reasonably satisfactory to the underwriter for the Title Policy;

7.3.7 **Seller's Affidavit.** An owner's affidavit from Seller in a form reasonably requested by the Title Company to issue the Title Policy and reasonably acceptable to Seller;

7.3.8 **Seller's Closing Date Certificate.** A certificate in the form of Exhibit S hereto (a "**Seller's Certificate**") dated as of the Closing Date;

7.3.9 **Property Management and Leasing Agreements.** Evidence of termination of Seller's existing property management and leasing agreements for the Property;

7.3.10 **Letters of Credit.** The originals of each Letter of Credit (defined below) posted as security deposits under the Leases and an original of the transfer form executed by Seller for each Letter of Credit required in order to transfer the same to Purchaser; provided, however, if Seller does not deliver an original Letter of Credit into escrow on or before the Closing Date, the Closing Date shall not be delayed, the parties shall proceed to Closing and the parties shall enter into an escrow agreement in form and substance mutually acceptable whereby Seller shall escrow funds with the Escrow Agent in the amount of the undelivered Letter of Credit and the escrowed funds applicable to each undelivered Letter of Credit shall be released to Seller once the applicable original Letter of Credit is delivered to Purchaser or the Escrow Agent; and

7.3.11 **Additional Documents.** Any additional documents that Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Seller or

result in any new or additional obligation, covenant, representation or warranty of Seller under this Agreement beyond those expressly set forth in this Agreement).

7.4 **Purchaser's Deliveries in Escrow.** As of or prior to the Closing Date, Purchaser shall deliver in escrow to Escrow Agent the following:

7.4.1 **Bill of Sale, Assignment and Assumption.** The Assignment, executed by Purchaser;

7.4.2 **ERISA Letter.** A letter to Seller in the form of Exhibit E hereto duly executed by Purchaser, confirming that (a) Purchaser is not acquiring the Property with the assets of an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("**ERISA**") and (b) Purchaser is either not, and is not using the assets of, a "governmental plan" as defined in Section 3(32) of ERISA or, if Purchaser is, or is using the assets of, a governmental plan, the transactions contemplated by this Agreement are not in violation of any laws applicable to Purchaser, regulating investments of, or fiduciary obligations with respect to, governmental plans; and, in the event Purchaser is unable or unwilling to make such representations, Purchaser shall be deemed to be in default hereunder, and Seller shall have the right to terminate this Agreement and to receive and retain the Earnest Money;

7.4.3 **Authority.** Evidence of the existence, organization and authority of Purchaser and of the authority of the persons executing documents on behalf of Purchaser reasonably satisfactory to the underwriter for the Title Policy;

7.4.4 **Notice to Tenants.** A notice to tenants in the form of Exhibit F attached hereto, in number sufficient for Purchaser to comply with Section 7.9 hereof; and

7.4.5 **Additional Documents.** Any additional documents that Seller, Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Purchaser or result in any new or additional obligation, covenant, representation or warranty of Purchaser under this Agreement beyond those expressly set forth in this Agreement).

7.5 **Closing Statements.** As of or prior to the Closing Date, Seller and Purchaser shall deposit with Escrow Agent executed closing statements consistent with this Agreement in the form required by Escrow Agent.

7.6 **Purchase Price.** At or before Noon local time on the Closing Date, Purchaser shall deliver to Escrow Agent the Purchase Price, less the Earnest Money that is applied to the Purchase Price, plus or minus applicable prorations, in immediate, same-day U.S. federal funds wired for credit into Escrow Agent's escrow account, which funds must be delivered in a manner to permit Escrow Agent to deliver good funds to Seller or its designee on the Closing Date (and, if requested by Seller, by wire transfer); in the event that Escrow Agent is unable to deliver good funds to Seller or its designee on the Closing Date as a result of Purchaser's failure to comply with this Section 7.6, then the closing statements and related prorations will be revised as necessary.

7.7 **Possession.** Seller shall deliver possession of the Property to Purchaser at the Closing.

7.8 **Delivery of Books and Records.** After the Closing, Seller shall deliver to the offices of Purchaser's property manager or to the Real Property to the extent in Seller's or its property manager's possession: originals of the Leases, License Agreements and Service Contracts and Lease files; maintenance records, operating manuals and warranties; plans and specifications; licenses, permits and certificates of occupancy; and keys.

7.9 **Notice to Tenants.** Purchaser shall deliver to each tenant immediately after the Closing a notice regarding the sale in substantially the form of Exhibit F hereto, or such other form as may be required by applicable state law. This obligation on the part of Purchaser shall survive the Closing.

7.10 **Website Transfer.** Seller shall use commercially reasonable efforts to deliver in escrow to Escrow Agent at Closing the documents necessary to transfer ownership of the websites at www.galleriaofficedallas.com and www.galleriaofficetowersdallas.com to Purchaser. If, however, Seller does not deliver such transfer documents into escrow on or before the Closing Date, the Closing Date shall not be delayed, the parties shall proceed to Closing and Seller shall deliver such documents to Purchaser no later than five Business Days after the Closing Date. This obligation on the part of Seller shall survive the Closing.

**ARTICLE 8**  
**PRORATIONS, DEPOSITS, COMMISSIONS**

8.1 **Prorations.** At Closing, all items of income and expense of the Property shall be prorated as of the Closing Date with such items of income and expense being borne by (a) Seller prior to the Closing Date and (b) Purchaser from and after (and including) the Closing Date, including, without limitation, the following: Tenant Receivables (defined below) and other income and rents that have been collected by Seller as of Closing; fees and assessments; expenses and obligations under Service Contracts; operating expenses; real and personal ad valorem taxes, any other taxes, assessments, and governmental charges or fees whether federal, state, county or municipal, and whether they be by taxing districts or authorities presently taxing or by others levied against the Property (collectively, "**Taxes**"); and any assessments by private covenant of record for the then-current calendar year of Closing. Specifically, the following shall apply to such prorations and to post-Closing collections of Tenant Receivables:

8.1.1 **Taxes.** If Taxes for the year of Closing are not known at Closing, Taxes shall be prorated at Closing based on Taxes for the year prior to Closing and adjusted post-Closing in accordance with Section 8.6. Seller reserves the right to pursue any challenge to Taxes attributable to any time period prior to Closing and, after payment of any amount thereof that may be due to the tenants under the Leases, shall be entitled to any refund or reduction of Taxes attributable to any time period prior to Closing.

8.1.2 **Utilities.** Purchaser shall take all steps necessary to effectuate the transfer of all utilities, if any, to its name as of the Closing Date, and where necessary, post deposits with the utility companies. Seller shall ensure that all utility meters are read as of the Closing Date. Seller shall be entitled to recover any and all deposits held by any utility company as of the Closing Date. The provisions of the immediately preceding sentence shall survive the Closing.

8.1.3 **Tenant Receivables.** Rents due from tenants under Leases and from tenants or licensees under License Agreements and operating expenses, taxes or other amounts payable by tenants under Leases (collectively, "**Tenant Receivables**") and not collected by Seller as of Closing shall not be prorated between Seller and Purchaser at Closing but shall be apportioned on the basis of the period for which the same is payable and if, as and when collected, as follows:

(a) Tenant Receivables and other income received from tenants under Leases and/or tenants or licensees under License Agreements after Closing shall be applied in the following order of priority: (1) first, to payment of the current Tenant Receivables then due for the month in which the Closing Date occurs, which amount shall be apportioned between Purchaser and Seller as of the Closing Date as set forth in Section 8.1 hereof (with Seller's portion thereof to be delivered to Seller); (2) second, to Tenant Receivables applicable to the period of time after Closing, which amount shall be retained by Purchaser; (3) third, to payment of Tenant Receivables applicable to the period of time before Closing, (collectively, "**Unbilled Tenant Receivables**"), which amount shall be delivered to Seller; and (4) thereafter, to delinquent Tenant Receivables which were due and payable as of Closing but not collected by Seller as of Closing (collectively, "**Uncollected Delinquent Tenant Receivables**"), which amount shall be delivered to Seller. Seller shall not take any action after Closing to pursue any tenant or guarantor for any Unbilled Tenant Receivable or Uncollected Delinquent Tenant Receivable. Purchaser will make a good faith commercially reasonable effort after Closing for a period of [\*\*\*] days to collect all Uncollected Delinquent Tenant Receivables in the usual course of the operation of the Property, but Purchaser will not be obligated to institute any lawsuit or other collection procedures to collect such Uncollected Delinquent Tenant Receivables. Any sums received by Purchaser to which Seller is entitled shall be held in trust for



Seller on account of such past due rents payable to Seller, and Purchaser shall remit to Seller any such sums received by Purchaser to which Seller is entitled within ten Business Days after receipt thereof less reasonable, actual costs and expenses of collection, including reasonable attorneys' fees, court costs and disbursements, if any. Any sums received by Seller to which Purchaser is entitled shall be held in trust for Purchaser, and Seller shall remit to Purchaser any such sums received by Seller to which Purchaser is entitled within ten Business Days after receipt thereof less reasonable, actual costs and expenses of collection, including reasonable attorneys' fees, court costs and disbursements, if any. With respect to Unbilled Tenant Receivables, Purchaser covenants and agrees to (A) bill the same when billable and (B) cooperate with Seller to determine the correct amount of operating expenses and/or taxes due.

(b) No later than three days prior to Closing, Seller or Seller's agents shall perform a preliminary reconciliation for operating expenses and taxes due under the Leases or License Agreements for calendar year 2019. To the extent such preliminary reconciliation determines that any tenants and/or licensees have made an overpayment of operating expenses and/or taxes due under the Leases or License Agreements, the amount of such overpayments shall be credited to Purchaser at Closing, and Purchaser shall be obligated to remit such amounts to the tenants and/or licensees to whom it is owed. If such preliminary reconciliation determines that tenants and/or licensees have made an underpayment of operating expenses and/or taxes due under the Leases or License Agreements, such underpayment shall be billed as provided below with the final reconciliation. Such preliminary reconciliation shall be finalized as provided in the next sentence and operating expenses and taxes shall be prorated on a final basis as provided in Section 8.6. Seller or Seller's agents shall prepare and deliver to the tenants of the Property prior to the deadlines set forth in the respective Leases the reconciliation statements for operating expenses and/or taxes due under the Leases or License Agreements for calendar year 2019. If the final reconciliation or determination of operating expenses and/or taxes due under the Leases or License Agreements shows that such tenants and/or licensees have made an underpayment of operating expenses and/or taxes due under the Leases or License Agreements for the period of time prior to the Closing Date, Purchaser shall, within ten Business Days of such final determination, bill such tenants and/or licensees for such delinquent amount(s) and, subject to Section 8.1.3(a), upon receipt of payment, remit such amount to Seller. If the final reconciliation or determination of operating expenses and/or taxes due under the Leases or License Agreements shows that such tenants and/or licensees have made an overpayment of operating expenses and/or taxes due under the Leases or License Agreements for the period of time prior to the Closing Date, Seller shall, within ten Business Days of such final determination, remit said amount to Purchaser for payment to the tenants.

8.1.4 **Texas Margin Tax Not Prorated.** Purchaser acknowledges that Seller may have collected from tenants, as part of operating expenses and/or taxes under the Leases, funds for the purpose of paying Seller's Texas margin tax (the "**Margin Tax**") allocable to Seller's ownership of the Property during the calendar year of Closing. The parties agree that, because the Margin Tax is charged based on the revenue that an entity receives rather than based on a party's ownership of the Property, the portion of Tenant Receivables allocable to the Margin Tax will not be prorated like other Tenant Receivables. In addition, Seller will be entitled to retain all payments of Tenant Receivables allocable to the Margin Tax that Seller has received prior to the Closing Date; provided, however, (a) if Seller has received any payment of Tenant Receivables allocable to the Margin Tax attributable for any period from and after the Closing Date, Purchaser shall receive a credit at Closing for such amount, and (b) to the extent that Seller has over collected Margin Tax for its period of ownership of the Property, Seller shall be obligated to refund any such over payment to the tenants. If Purchaser receives any payment of Tenant Receivables allocable to the Margin Tax attributable for any period prior to the Closing Date, such payment shall be handled in the same manner as other delinquent rents received by Purchaser.

8.2 **Survey and Report Costs.** Seller has procured updated surveys and zoning reports for the Property, and the parties shall allocate the costs associated with same in accordance with Section 1.2 of this Agreement.

8.3 **Assigned Construction Contracts.** Seller has entered into the construction contracts described on Exhibit I ("**Assigned Construction Contracts**") to perform the work described on Exhibit I. If the work under an Assigned Construction Contract is not completed at Closing, the parties shall complete Closing, Exhibit I shall be adjusted to reflect the

remaining amount to be paid under each Assigned Construction Contract (as substantiated by reasonable evidence of payment by Seller) and at Closing (a) Seller shall assign to Purchaser all of Seller's rights and Purchaser shall assume all of Seller's responsibilities under each such Assigned Construction Contract so assigned, whereupon Seller shall be released of all liability under each such contract so assigned, and (b) Seller shall credit to Purchaser at Closing the remaining amount to be paid under each Assigned Construction Contract.

**8.4 Leasing Costs.** As of Closing, Purchaser shall assume (a) those abatements (excluding any abatements for any period prior to Closing) and Leasing Costs set forth in the column entitled "Less: Purchaser Obligations" on Exhibit R attached hereto, (b) the obligation to pay those Leasing Costs set forth in the column entitled "Estimated Net Seller Credit Due to Purchaser at Closing" on Exhibit R attached hereto for which Purchaser shall receive a credit from Seller at Closing, (c) Seller's obligations for all [\*\*\*] Leasing Costs (defined below), and (d) to the extent that Seller has incurred, or will incur prior to Closing, any Leasing Costs or rent abatements (excluding any abatements for any period prior to Closing) attributable to any new Leases or Licenses (including, without limitation, any [\*\*\*] Leasing Costs), or amendments, renewals or extensions thereof executed after [\*\*\*] (the "**Leasing Costs Cutoff Date**"), Purchaser shall pay Seller at Closing for such Leasing Costs (provided, with respect to any new Leases or Licenses, or amendments, renewals or extensions thereof for which Purchaser has approval rights pursuant to Section 6.1.3, Purchaser's obligation to pay Seller at Closing for such Leasing Costs shall be limited to those Leasing Costs that Purchaser has approved or deemed approved pursuant to Section 6.1.3) and rent abatements. The parties acknowledge that Exhibit R will be updated prior to the Closing Date to reflect any reductions in the applicable Leasing Costs to be credited to Purchaser at Closing because of payments by Seller on or prior to the Closing Date; provided, however, that (1) Seller shall have no obligation to provide to Purchaser any credit at Closing for rent abatements under Leases, and (2) Seller shall have no obligation to pay, and as of Closing Purchaser shall assume the obligation to pay, all Leasing Costs (provided, with respect to any new Leases or Licenses, or amendments, renewals or extensions thereof for which Purchaser has approval rights pursuant to Section 6.1.3, Purchaser's obligation to pay Seller at Closing for such Leasing Costs shall be limited to those Leasing Costs that Purchaser has approved or deemed approved pursuant to Section 6.1.3) payable with respect to any option to renew or option to expand that has not been exercised prior to the Leasing Costs Cutoff Date, which obligation shall survive the Closing. As used herein, "**Leasing Costs**" means, collectively, all leasing commissions, costs for tenant improvements, lease buyout costs, moving allowances, design allowances, legal fees and other out-of-pocket costs, expenses and allowances incurred in order to induce a tenant to enter into a Lease or Lease amendment, renewal or extension or to induce a licensee to enter into a License Agreement. As used herein, "[\*\*\*] **Leasing Costs**" means all Leasing Costs listed on Exhibit J hereto in connection with (A) [\*\*\*], and (B) [\*\*\*] (the documents referenced in clauses (A) and (B) being collectively referred to herein as the "[\*\*\*] **Expansion**").

**8.5 Closing Costs.** Closing costs shall be allocated between Seller and Purchaser in accordance with Section 1.2.

**8.6 Final Adjustment After Closing.** If final bills are not available or cannot be issued prior to Closing for any item being prorated under Section 8.1, then Purchaser and Seller agree to allocate such items on a fair and equitable basis as soon as such bills are available, final adjustments to be made as soon as reasonably possible after the Closing. Payments in connection with the final adjustments shall be due within 30 days of written notice. All such rights and obligations shall survive the Closing.

**8.7 Tenant Deposits.** All tenant and licensee security deposits collected and not properly applied by Seller (and interest thereon if required by law or contract) shall be transferred or credited to Purchaser at Closing. As of the Closing, Purchaser shall assume Seller's obligations related to tenant and licensee security deposits, but only to the extent they are credited or transferred to Purchaser. If any security deposits are in the form of a letter of credit (each a "**Letter of Credit**"), Seller shall (a) at Closing, but subject to Section 7.3.10, deliver the original of each Letter of Credit into escrow and execute and deliver to Purchaser such instruments as the issuer of each Letter of Credit shall require in order to transfer the same to Purchaser, and (b) after Closing, Seller shall reasonably cooperate with Purchaser to change the named beneficiary under each Letter of Credit to Purchaser. To the extent that any Letter of Credit to be transferred to Purchaser does not require the applicant thereunder to pay the fees imposed by the issuer of such Letter of Credit in connection with the transfer thereof, Seller shall be liable for such fees. The provisions of this section shall survive the Closing.

**8.8 Commissions.** With respect to the transaction contemplated by this Agreement, Seller represents that the Broker is its sole broker, and that Seller shall be responsible for the payment of any broker commissions and other fees owing to Seller's Broker in connection with the consummation of such transaction pursuant to a separate written agreement between

Seller and Broker. Purchaser and Seller acknowledge and agree that in no event shall Seller be liable for the payment of any broker commissions or other fees to any broker, finder, agent or other representative of Purchaser (or any such broker, finder, agent or other representative claiming to have represented Purchaser) in connection with the transaction contemplated by this Agreement (each, a “**Purchaser’s Broker**”), and that the payment of any such commissions and other fees to any Purchaser’s Broker shall be the sole responsibility of Purchaser. Seller agrees that if Broker makes a claim for brokerage commissions or other fees related to the sale of the Property by Seller to Purchaser, Seller will protect, indemnify, defend and hold Purchaser free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys’ fees) in connection therewith. Conversely, Purchaser agrees that if any Purchaser’s Broker makes a claim for brokerage commissions or other fees related to the sale of the Property by Seller to Purchaser, Purchaser will protect, indemnify, defend and hold Seller, and Seller’s direct and indirect owners free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys’ fees) in connection therewith. Additionally, each party hereto agrees that if any person or entity, other than the Broker or any Purchaser’s Broker, makes a claim for brokerage commissions or other fees related to the sale of the Property by Seller to Purchaser, and such claim is made by, through or on account of any acts or alleged acts of said party or its representatives, said party will protect, indemnify, defend and hold the other party free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys’ fees) in connection therewith.

8.9 **Leasing Agreement Tail Period.** Pursuant to the existing leasing agreement between [\*\*\*], as agent for Seller (“**Leasing Agent**”) and Seller, Leasing Agent solicits tenants and negotiates leases for certain portions of the Property on behalf of Seller. For any Protected Tenant (defined below) that enters into a Lease, Lease renewal, Lease extension, or Lease expansion with Purchaser within 120 days after the Closing Date, Purchaser hereby agrees to pay Leasing Agent a commission calculated in accordance with the Seller’s existing leasing agreement. The initial list of Protected Tenants as of the Effective Date is attached hereto as Exhibit N. Seller shall deliver to Purchaser not later than three Business Days prior to the expiration of the Inspection Period an update of Exhibit N (the “**Final Protected Tenant List**”). “**Protected Tenant**” means any tenant (existing or proposed) with whom Seller, Leasing Agent or any employee or affiliate thereof is, on or before the Closing Date, engaged in bona fide and substantial negotiations with respect to the leasing of space within the Property, and is listed on the Final Protected Tenant List. Leasing Agent is an intended third party beneficiary of this Section 8.9.

8.10 [\*\*\*] If the Suite [\*\*\*] Commencement Date or the Commencement Date (each as defined in the [\*\*\*] Expansion) do not occur on or before [\*\*\*] solely due to Seller’s failure to timely deliver the premises leased pursuant to the [\*\*\*] Expansion in the Required Delivery Condition (as defined in the [\*\*\*] Expansion) on or before [\*\*\*] (i.e., the date that is 270 days before [\*\*\*]), Seller shall provide Purchaser a per diem credit equal to the base rent and additional rent attributable to the delayed portion of the [\*\*\*] Premises or the Premises (each as defined in the [\*\*\*] Expansion), as applicable, for each day after [\*\*\*] and ending on the [\*\*\*] Commencement Date or the Commencement Date, as applicable. To the extent that [\*\*\*] disputes that the Suite [\*\*\*] Commencement Date or the Commencement Date has occurred on or before [\*\*\*], Purchaser shall keep Seller reasonably informed of such dispute and shall not settle or otherwise compromise any such dispute without obtaining Seller’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary, Seller’s obligations under this shall terminate once Purchaser has received written confirmation (which may be via email, in a Tenant Estoppel or in another written instrument) that the [\*\*\*] Delivery Date and/or the Delivery Date (each as defined in the [\*\*\*] Expansion), as applicable, occurred on or before [\*\*\*].

8.11 **Survival.** The provisions of this Article 8 shall survive Closing.

## **ARTICLE 9**

### **REPRESENTATIONS AND WARRANTIES**

9.1 **Seller’s Representations and Warranties.** Seller represents and warrants to Purchaser that:

9.1.1 **Organization and Authority.** Seller is validly existing, and is in good standing in the state in which it was formed. Seller has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and

executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

9.1.2 **Conflicts and Pending Actions.** There is no agreement to which Seller is a party or, to Seller's knowledge, that is binding on Seller or the Property which is in conflict with this Agreement. There is no action or proceeding (including litigation) pending or threatened against Seller or relating to the Property which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement.

9.1.3 **Tenant Leases.** Exhibit H lists all tenants and lease documents of the Property, pursuant to written agreements to which Seller is a direct party as landlord (i.e., excluding subtenants and other occupants claiming by, through or under any tenants under leases or licenses set forth on Exhibit H as the foregoing is not intended [and shall not be construed] as a representation by Seller of the parties which are in actual possession of any portion of the Property since there may be subtenants, licensees or assignees that are in possession of portions of the Property of which Seller may not be aware). The copies of the Leases that Seller delivered to Purchaser as part of the Property Documents are the true, correct and complete copies of the Leases used in Seller's ordinary course. Except as may be disclosed in the Property Information on or before expiration of the Inspection Period and the Tenant Estoppels, Seller has not received any written notice from tenants asserting that Seller, as landlord, is in default of any of its obligations under the Leases. Except as may be disclosed in the Property Information on or before expiration of the Inspection Period, Seller has not delivered any written notice to any tenant under a Lease asserting that such tenant is in default under its Lease which remains uncured.

9.1.4 **Service Contracts.** There are no Service Contracts except as set forth in Exhibit Q. The copies of the Service Contracts delivered to Purchaser as a part of the Property Information are true, correct and complete copies of the documents used by Seller in its day-to-day operation of the Real Property. Except as may be disclosed in the Property Information on or before expiration of the Inspection Period, Seller has not received any written notice asserting that Seller is in default of any of its obligations under the Service Contracts. Except as may be disclosed in the Property Information on or before expiration of the Inspection Period, Seller has not delivered any written notice to any other party under a Service Contract asserting that such other party is in default under its Service Contract which remains uncured.

9.1.5 **Employees.** Seller has never had any employees, and there are no employee benefit plans in effect and there are no unfunded liabilities with respect to employee fringe benefits.

9.1.6 **Taxes.** Seller has not received any written notice of any actual special tax assessments affecting the Property which are not reflected in the Title Commitment or the current tax bills for the Property or included in the Property Documents.

9.1.7 **Prohibited Persons and Transactions.** Seller is currently in compliance with and shall at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

9.1.8 **Bankruptcy.** Seller has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets, admitted its inability to pay its debts as they come due, or made an offer of settlement, extension or composition to its creditors generally.

9.1.9 **Notices from Governmental Authorities.** Except as may be reflected by the Property Documents provided (or made available) to Purchaser on or before expiration of the Inspection Period, Seller has not received from any governmental authority written notice of any violation of any laws applicable (or alleged to be applicable) to the Real Property, or any part thereof, that has not been corrected, and, to Seller's knowledge, no such

violations exist. As of the Effective Date, except as may be reflected by the Property Documents provided (or made available) to Purchaser on or before expiration of the Inspection Period, Seller has not received from any governmental authority written notice of any condemnation proceedings affecting the Real Property, and, to Seller's knowledge, no condemnation proceedings exist. As of the Closing Date, Seller has not received from any governmental authority written notice of any condemnation proceedings affecting the Real Property that Seller has not previously delivered to Purchaser.

9.1.10 **Litigation.** Seller has not received written notice of any pending or threatened suit, action or proceeding against Seller or relating to the Property or any part thereof. Seller has received no written notice that there is any general plan, land use or zoning action or proceeding, or general or special assessment action or proceeding pending or threatened with respect to the Property or any part thereof that has not already been settled.

9.1.11 **Leasing Costs.** Except (a) as disclosed in Exhibit R or the Property Documents provided (or made available) to Purchaser on or before expiration of the Inspection Period, (b) the [\*\*\*] Leasing Costs and any (c) Leasing Costs and rent abatements for Leases or Lease amendments executed by Seller in accordance with Section 6.1.3 after the Effective Date, there are no Leasing Costs or rent abatements owed or which may become payable with respect to the current term of existing Leases and License Agreements.

9.1.12 **Commission Agreements.** Except as disclosed in Exhibit M attached hereto, there are no tenant broker commission agreements or other agreements providing for payments (or which may become payable with respect to the current term of existing Leases and License Agreements) to tenant brokers of any amounts for leasing activities or procuring tenants with respect to the Property or any portion or portions thereof ("**Commission Agreements**"). All leasing commissions and brokerage fees due and payable under the Commission Agreements with respect to the Property as of the Effective Date have been or shall be paid in full. The copies of the Commission Agreements delivered to Purchaser as part of the Property Documents are the true, correct and complete copies of those used by Seller in its ordinary course of business.

9.1.13 **Delivery of Documents.** All of the documents and information required to be delivered to Purchaser pursuant to Section 4.1 have been or will be so delivered without intentional alteration or omission and in the form maintained and utilized by Seller in the ordinary course of operating the Property; provided, however, that Purchaser hereby acknowledges and agrees that Seller is making no representation or warranty as to the truth, accuracy or completeness of any third-party statements, analysis or information contained in such documents or information.

9.2 **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller that:

9.2.1 **Organization and Authority.** Purchaser is validly existing as a limited liability company in good standing in the State of Delaware and is qualified to do business in the state in which the Real Property is located. Purchaser has the full right and authority and has obtained any and all consents required to enter into this Agreement, to deposit and invest the Earnest Money and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Purchaser at the Closing will be, authorized and properly executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Purchaser, enforceable in accordance with their terms.

9.2.2 **Conflicts and Pending Action.** There is no agreement to which Purchaser is a party or, to Purchaser's knowledge, binding on Purchaser which is in conflict with this Agreement. Purchaser has not received notice of any action or proceeding, pending or, to Purchaser's knowledge, threatened, against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

9.2.3 **ERISA.** Purchaser is not an employee benefit plan (a "**Plan**") subject to ERISA or Section 4975 of the Internal Revenue Code of 1986, as amended (the "**Code**"), and assets of a Plan are not being used to acquire the Property. Additionally, Purchaser is either not, and is not using the assets of, a "governmental plan" as defined in Section 3(32) of ERISA or, if Purchaser is, or is using the assets of, a governmental plan, the transactions

contemplated by this Agreement are not in violation of any laws applicable to Purchaser, regulating investments of, or fiduciary obligations with respect to, governmental plans.

9.2.4 **Prohibited Persons and Transactions.** Purchaser is currently in compliance with and shall at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

### 9.3 **Representations and Warranties Generally.**

9.3.1 **Survival of Representations and Warranties.** The representations and warranties set forth in this Article 9 shall survive the Closing for a period of [\*\*\*] (the "**Survival Period**").

9.3.2 **Knowledge; Agents.** Terms such as "**to Seller's knowledge**," "**to the best of Seller's knowledge**" or like phrases mean the actual present and conscious awareness or knowledge of either of [\*\*\*] or [\*\*\*] ("**Seller's Representatives**"), without any duty of inquiry or investigation; provided that in no event shall Seller's Representatives, or any of them, or any other officer or employee of Seller, have any individual liability under or relating to this Agreement. Said terms do not include constructive knowledge, imputed knowledge, or knowledge Seller or such persons do not have but could have obtained through further investigation or inquiry. No broker, agent, or party other than Seller is authorized to make any representation or warranty for or on behalf of Seller. All references to Purchaser's knowledge under this Agreement (including, without limitation, in this Section 9.3) shall mean only (a) the actual present and conscious awareness or knowledge of [\*\*\*], [\*\*\*] and [\*\*\*] (provided that in no event shall they or any other officer or employee of Purchaser, have any individual liability under or relating to this Agreement) and (b) knowledge of information contained in (1) any Tenant Estoppel or Seller's Certificate received by Purchaser, (2) all title exceptions and matters set forth in the Title Commitment and on the Survey (including any revisions or updates thereto), (3) all information disclosed in the Property Documents, and (4) the Reports.

9.3.3 **Action for Breach of Representation or Warranty.** Each party shall have the right to bring an action against the other after Closing on the breach of a representation or warranty or covenant hereunder or in the documents delivered by Seller at the Closing, but only on the following conditions: (a) the breach in question results from, or is based on, a condition, state of facts or other matter that was not known prior to Closing by the party bringing the action, (b) the party alleging the breach gives written notice of such breach to the other party before the end of the Survival Period and files the action with respect to such breach on or before the first day following the second anniversary of the Closing Date, and (c) neither party shall have the right to bring a cause of action for a breach of a representation or warranty or covenant (other than Seller's representations and warranties under Section 9.1.11 and Seller's covenants under Sections 8.1, 8.6, 8.7, 8.8, 8.10 and 10.3) unless the damage to such party on account of such breach (individually or when combined with damages from other breaches) equals or exceeds [\*\*\*]. The parties stipulate that the periods of time referenced above to give written notice of the alleged breach and to file the action with respect to such breach is reasonable and hereby waive any claims to the contrary. If a party fails to timely notify the other party or file such action within the required time periods as described above, such action shall be barred.

9.3.4 **Knowledge of Breach.** Neither party shall have any liability after Closing for the breach of a representation or warranty or covenant hereunder of which the other party hereto had knowledge as of Closing and such party nevertheless consummates the transaction contemplated by this Agreement (in which event any such breach shall be deemed waived by such party). Without limiting the generality of the foregoing, and notwithstanding any other provision of this Agreement, Seller shall have no liability with respect to any of Seller's representations, warranties and covenants hereunder if, prior to Closing, Purchaser has knowledge of any breach of a representation, warranty or covenant of Seller hereunder, or Purchaser obtains knowledge that contradicts any of Seller's representations, warranties or covenants hereunder (and the representations and warranties of Seller shall be deemed to be modified thereby to be accurate), and Purchaser nevertheless consummates the transaction

contemplated by this Agreement (in which event any such breach or contradiction shall be deemed waived by Purchaser). Furthermore, immediately after the Closing, Seller's representations and warranties shall be deemed to be modified to reflect any facts or circumstances disclosed in the tenant estoppels received by Purchaser prior to Closing.

9.3.5 **Liability of Seller.** Notwithstanding any other provision of this Agreement, any agreement contemplated by this Agreement, Purchaser agrees that any liability of Seller to Purchaser under this Agreement (excluding under the provisions of Sections 8.1, 8.6, 8.7, 8.8, 8.10, 9.1.11 and 10.3 for which there shall be no cap on liability) will be limited to [\*\*\*] of the Purchase Price (the "**Cap**").

9.3.6 **Breach Prior to Closing.** Any breach of a representation or warranty that occurs prior to Closing shall be governed exclusively by Section 7.2.3.

9.3.7 **Survivability.** The provisions of this Section 9.3 shall survive the Closing.

## **ARTICLE 10**

### **DEFAULT AND REMEDIES**

10.1 **Seller's Remedies.** If Purchaser defaults on its obligation to purchase the Property pursuant to this Agreement, Seller shall be entitled, as its sole remedy (except as provided in Sections 4.9, 8.8, 10.3 and 10.4 hereof), to terminate this Agreement and recover the Earnest Money as liquidated damages and not as penalty, in full satisfaction of claims against Purchaser hereunder. Seller and Purchaser agree that Seller's damages resulting from Purchaser's default are difficult, if not impossible, to determine and the Earnest Money is a fair estimate of those damages which has been agreed to in an effort to cause the amount of such damages to be certain. Purchaser hereby waives and releases any right to (and hereby covenants that it shall not) sue Seller or seek or claim a refund of the Earnest Money (or any part thereof) on the grounds it is unreasonable in amount and exceeds the actual damages of Seller or that the retention by Seller of the Earnest Money constitutes a penalty and not agreed upon and reasonable liquidated damages. Notwithstanding anything in this Section 10.1 or in **Exhibit K** to the contrary, in the event of Purchaser's default or a termination of this Agreement, Seller shall have all remedies available at law or in equity in the event Purchaser or any party related to or affiliated with Purchaser is asserting any claims or right to the Property that would otherwise delay or prevent Seller from having clear, indefeasible and marketable title to the Property, and in said event Seller shall not be required to submit such matter to arbitration as contemplated by **Exhibit K**. If Closing is consummated, Seller shall have all remedies available at law or in equity in the event Purchaser fails to perform any obligation of Purchaser under this Agreement that survives Closing. **IN NO EVENT SHALL PURCHASER'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS OR AFFILIATES, ANY OFFICER, MANAGER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING, OR ANY AFFILIATE OR CONTROLLING PERSON THEREOF HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROPERTY, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHERWISE.**

10.2 **Purchaser's Remedies.** If Seller fails to consummate the sale of the Property pursuant to this Agreement or otherwise defaults on its obligations hereunder at or prior to Closing for any reason except failure by Purchaser to perform hereunder, and such default or breach is not cured by the earlier of the third Business Day after written notice thereof from Purchaser or the Closing Date (Purchaser hereby agreeing to give such written notice to Seller promptly after Purchaser first learns of any such default or breach by Seller, except no notice or cure period shall apply if Seller fails to consummate the sale of the Property hereunder) (a "**Seller's Pre-Closing Default**"), Purchaser shall elect, as its sole remedy, either to (a) terminate this Agreement by giving Seller timely written notice of such election prior to or at Closing and recover the Earnest Money, in which event Seller shall reimburse Purchaser for its out-of-pocket costs and expenses incurred in connection with the transaction contemplated hereby up to a maximum of [\*\*\*], (b) enforce specific performance to consummate the sale of the Property hereunder and to execute and deliver the documents required to convey the Property to Purchaser in accordance with this Agreement (it being specifically understood and agreed that the remedy of specific performance shall not be available to enforce any other obligation of Seller hereunder), or (c) waive said failure or breach and proceed to Closing without any reduction in the Purchase Price. Notwithstanding anything herein to the contrary, Purchaser shall not be entitled to a remedy of specific performance and shall be deemed to have elected to terminate this Agreement unless Purchaser files

an arbitration action pursuant to Section 12.21 hereof for specific performance within ten Business Days of the scheduled Closing Date. Purchaser's remedies for a Seller's Pre-Closing Default shall be limited to those described in this Section 10.2 and Sections 10.3 and 10.4 hereof. **IN NO EVENT SHALL SELLER'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, MEMBERS, MANAGERS, OWNERS OR AFFILIATES, ANY OFFICER, MANAGER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING, OR ANY AFFILIATE OR CONTROLLING PERSON THEREOF HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROPERTY, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHERWISE.**

10.3 **Attorneys' Fees.** In the event either party hereto employs an attorney in connection with claims by one party against the other arising from the operation of this Agreement, the non-prevailing party shall pay the prevailing party all reasonable fees and expenses, including attorneys' fees, incurred in connection with such claims.

10.4 **Other Expenses.** If this Agreement is terminated due to the default of a party, then the defaulting party shall pay any fees or charges due to Escrow Agent for holding the Earnest Money as well as any escrow cancellation fees or charges and any fees or charges due to the Title Company for preparation and/or cancellation of the Title Commitment.

10.5 **Survivability.** The provisions of this Article 10 shall survive the Closing and any termination of this Agreement.

## **ARTICLE 11**

### **DISCLAIMERS AND RELEASE**

11.1 **Disclaimers By Seller.** Except as expressly set forth in this Agreement or in any document executed by Seller and delivered to Purchaser at Closing, it is understood and agreed that Seller and Seller's agents or employees have not at any time made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (a) matters of title (other than Seller's special warranty of title to be contained in the Deed), (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Materials in, on, under or in the vicinity of the Property, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and geologic faults and the resulting damage of past and/or future faulting, (d) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) usages of adjoining property, (k) access to the Property or any portion thereof, (l) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (m) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (n) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (o) any other matter affecting the stability and integrity of the Property, (p) the potential for further development of the Property, (q) the merchantability of the Property or fitness of the Property for any particular purpose, (r) the truth, accuracy or completeness of the Property Documents or any survey of the Property, (s) tax consequences, or (t) any other matter or thing with respect to the Property.

11.2 **Sale "As Is, Where Is".** Purchaser acknowledges and agrees that upon Closing, Seller shall sell and convey to Purchaser and Purchaser shall accept the Property "**AS-IS, WHERE-IS, WITH ALL FAULTS,**" except to the extent expressly provided otherwise in this Agreement or any document executed by Seller and delivered to Purchaser at Closing. Except as expressly set forth in this Agreement or any document executed by Seller and delivered to Purchaser at Closing, Purchaser has not relied and will not rely on, and Seller has not made and is not liable for or bound by, any express or implied



warranties, guarantees, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Seller, or any property manager, real estate broker, agent or third party representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Purchaser represents that it is a knowledgeable, experienced and sophisticated purchaser of real estate and that, except as expressly set forth in this Agreement or any document executed by Seller and delivered to Purchaser at Closing, it is relying solely on its own expertise and that of Purchaser's consultants in purchasing the Property and shall make an independent verification of the accuracy of any documents and information provided by Seller. Purchaser will conduct such inspections and investigations of the Property as Purchaser deems necessary, including, but not limited to, the physical and environmental conditions thereof, and shall rely upon same. By failing to terminate this Agreement prior to the expiration of the Inspection Period, Purchaser acknowledges that Seller has afforded Purchaser a full opportunity to conduct such investigations of the Property as Purchaser deemed necessary to satisfy itself as to the condition of the Property and the existence or non-existence or curative action to be taken with respect to any Hazardous Materials on or discharged from the Property, and Purchaser will rely solely upon same and not upon any information provided by or on behalf of Seller or its agents or employees with respect thereto, other than such representations, warranties and covenants of Seller as are expressly set forth in this Agreement or in any document executed by Seller and delivered to Purchaser at Closing. Except as to representations or warranties of Seller expressly set forth in this Agreement or in any document executed by Seller and delivered to Purchaser at Closing, upon Closing, Purchaser shall assume the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Purchaser's inspections and investigations. Purchaser hereby represents and warrants to Seller that: (a) Purchaser is represented by legal counsel in connection with the transaction contemplated by this Agreement; and (b) Purchaser is purchasing the Property for business, commercial, investment or other similar purpose and not for use as Purchaser's residence. Purchaser waives any and all rights or remedies it may have or be entitled to, deriving from disparity in size or from any significant disparate bargaining position in relation to Seller.

11.3 **Seller Released from Liability.** Purchaser acknowledges that it will have the opportunity to inspect the Property during the Inspection Period, and during such period, observe its physical characteristics and existing conditions and the opportunity to conduct such investigation and study on and of the Property and adjacent areas as Purchaser deems necessary, and Purchaser hereby FOREVER RELEASES AND DISCHARGES the Seller Parties from all responsibility and liability (other than that arising under covenants, representations or warranties of Seller expressly set forth in this Agreement or any document executed by Seller and delivered to Purchaser at Closing), including without limitation, liabilities and responsibilities for the lessor's obligations under the Leases relating to the physical, environmental or legal compliance status of the Property (but excluding any tort liability for matters arising prior to the Closing Date), whether arising before or after the Effective Date, and liabilities under the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42 U.S.C. Sections 9601 *et seq.*), as amended ("**CERCLA**"), the Resource Conservation and Recovery Act (42 U.S.C. Section 9601 *et seq.*), as amended, and the Oil Pollution Act (33 U.S.C. Section 2701 *et seq.*)(including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property). Except as to representations or warranties of Seller expressly set forth in this Agreement or any document executed by Seller and delivered to Purchaser at Closing, Purchaser further hereby WAIVES (and by Closing this transaction will be deemed to have WAIVED) any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Property, including, without limitation, the lessor's obligations under the Leases relating to the physical, environmental or legal compliance status of the Property (but excluding any tort liability for matters arising prior to the Closing Date), whether arising before or after the Effective Date. Purchaser further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and, except as to representations or warranties of Seller expressly set forth in this Agreement, the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

11.4 **Hazardous Materials Defined.** For purposes hereof, **Hazardous Materials** means “Hazardous Material,” “Hazardous Substance,” “Pollutant or Contaminant,” and “Petroleum” and “Natural Gas Liquids,” as those terms are defined or used in Section 101 of CERCLA, and any other substances regulated because of their effect or potential effect on public health and the environment, including, without limitation, PCBs, lead paint, asbestos, mold, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

11.5 **Survival.** The terms and conditions of this Article 11 shall expressly survive the Closing and shall not merge with the provisions of any closing documents.

Purchaser acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Purchaser for the Purchase Price without the disclaimers and other agreements set forth above.

## **ARTICLE 12** **MISCELLANEOUS**

12.1 **Parties Bound; Assignment.** This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto. Purchaser may assign its rights under this Agreement upon the following conditions: the assignee of Purchaser must be an entity controlling, controlled by, or under common control with Purchaser, the assignee of Purchaser shall assume all obligations of Purchaser hereunder, but Purchaser shall remain primarily liable for the performance of Purchaser’s obligations, a copy of the fully executed written assignment and assumption agreement shall be delivered to Seller at least three Business Days prior to Closing, and the requirements in Section 12.18 are satisfied.

12.2 **Headings.** The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

12.3 **Invalidity and Waiver.** If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party’s right to enforce against the other party the same or any other such term or provision in the future.

12.4 **Governing Law.** This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the law of the state in which the Real Property is located.

12.5 **Survival.** The provisions of this Agreement that contemplate performance after the Closing and the obligations of the parties not fully performed at the Closing (other than any unfulfilled closing conditions which have been waived or deemed waived by the other party) shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

12.6 **Entirety and Amendments.** This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought. All Exhibits hereto are incorporated herein by this reference for all purposes.

12.7 **Time.** Time is of the essence in the performance of this Agreement.

12.8 **Confidentiality; Press Releases.** Seller and Purchaser each hereby covenant and agree that (a) prior to the Closing neither Seller or Purchaser shall issue any press release or similar public statement with respect to the transaction contemplated by this Agreement (a "**Press Release**") without the prior written consent of the other, except to the extent required by applicable law (including securities laws and NYSE listing requirements), and (b) after the Closing, any Press Release issued by either Seller or Purchaser shall be subject to the review and approval of both parties (which approval shall not be unreasonably withheld, conditioned or delayed and such response shall be provided within two (2) Business Days after submission of a draft of the Press Release to the other party for review), except to the extent required by applicable law (including securities laws and NYSE listing requirements). If either Seller or Purchaser is required by applicable law (including securities laws and NYSE listing requirements) to issue a Press Release, such party shall, at least two (2) Business Days prior to the issuance of the same, deliver a copy of the proposed Press Release to the other party for its review; provided, however, if such disclosure required by law will be contained in any disclosure documents required by the Securities and Exchange Commission or the NYSE, then neither party shall be required to deliver a copy of the proposed disclosure to the other party or obtain the consent of the other party. For the avoidance of doubt, and notwithstanding anything herein to the contrary, the disclosure of any economic terms (including, without limitation, the Purchase Price), whether made as part of a disclosure required to be filed with the Securities and Exchange Commission, the NYSE or otherwise, shall be subject to the approval of the non-disclosing party, in such party's sole discretion, unless such disclosure is required by law (including securities laws and NYSE listing requirements). Except to the extent required by applicable law (including securities laws and NYSE listing requirements), the terms and conditions contained in this Agreement shall not be disclosed to any third parties other than to those authorized representatives of the parties and their accountants, professionals, consultants, attorneys and lenders, who need to know the information for the purpose of consummating the closing of the Property contemplated in the Agreement. Without limiting the foregoing requirement for Seller approval, the name "CBRE" shall not be used or referenced in any public announcement, press release or disclosure relating to the transactions contemplated under this Agreement, except to the extent required by applicable law (including securities laws and NYSE listing requirements). Purchaser acknowledges and agrees that the use of such name in any public announcement, press release or disclosure is not accurate and Purchaser will instruct Purchaser's partners, lenders, investors, brokers, agents, employees, officers, directors, attorneys and representatives (collectively, the "**Purchaser Parties**") to comply with this provision. Each of Seller and Purchaser stipulates that the breach of the requirements of this Section 12.8 will cause irreparable harm to the other for which damages may not constitute an adequate remedy. Accordingly, Seller and Purchaser agree that any breach of the requirements of this Section 12.8 may be enjoined by an appropriate court order or judgment. Seller's and Purchaser's remedies are not limited to injunctive relief for a breach of the requirements of this Section 12.8, and all legal and equitable remedies will continue to be available to Seller and Purchaser. For purposes of this Section 12.8, the parties may rely on their attorneys and accountants to determine the requirements of law. The provisions of this Section 12.8 shall survive Closing.

12.9 **Electronic Transactions.** Except as expressly provided in Section 12.10 (entitled "Notices") and Section 12.13 (entitled "Execution in Counterparts"), the parties hereby acknowledge and agree (a) this Agreement shall not be executed, entered into, altered, amended or modified by electronic means and (b) without limiting the generality of subparagraph (a), the parties hereby agree the transactions contemplated by this Agreement shall not be conducted by electronic means.

12.10 **Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.3. Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, (c) by personal delivery, or (d) by electronic mail addressed to the electronic mail address set forth in Section 1.3 for the party to be notified. Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the

earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee (even if such addressee refuses delivery thereof). Notice given by electronic mail in accordance herewith shall be effective on the day transmitted, provided that the sender of such electronic mail does not receive an error, rejection notification or other bounce back message from the recipient. Except for electronic mail notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Purchaser shall be deemed given by Purchaser and notices given by counsel to the Seller shall be deemed given by Seller.

12.11 **Construction.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

12.12 **Calculation of Time Periods; Business Day.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time in the state in which the Real Property is located. As used herein, the term "**Business Day**" means any day that is not a Saturday, Sunday or legal holiday for national banks in the city in which the Real Property is located.

12.13 **Execution in Counterparts.** This Agreement (and any alterations, amendments or modifications thereto) may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement (or any alteration, amendment or modification thereto), the parties may execute and exchange by electronic mail PDF counterparts of the signature pages. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement (or any alteration, amendment or modification thereto) to physically form one document.

12.14 **No Recordation.** Without the prior written consent of Seller, there shall be no recordation of either this Agreement or any memorandum hereof, or any affidavit pertaining hereto, and any such recordation of this Agreement or memorandum or affidavit by Purchaser without the prior written consent of Seller shall constitute a default hereunder by Purchaser, whereupon Seller shall have the remedies set forth in Section 10.1 hereof. In addition to any such remedies, Purchaser shall be obligated to execute an instrument in recordable form releasing this Agreement or memorandum or affidavit, and Purchaser's obligations pursuant to this Section 12.14 shall survive any termination of this Agreement as a surviving obligation. Notwithstanding the foregoing, Purchaser shall be entitled to record a notice of *lis pendens* if Purchaser is entitled to seek (and is actually seeking) specific performance of this Agreement by Seller in accordance with the terms of Section 10.2 hereof. If Purchaser files a *lis pendens* (or other similar filing) against the Property and the arbitrator determines that Purchaser is not entitled to the remedy of specific performance, Purchaser shall, within three Business Days following the date of the arbitrator's finding, execute and record a full release of the *lis pendens*. If Purchaser fails to timely file such release, time being of the essence with respect thereto, Purchaser shall be liable to Seller for all damages incurred by Seller with respect to such *lis pendens*. Purchaser's obligations pursuant to this Section 12.14 shall survive any termination of this Agreement as a surviving obligation.

12.15 **Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party at Closing, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Purchaser.

12.16 **Discharge of Obligations.** Except for those representations, warranties and agreements which are herein specifically stated to survive Closing, no representations, warranties or agreements shall survive Closing.

12.17 **Regulation S-X; Rule 3-14.** Seller shall provide Purchaser or its accountants with such certifications and representations from a person or persons of Seller, limited to such person's actual knowledge without any individual liability under or relating to this Agreement, as to such books and records as Purchaser or its accountants shall reasonably require in order to enable Purchaser or its accountants to prepare such audited financial statements in accordance with the requirements of Regulation S-X, Rule 3-14, of the U.S. Securities and Exchange Commission. Purchaser shall be responsible for all out-of-pocket costs or expenses reasonably incurred by Seller in connection with the preparation of such certifications and representations. This obligation shall survive the Closing until the first anniversary of the Closing Date.

12.18 **ERISA.** Under no circumstances shall Purchaser have the right to assign this Agreement to any person or entity owned or controlled by an employee benefit plan if Seller's sale of the Property to such person or entity would, in the reasonable opinion of Seller's ERISA advisors or consultants, create or otherwise cause a "prohibited transaction" under ERISA. In the event Purchaser assigns this Agreement or transfers any ownership interest in Purchaser, and such assignment or transfer would make the consummation of the transaction hereunder a "prohibited transaction" under ERISA and necessitate the termination of this Agreement then, notwithstanding any contrary provision which may be contained herein, Seller shall have the right to terminate this Agreement.

12.19 **No Third-Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing, except that a tenant of the Property may enforce Purchaser's indemnity obligation under Section 4.9 hereof.

12.20 **Reporting Person.** Purchaser and Seller hereby designate the Title Company as the "reporting person" pursuant to the provisions of Section 6045(e) of the Internal Revenue Code of 1986, as amended.

12.21 **Mandatory Arbitration.** The parties have agreed to submit disputes to mandatory arbitration in accordance with the provisions of Exhibit K hereto and made a part hereof for all purposes. Each of Seller and Purchaser waives the right to commence an action in connection with this Agreement in any court and expressly agrees to be bound by the decision of the arbitrator determined in Exhibit K. This Section 12.21 will not prevent Seller or Purchaser from commencing an action in any court for the sole purposes of enforcing the obligation of the other party to submit to binding arbitration or the enforcement of an award granted by arbitration herein or as expressly permitted by Section 10.1 hereof. The terms of this Section 12.21 shall survive (a) the termination of this Agreement, and (b) the Closing.

12.22 **Exclusivity.** From the Effective Date until the termination of this Agreement, neither Seller nor any party acting for or on behalf of Seller shall (a) directly or indirectly solicit, initiate or participate in any way in discussions or negotiations with, provide any information or assistance to, or enter into any agreement with, any person or group of persons (other than Purchaser or its representatives) concerning the purchase or sale of the Property, or (b) assist or participate in, facilitate or encourage any effort or attempt by any person (other than Purchaser or its representatives) to do or seek to do any of the foregoing.

12.23 **Independent Responsibility/No Alter Ego.** The parties hereby agree that the obligations of the parties under this Agreement are separate and distinct, and that no party's affiliate, officer, manager, director, employee, agent or representative (of any type or nature) or other third party is responsible in any manner whatsoever for the debts, liabilities or obligations of such party hereto. As such, the parties agree that no party's affiliate, officer, manager, director, employee, agent or representative (of any type or nature) or other third party is an alter-ego of such party (or any affiliate thereof) or in any manner is or shall be vicariously, derivatively or otherwise liable for the debts, liabilities or obligations of such party or any affiliate thereof (collectively, "**Derivative Claims**"). The parties further agree that, as a material part of and material inducement for the transactions contemplated by this Agreement, they will not assert any Derivative Claims in any dispute, claim or controversy relating to or arising out of this Agreement. The provisions of this Section shall survive the closing or consummation of the transactions contemplated by this Agreement or any termination or purported termination of this Agreement.

12.24 **WAIVER OF JURY TRIAL. SELLER AND PURCHASER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR**

**COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR THE EARLIER TERMINATION OF THIS AGREEMENT.**

12.25 **Like-Kind Exchange.** Purchaser may consummate the purchase of the Property as part of a so-called like-kind exchange (the “**Exchange**”) pursuant to §1031 of the Internal Revenue Code of 1986, as amended, provided that (a) Purchaser shall notify Seller in writing no later than five Business Days before Closing that it intends to consummate this transaction as part of an Exchange; (b) all costs, fees, and expenses attendant to the Exchange shall be the sole responsibility of Purchaser, and Purchaser shall indemnify and hold harmless Seller from and against any such costs, fees, and expenses; (c) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to Purchaser’s obligations and covenants under this Agreement; and (d) Seller shall not be required to acquire or hold title to any real property other than the Property for purposes of consummating the Exchange. Purchaser agrees to defend, indemnify and hold Seller harmless from any liability, damages, or costs, including (without limitation) reasonable attorneys’ fees, that may result from Seller’s acquiescence to the Exchange. Seller shall not, by this Agreement or acquiescence to the Exchange, (1) have its rights under this Agreement, including (without limitation) those that survive Closing, affected or diminished in any manner or (2) be responsible for compliance with or be deemed to have warranted to Purchaser that the Exchange in fact complies with §1031 of the Internal Revenue Code of 1986, as amended. The terms of this Section shall survive Closing.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

**SELLER:**

**SPUS7 GALLERIA, LP**, a Delaware limited partnership

By: SPUS7 Galleria GP, LLC, a Delaware limited liability company, its general partner

By: \_\_\_\_\_/s/ [\*\*\*]  
Name: \_\_\_\_\_/s/ [\*\*\*]  
Title: \_\_\_\_\_/s/ [\*\*\*]  
Date Executed by Seller: January 31, 2020

By:  
Name: \_\_\_\_\_/s/ [\*\*\*]  
Title: \_\_\_\_\_/s/ [\*\*\*]  
Date Executed by Seller: January 31, 2020

**PURCHASER:**

**PIEDMONT DALLAS GALLERIA, LLC,**  
a Delaware limited liability company

By: Piedmont Office Realty Trust, Inc.,  
a Maryland corporation, its sole member

By:       /s/ [\*\*\*]      

Name:       /s/ [\*\*\*]      

Title:       /s/ [\*\*\*]      

Date Executed by Purchaser: January 31, 2020



**JOINDER**

In consideration of Purchaser's execution of the foregoing Agreement (herein so called), the sufficiency of which consideration is hereby acknowledged, CBRE Strategic Partners U.S. Value 7 Holdings, LLC, a Delaware limited liability company, and CBRE SPUS7 Hotel REIT, LLC, a Delaware limited liability company (collectively, "**Joinder Party**") joins in the execution of this Agreement solely for the purpose of being jointly and severally liable with Seller for Seller's post-Closing obligations under the Agreement that survive Closing (subject to the same limitations and conditions applicable to Seller under the Agreement). The combined liability of the Seller and Joinder Party shall accordingly not exceed, in the aggregate, the total sum of the Seller's liability as set forth in Section 9.3.5 of the Agreement (and the liability of Joinder Party pursuant hereto shall accordingly be credited by the amount of any such post-Closing obligations paid or performed by Seller).

**CBRE STRATEGIC PARTNERS U.S. VALUE 7  
HOLDINGS, LLC**, a Delaware limited liability company

By: /s/ [\*\*\*].  
Name: /s/ [\*\*\*]  
Title: /s/ [\*\*\*]

**CBRE SPUS7 HOTEL REIT, LLC**, a Delaware limited liability company

By: /s/ [\*\*\*].  
Name: /s/ [\*\*\*]  
Title: /s/ [\*\*\*]

**JOINDER BY ESCROW AGENT**

Escrow Agent has executed this Agreement in order to confirm that Escrow Agent shall hold the Earnest Money required to be deposited under this Agreement and the interest earned thereto, in escrow, and shall disburse the Earnest Money, and the interest earned thereon, pursuant to the provisions of this Agreement.

**CHICAGO TITLE INSURANCE COMPANY**

By: /s/ [\*\*\*]

Name: /s/ [\*\*\*]

Title: /s/ [\*\*\*]

Date Executed by Escrow Agent: January 31, 2020

TERM LOAN AGREEMENT

Dated as of February 10, 2020

by and among

PIEDMONT OPERATING PARTNERSHIP, LP,  
as Borrower,

PIEDMONT OFFICE REALTY TRUST, INC.,  
as Parent,

SUNTRUST ROBINSON HUMPHREY, INC.,

as Lead Arranger  
and Book Manager,

TRUIST BANK,  
as Administrative Agent,

and

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

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THIS TERM LOAN AGREEMENT (this "Agreement") dated as of February 10, 2020 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"), SUNTRUST ROBINSON HUMPHREY, INC., as Lead Arranger and Book Manager ("Lead Arranger" and "Book Manager"), TRUIST BANK, as Administrative Agent (the "Agent"), and each of the financial institutions initially a signatory hereto together with their assignees pursuant to Section 12.5(b).

WHEREAS, the Borrower has requested that the Agent and the Lenders agree to make a delayed-draw term loan facility available in the aggregate principal amount of \$150,000,000;

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:

## ARTICLE I. DEFINITIONS

### Section 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.

**"Adjusted LIBOR"** means, with respect to each Interest Period for any LIBOR Loan, the rate obtained by dividing (a) LIBOR for such Interest Period by (b) a percentage equal to 1 minus the stated maximum rate (stated as a decimal) of all reserves, if any, required to be maintained with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities") as specified in Regulation D of the Board of Governors of the Federal Reserve System (or against any other category of liabilities which includes deposits by reference to which the interest rate on LIBOR Loans is determined or any applicable category of extensions of credit or other assets which includes loans by an office of any Lender outside of the United States of America to residents of the United States of America). Any change in such maximum rate shall result in a change in Adjusted LIBOR on the date on which such change in such maximum rate becomes effective.

**"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.

**"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 Truist Bank, as administrative agent for the Lenders under the terms of this Agreement, and any of its successors.

“**Agreement Date**” means the date as of which this Agreement is dated.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Affiliates from time to time concerning or relating to bribery, money-laundering or corruption.

“**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 the 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 occurs. 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 Agreement Date and thereafter until changed as provided above, the Applicable Margin is determined based on Level 3.

<b>Level</b>	<b>Credit Rating (S&amp;P/Moody’s)</b>	<b>Applicable Margin for LIBOR Loans</b>	<b>Applicable Margin for Base Rate Loans</b>
1	A-/A3 or higher	0.85%	0.00%
2	BBB+/Baal	0.90%	0.00%
3	BBB/Baa2	0.95%	0.00%
4	BBB-/Baa3	1.25%	0.25%
5	< BBB-/Baa3	1.65%	0.65%

“**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 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 EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“**Bail-In Legislation**” means, 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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

**“Base Rate”** means, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the LIBOR determined on a daily basis for an interest period of one (1) month, plus one percent (1.00%) *per annum*, so long as a daily LIBOR is offered, ascertainable and not unlawful and subject to Section 2.9. Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the LIBOR rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the LIBOR rate, respectively. For the avoidance of doubt, if the Base Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

**“Base Rate Loan”** means any portion of 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”.

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

**“Business Day”** means (a) any day other than a Saturday, Sunday or other day on which banks in Charlotte, North Carolina are authorized or required to close and (b) with reference to a LIBOR Loan, any such day that is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

**“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 and one-quarter percent (6.25%) for CBD or Urban Infill Properties and (ii) 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.

**“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 I 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 2.10 or adjusted to reflect any assignments to or by such Lender effected in accordance with Section 12.5.

**“Commitment Percentage”** means, with respect to any Lender, as applicable, a fraction (expressed as a percentage), the numerator of which shall be the amount of such Lender’s Commitment and the denominator of which shall be the aggregate amount of all of the Lenders’ Commitments; provided, that, in the event that the Commitments have expired or been terminated pursuant to the terms of this Agreement, “Commitment Percentage” shall mean, with respect to any Lender, as applicable, a fraction (expressed as a percentage), the numerator of which shall be the outstanding principal amount of such Lender’s Loans and the denominator of which shall be the aggregate outstanding principal amount of all of the Lenders’ Loans.

**“Commitment Period”** means the period from the Effective Date to the earlier to occur of (a) the date on which Loans have been made in an amount equal to the total Commitments, and (b) August 10, 2020.

**“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.

**“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.

**“Continue”, “Continuation” and “Continued”** each refers to the continuation of a LIBOR Loan from one Interest Period to another Interest Period pursuant to Section 2.6.

**“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.

**“Convert”, “Conversion” and “Converted”** each refers to the conversion of a Loan of one Type into a Loan of another Type pursuant to Section 2.7.

**“Credit Event”** means any of the following: (a) the making (or deemed making) of any Loan, (b) the Continuation of a LIBOR Loan, and (c) the Conversion of a Base Rate Loan into a LIBOR Loan.

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

**“Credit Percentage”** means, as to each Lender, the ratio, expressed as a percentage, of (a) the unpaid principal amount of such Lender’s Loan to (b) the aggregate unpaid principal amount of all Loans.

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

**“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.

**“Delayed Loan Borrowing”** has the meaning given that term in Section 2.1(a).

**“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).

**“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%.

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

**“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 institution 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 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 later of: (a) the Agreement Date; and (b) 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.

**“Eligible Assignee”** means (a) a Lender, (b) an Affiliate of a Lender which Affiliate is a Qualified Institution, (c) an Approved Fund which is a Qualified Institution, 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 3.12, 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 3.12(g), and (e) any U.S. federal withholding Taxes imposed under FATCA.

**"Existing Revolving Credit Facility"** means the \$500,000,000 (subject to increase in accordance with its terms) revolving credit facility evidenced by that certain Revolving Credit Agreement dated as of September 28, 2018 by and among the Borrower, the Parent, the lenders from time to time party thereto as "Lenders", and JPMorgan Chase Bank, N.A., as Agent.

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

**"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 Effective Rate"** means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions, as determined in such manner as the NYFRB shall set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate, provided that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

**"Fees"** means the fees and commissions provided for or referred to in Section 3.6 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 any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau, commission, board, department or other entity (including, without limitation, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Federal Reserve Board, any central bank or any comparable authority) or any arbitrator with authority to bind a party at law.

**"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 Agreement 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.

**“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.

**“Initial Loan Borrowing”** has the meaning given that term in Section 2.1(a).

**“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 Period”** means, with respect to any LIBOR Loan, each period commencing on the date such LIBOR Loan is made, or in the case of the Continuation of a LIBOR Loan the last day of the preceding Interest Period for such Loan, and ending 1, 2 (if available) or 3 months or, if available from all of the Lenders, periods of less than one month thereafter, as the Borrower may select in the Notice of Borrowing, or a Notice of Continuation or Notice of Conversion, as the case may be, except that each Interest Period that commences on the last Business Day of a calendar month, or on a day for which there is no corresponding day in the appropriate subsequent calendar month, shall end on the last Business Day of the appropriate subsequent calendar month. Notwithstanding the foregoing: (i) if any Interest Period would otherwise end after the Termination Date, such Interest Period shall end on the Termination Date; and (ii) each Interest Period that would otherwise end on a day which is not a Business Day shall end on the immediately following Business Day (or, if such immediately following Business Day falls in the next calendar month, on the immediately preceding Business Day).

**“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.

**“Lead Arranger”** means SunTrust Robinson Humphrey, Inc., together with its successors and permitted assigns.

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

**“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.”

**“LIBO Screen Rate”** has the meaning given that term in the definition of “LIBOR” in Section 1.1.

**“LIBOR”** means, with respect to any LIBOR Loan for any Interest Period, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the London interbank offered rate) for deposits in Dollars for a period equivalent in length to such Interest Period as displayed on page LIBOR01 of the Reuters screen (or on any successor or substitute page of such service or any successor to such service, or such other commercially available source providing such quotations as may be designated by Agent from time to time); in each case the **“LIBO Screen Rate”**) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero; provided further that if the LIBO Screen Rate is not available at any such time for any reason, then “LIBOR” shall instead be the interest rate per annum, as determined by the Agent, to be the arithmetic average of the rates per annum at which deposits in U. S. Dollars in an amount equal to the amount of the Loans are offered by major banks in the London interbank market to the Agent at approximately 11:00 A.M. (London time), two (2) Business Days prior to the commencement of such Interest Period (provided that if such rate is less than zero, such rate shall be deemed to be zero)..

**“LIBOR Loan”** means any portion of a Loan bearing interest at a rate based on LIBOR.

**“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(a).

**“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 Agreement Date.

**“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.

**“Mandatory Prepayment Event”** means (a) the issuance or offering of common or preferred equity securities by the Parent or the Borrower, (b) the incurrence of (i) Indebtedness secured by a mortgage lien on any Property owned or ground-leased by the Borrower or a Subsidiary of the Borrower or (ii) any unsecured Indebtedness (excluding Indebtedness under the Existing Revolving Credit Facility pursuant to existing commitments (whether or not such existing commitments have been funded as of the Agreement Date) and including an issuance or offering of unsecured notes or the borrowing of incremental loans under a revolving credit or term loan facility pursuant to new commitments provided after the Agreement Date) of the Parent, the Borrower or any Subsidiary of the Borrower, and (c) sale or other disposition of any Property owned or ground-leased by the Parent, the Borrower or a Subsidiary of the Borrower. For the avoidance of doubt, Indebtedness under the Existing Revolving Credit Facility in an aggregate amount of up to \$500,000,000 at any time outstanding shall not constitute a “Mandatory Prepayment Event” hereunder.

**“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,

**“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 (a) any Mandatory Prepayment Event that is an issuance of equity or incurrence of Indebtedness, the cash proceeds received by the Parent, the Borrower or a Subsidiary of the Borrower, as the case may be, from such Mandatory Prepayment Event, net of (i) attorneys’ fees, broker’s fees, investment banking fees, accountants’ fees, underwriting discounts and commissions and other customary fees and expenses actually incurred and payable to third parties in connection therewith, (ii) amounts escrowed or applied to fund any reserve required by the holder of such Indebtedness (provided that, to the extent and at the time any such amounts are released from such escrow or reserve without restriction on application, such amounts shall constitute Net Cash Proceeds), and (iii) the principal amount, premium and/or penalty, if any, interest and all other amounts paid with respect to any Indebtedness which is being refinanced by such Indebtedness, and (b) any Mandatory Prepayment Event that is a sale or disposition of property, the cash proceeds thereof received by the Borrower or a Subsidiary of the Borrower, as the case may be (including (x) cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received, and (y) in the case of a condemnation or similar event, condemnation awards and similar payments (as and when received) to the extent that a mortgage lender does not require payments or proceeds to be escrowed or applied to the payment of the Indebtedness held by such mortgage lender and to the extent not assigned to the buyer of any property that included the condemned property), net of (i) selling expenses (including, without limitation, broker’s fees or commissions, legal fees, transfer and similar taxes, any closing credits to buyer or tenants for landlord-related obligations and the Borrower’s good faith estimate of income taxes paid or payable in connection with such sale), (ii) amounts escrowed or provided as a reserve, in accordance with GAAP, against any liabilities under any indemnification obligations or purchase price adjustment associated with such sale or disposition of property (provided that, to the extent and at the time any such amounts are released from such escrow or reserve, such amounts shall constitute Net Cash Proceeds) and (iii) the principal amount, premium and/or penalty, if any, interest and all other amounts on any Indebtedness which is secured by the asset sold in such sale or disposition of property and which is required to be repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such asset).

**“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”** has the meaning given that term in Section 2.8.

**“Notice of Borrowing”** means a notice in the form of Exhibit B to be delivered to the Agent evidencing the Borrower’s request for a borrowing of the Loans.

**“Notice of Continuation”** means a notice in the form of Exhibit C to be delivered to the Agent pursuant to Section 2.6 evidencing the Borrower’s request for the Continuation of a LIBOR Loan.

**“Notice of Conversion”** means a notice in the form of Exhibit D to be delivered to the Agent pursuant to Section 2.7 evidencing the Borrower’s request for the Conversion of a portion of a Loan from one Type to another Type.

**“NYFRB”** means the Federal Reserve Bank of New York.

**“NYFRB Rate”** means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Agent from a federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

**“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 of 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).

“**Overnight Bank Funding Rate**” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

“**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 set forth in Section 12.5(d).

**"Patriot Act"** means the USA PATRIOT Act of 2001.

**"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 Agreement Date and set forth in Part II of Schedule 6.1(f).

**"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 a rate per annum equal to the Base Rate as in effect from time to time plus the Applicable Margin for Base Rate Loans plus two percent (2%).

**"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.

**“Prime Rate”** means the per annum rate which Agent publicly announces from time to time to be its prime lending rate, as in effect from time to time (any changes in such rate to be effective as of the date of any change in such rate). The Agent’s prime lending rate is a reference rate and does not necessarily represent the lowest or best rate charged to customers. The Agent may make commercial loans or other loans at rates of interest at, above or below the Agent’s prime lending rate.

**“Principal Office”** means the address of the Agent specified in Section 12.1, or any subsequent office which the Agent shall have specified by written notice to the Borrower and Lenders as the Principal Office referred to herein, to which payments due are to be made and at which Loans will be disbursed.

**“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.

**“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, as applicable.

**“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 Agreement Date (or, with respect to any Lender, such later date on which such Lender became a party to this Agreement) 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 specified Person, such Person’s Affiliates and the respective partners, shareholders, directors, officers, employees, agents, counsel and advisors of such Person and such Person’s Affiliates.

“**Replacement Rate**” has the meaning given that term in Section 4.2(b).

“**Requisite Lenders**” means, as of any date, Lenders holding more than 50% of the sum of the aggregate unused Commitments plus the aggregate outstanding principal amount of the Loans; provided that at any time there are more than two Lenders, Requisite Lenders must consist of at least two Lenders.

“**Responsible Officer**” means with respect to the Parent or any Subsidiary, the chief executive officer, the chief financial officer, the treasurer and any executive vice president of the Parent (acting for itself or as general partner of the Borrower) or such Subsidiary.

“**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.

“**Sanctioned Country**” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, and Syria).

“**Sanctioned Person**” means, at any time, (a) any Person (i) listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State or (ii) otherwise the subject of any Sanctions, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“**Sanctions**” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State.

“**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.

**“Senior Officer”** means the chief executive officer, chief financial officer, Executive Vice President–Capital Markets, Executive Vice President–Operations and chief accounting officer of the Parent or the Borrower.

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

**“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 Rating Services, a Standard & Poor’s Financial Services LLC business, 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.

**“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 August 10, 2020, subject to extension as set forth in Section 2.11 .

**“Titled Agents”** means each of the Lead Arranger, the Book Manager 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.

**“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 Agreement Date, if such Property was a Transition Property on the Agreement 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 Agreement Date, or (ii) the end of the eighth (8th) complete fiscal quarter after the Agreement Date or such later date on which such Property most recently became a Transition Property.

**“Type”** with respect to any portion of a Loan, refers to whether such portion is a LIBOR Loan or Base Rate Loan.

**“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.

**“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. 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 set forth in Section 3.12(g)(ii)(B)(iii).

**“Withholding Agent”** means the Borrower and the Agent.

**“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.

**“Write-Down and Conversion Powers”** means, 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.

### **Section 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.

### **Section 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.

## **ARTICLE II. CREDIT FACILITY**

### **Section 2.1. Term Loans.**

(a) Generally. Subject to the terms and conditions set forth in this Agreement, during the Commitment Period, each Lender hereby severally and not jointly agrees to make a term loan (each individually, a “Loan” and, collectively, the “Loans”), in Dollars, to the Borrower as requested by the Borrower in accordance with Section 2.1(b) (the first of such draws, the “Initial Loan Borrowing” and the subsequent borrowing, the “Delayed Loan Borrowing”, and collectively, the “Loan Borrowings”);



provided that (i) the Initial Loan Borrowing and any Delayed Loan Borrowing shall be in a minimum amount of \$1,000,000, and not more than 3 Delayed Loan Borrowings shall be permitted, (ii) all Loan Borrowings shall be made no later than the last day of the Commitment Period, (iii) the aggregate principal amount of such Loan Borrowing shall not exceed the amount of the unused Commitments on the date of (and immediately prior to) such Loan Borrowing, and (iv) the principal amount of Loans made by any Lender to the Borrower shall not exceed such Lender's Commitment. No Lender shall be responsible for any failure by any other Lender to perform its obligation to make a Loan hereunder nor shall the Commitment of any Lender be increased or decreased as a result of any such failure. The Loans, or any portion thereof, may be either a Base Rate Loan or a LIBOR Loan, as determined by the Borrower in any Notice of Borrowing, any Notice of Continuation, any Notice of Conversion or as otherwise provided in this Agreement. The Commitments, with respect to the making of the Loans (and not with respect to the obligations of the Lenders to convert or continue any Loans), shall expire on the last day of the Commitment Period (regardless of the failure of the Borrower to request Borrowings or the failure of the Borrower to fully utilize the Commitments).

(b) Requesting Loans. The Borrower shall give the Agent notice pursuant to the Notice of Borrowing of each borrowing of Loans no later than 11:00 a.m. (i) in the case of LIBOR Loans, on the date three Business Days prior to the proposed date of such borrowing and (ii) in the case of Base Rate Loans, on the date one Business Day prior to the proposed date of such borrowing. Such Notice of Borrowing shall be irrevocable once given and binding on the Borrower.

(c) Disbursements of Loan Proceeds. No later than 11:00 a.m. on the date specified in the Notice of Borrowing, each Lender will make available for the account of its applicable Lending Office to the Agent at the Principal Office, in immediately available funds, the proceeds of the Loan to be made 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 available to the Borrower no later than 1:00 p.m. on the date and to the account specified by the Borrower in such Notice of Borrowing.

## **Section 2.2. Rates and Payment of Interest on Loans.**

(a) Rates. Subject to Section 4.2 and Section 4.3, 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 any portion of the Loans is a Base Rate Loan, at the Base Rate (as in effect from time to time) plus the Applicable Margin; and

(ii) during such periods as any portion of the Loans is a LIBOR Loan, (A) at Adjusted LIBOR for such Loan for the Interest Period therefor plus the Applicable Margin or (B) from and after implementation of the Replacement Rate pursuant to Section 4.2(b), at the Replacement Rate in effect for the applicable Interest Period 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 the Loans made by such Lender and on any other amount payable by the Borrower hereunder or under the Note 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 (i) in the case of a Base Rate Loan, monthly in arrears on the first day of each calendar month (including, without limitation, any interest payable with respect to a Base Rate Loan that was Converted to or Converted from a LIBOR Loan during such prior month) and on the Termination Date, (ii) in the case of a LIBOR Loan, in arrears on the last day of each Interest Period therefor, and, if such Interest Period is longer than three months, at each three-month anniversary of the first day of such Interest Period (including, without limitation, any interest payable with respect to a LIBOR Loan or any portion thereof that was Converted to or Converted from a Base Rate Loan during such prior month) and on the Termination Date, and (iii) in the case of any Loan, in arrears upon the payment, prepayment or Continuation thereof (but only on the principal amount so paid, prepaid or Continued). Interest payable at the Post-Default Rate shall be payable from time to time on demand. Promptly after the determination of any interest rate provided for herein or any change therein, the Agent shall give notice thereof to the Lenders to which such interest is payable and to the Borrower. All determinations by the Agent of an interest rate hereunder shall be conclusive and binding on the Lenders and the Borrower for all purposes, absent manifest error.

### **Section 2.3. Number of Interest Periods.**

There may be no more than 4 different Interest Periods for LIBOR Loans outstanding at the same time.

### **Section 2.4. 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. Any Loans that are prepaid may not be reborrowed.

### **Section 2.5. Prepayments.**

(a) Optional. Subject to Section 4.4, the Borrower may prepay the Loans, in whole or in part, at any time without premium or penalty. The Borrower shall give the Agent at least one Business Day's prior written notice of the prepayment of any portion of the Loan.

(b) Mandatory. From and after the Effective Date, the Borrower shall prepay outstanding Loans with the Net Cash Proceeds received by the Parent, the Borrower or any Subsidiary of the Borrower from any Mandatory Prepayment Event that occurs on or after the Effective Date. The Borrower shall make such payments to the Agent for the account of the Lenders, within five (5) Business Days after such Net Cash Proceeds are received. In the case of any prepayment made or to be made in connection with this Section 2.5(b): (A) the Borrower shall deliver to the Agent at least three (3) Business Days' prior written notice of such prepayment together with a certificate of a Responsible Officer of the Borrower setting forth in reasonable detail the calculation of the Net Cash Proceeds to be prepaid; (B) the Agent will promptly notify each Lender of its receipt of such Notice of Prepayment and of the amount of such Lender's Commitment Percentage of such prepayment; (C) the Borrower shall make such prepayment and the payment amount specified in such Notice of Prepayment shall be due and payable on the date specified therein; (D) any prepayment of a LIBOR Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 4.4; and (E) each such repayment shall be applied to the applicable Loans of the Lenders in accordance with their respective Commitment Percentages. The failure of the Borrower to make a required repayment under this Section 2.5(b) following the occurrence of a Mandatory Prepayment Event shall constitute an Event of Default hereunder. Any Loans that are prepaid may not be reborrowed.

(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).

#### **Section 2.6. Continuation.**

So long as no Default or Event of Default shall exist, the Borrower may on any Business Day, with respect to any LIBOR Loan, elect to maintain such LIBOR Loan or any portion thereof as a LIBOR Loan by selecting a new Interest Period for such LIBOR 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 Notice of Continuation 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 shall be by telephone or telecopy, confirmed immediately in writing if by telephone, in the form of a Notice of Continuation, specifying (a) the proposed date of such Continuation, (b) the LIBOR Loan 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 Notice of Continuation shall be irrevocable by and binding on the Borrower once given. Promptly after receipt of a Notice of 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 LIBOR 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 LIBOR Loan with an Interest Period of one Month. If a Default or Event of Default shall exist, each LIBOR 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 2.7 or the Borrower's failure to comply with any of the terms of such Section.

#### **Section 2.7. Conversion.**

The Borrower may on any Business Day, upon the Borrower's giving of a Notice of Conversion 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 may not be Converted to a LIBOR Loan if a Default or Event of Default shall exist. Any Conversion of a LIBOR Loan into a Base Rate Loan shall be made on, and only on, the last day of an Interest Period for such LIBOR Loan. Each such Notice of 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 and on the third Business Day prior to the date of any proposed Conversion into LIBOR Loans. Promptly after receipt of a Notice of 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 Notice of Conversion shall be by telephone (confirmed immediately in writing) or telecopy in the form of a Notice of Conversion 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 LIBOR Loan, the requested duration of the Interest Period of such Loan. Each Notice of Conversion shall be irrevocable by and binding on the Borrower once given.

#### **Section 2.8. Notes.**

(a) Notes. Unless a Lender requests not to receive a 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 “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 Commitment as originally in effect (or if such Lender was not a Lender on the Effective Date, in a principal amount equal to the initial principal amount of the Loan of such Lender) and otherwise duly completed.

(b) Records. The date, amount, interest rate, Type and duration of Interest Periods (if applicable) of the 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.

(c) Lost, Stolen, Destroyed or Mutilated Notes. Upon receipt by the Borrower of (i) written notice from a Lender that the 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.

#### **Section 2.9. [Reserved].**

#### **Section 2.10. Termination or Reduction of Commitments.**

(a) Unless previously terminated, the unused Commitments shall terminate on the last day of the Commitment Period.

(b) If (i) a Mandatory Prepayment Event occurs at any time during the Commitment Period, (ii) there are any unused Commitments on such date, and (iii) the Borrower elects to reduce the Commitments in lieu of making a mandatory prepayment of the Loans pursuant to Section 2.5(b) (or there are no Loans outstanding), then on the date of such Mandatory Prepayment Event, the unused Commitments shall be reduced by an amount equal to the Net Cash Proceeds received by the Parent, the Borrower or any Subsidiary of the Borrower from such Mandatory Prepayment Event. On the date of such Mandatory Prepayment Event, the Borrower shall deliver to the Agent a certificate of a Responsible Officer of the Borrower confirming the Borrower’s election to reduce the Commitments (in lieu of making the mandatory prepayment of Loans) and setting forth in reasonable detail the calculation of the Net Cash Proceeds to be applied to such reduction of the Commitments, whereupon the Commitment of each Lender shall be reduced by an amount equal to such Lender’s Commitment Percentage of such Net Cash Proceeds.

(c) The Borrower may at any time terminate, or from time to time reduce, the unused Commitments; provided that each reduction of the unused Commitments shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000.

(d) The Borrower shall notify the Agent of any election to terminate or reduce the Commitments under paragraph (c) of this Section 2.10 by 2:00 p.m. at least one (1) Business Day prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section 2.10 shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Agent on or prior to the specified effective date) if such condition is not

satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitment Percentages.

#### **Section 2.11. Extension of Termination Date.**

If any Loans have been borrowed hereunder and are outstanding, the Borrower shall have the right, exercisable twice, to extend the Termination Date by three (3) months per extension (for a maximum total extension to February 10, 2021). The Borrower may exercise each such right by executing and delivering to the Agent at least 15 days but not more than 30 days prior to the then 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 for three (3) months 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 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 to the Agent for the account of each Lender an extension fee equal to 0.025% (i.e., 2.5 basis points) of the outstanding principal amount of such Lender's Loans at the time of such extension.

### **ARTICLE III. PAYMENTS, FEES AND OTHER GENERAL PROVISIONS**

#### **Section 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 its Principal 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 10.3, 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. Each payment received by the Agent for the account of a Lender under this Agreement or any Note shall be paid to such Lender at the applicable Lending Office of such Lender no later than 5:00 p.m. on the date of receipt. If the Agent fails to pay such amount to a Lender as provided in the previous sentence, the Agent shall pay interest on such amount until paid at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect. 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.

If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.1(c) or Section 11.7, then the Agent may, in its discretion and notwithstanding any contrary provision hereof, apply any amounts thereafter received by the Agent for the account of such Lender for the benefit of the

Agent to satisfy such Lender's obligations to it under such Sections until all such unsatisfied obligations are fully paid.

### **Section 3.2. Pro Rata Treatment.**

Except to the extent otherwise provided herein: (a) each borrowing from the Lenders under Section 2.1 shall be made from the Lenders and each termination or reduction of the amount of the Commitments under Section 2.10 shall be applied to the respective Commitments of the Lenders, pro rata according to the amounts of their respective Commitment Percentages; (b) each payment or prepayment of principal of the Loans by the Borrower shall be made for the account of the Lenders pro rata in accordance with the respective unpaid principal amounts of the Loans held by them; (c) each payment of interest on the Loans by the Borrower shall be made for the account of the Lenders pro rata in accordance with the amounts of interest on such Loans then due and payable to the respective Lenders; and (d) the making, Conversion and Continuation of Loans of a particular Type (other than Conversions provided for by Section 4.6) shall be made pro rata among the Lenders according to the amounts of their respective Commitment Percentages and the then current Interest Period for each Lender's portion of each Loan of such Type shall be coterminous.

### **Section 3.3. Sharing of Payments, Etc.**

If a Lender shall obtain payment of any principal of, or interest on, the Loans 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 3.2 or Section 10.3, 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 3.2 or Section 10.3, 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 Commitment 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.

### **Section 3.4. 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.

### **Section 3.5. Minimum Amounts.**

(a) Borrowings and Conversions. 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, Conversion and Continuation of LIBOR 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 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).

### **Section 3.6. Fees.**

The Borrower agrees to pay the administrative and other fees of the Agent and the Lead Arranger as may be agreed to in writing by the Borrower, the Agent and the Lead Arranger from time to time.

### **Section 3.7. Computations.**

Unless otherwise expressly set forth herein, any accrued interest on any LIBOR Loan, shall be computed on the basis of a year of 360 days and the actual number of days elapsed and any accrued interest on any Base Rate Loan, any Fees or any other Obligations due hereunder 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.

### **Section 3.8. 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.

### **Section 3.9. 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 2.2(a)(i) and (ii). Notwithstanding the foregoing, the parties hereto further agree and stipulate that all agency fees, syndication fees, closing 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.

### **Section 3.10. 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.

### **Section 3.11. [Reserved].**

### **Section 3.12. Taxes.**

(a) Defined Terms. For purposes of this Section 3.12, “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 by such Recipient or required to be withheld or deducted from a payment to such Recipient.

(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 3.12, 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 3.12(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:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, 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;

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

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit 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

(iv) 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 or 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 3.12 (including by the payment of additional amounts pursuant to this Section 3.12), 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 3.12 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 3.12 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.

#### **ARTICLE IV. YIELD PROTECTION, ETC.**

##### **Section 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 (except any such reserve requirement reflected in the Adjusted LIBO Rate or the Replacement Rate);

(ii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or participation therein; 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 reduce the amount of any sum received or receivable by such Lender or such other Recipient hereunder (whether of principal, interest or otherwise) and (y) such Lender or other Recipient 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.

#### **Section 4.2. Alternate Rate of Interest.**

(a) If at any time, the Agent shall have (i) determined (which determination shall be conclusive and binding upon the Borrower) that by reason of circumstances affecting the relevant interbank market, adequate means do not exist for ascertaining the Adjusted LIBOR or LIBOR, as applicable (including, without limitation, because the LIBO Screen Rate is not available or published on a current basis) and such circumstances are likely to be temporary, or (ii) received notice from the Requisite Lenders that the Adjusted LIBOR or LIBOR, as applicable, does not adequately and fairly reflect the cost to such Lenders of making, funding or maintaining the Loans, then the Agent shall give written notice thereof (or telephonic notice, promptly confirmed in writing) to the Borrower and the Lenders as soon as practicable thereafter. Until the Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, the Loans shall be converted to Loans bearing interest at the Base Rate.

(b) Notwithstanding the foregoing clause (a), if at any time the Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) above have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) above have not arisen but (x) the administrator of the LIBO Screen Rate, the applicable supervisor for the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over the Agent has made a public statement that the administrator of the LIBO Screen Rate has ceased or will cease to provide the LIBO Screen Rate permanently or indefinitely or (y) the applicable supervisor for the administrator of the LIBO Screen Rate has made a public statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBO Screen Rate), then the Agent may, in consultation with the Borrower, establish as a substitute for LIBOR an interest rate based on an alternative reference rate selected by the central bank, reserve bank, monetary authority or any similar institution (including any committee or working group thereof) that is consistent with accepted market practice (such alternative reference rate, the

“Alternative Index”) giving due consideration to then prevailing market conventions, including without limitation, by making adjustments (“Adjustments”) to the Alternative Index so that the interest rate based on the Alternative Index will be substantially equivalent to LIBOR, as well as adjustments to the business day convention, interest rate determination dates and related provisions and definitions (the Alternative Index, as adjusted by the Adjustments, referred to as the “Replacement Rate”). The Agent and the Borrower shall endeavor to enter into an amendment to this Agreement to reflect the Replacement Rate, and notwithstanding anything to the contrary set forth in Section 12.6, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Agent shall not have received, within five (5) Business Days of the date notice of such Replacement Rate is provided to the Lenders, a written notice from the Requisite Lenders stating that such Requisite Lenders object to such amendment. Until such an amendment has been executed, (y) in the case of the circumstances described in clause (i) of the first sentence of this Section 4.2(b), the Loans shall bear interest at the Base Rate as provided in Section 4.2(a), and (z) in the case of the circumstances described in clause (ii) of the first sentence of this Section 4.2(b), while the LIBO Screen Rate for such Interest Period continues to be published at such time on a current basis, the Loans shall continue to bear interest at Adjusted LIBOR plus the Applicable Margin. If at any time the Replacement Rate is less than zero percent (0%), the Replacement Rate will be deemed to be zero percent (0%) for purposes of this Agreement. Absent manifest error, the Agent’s determination of the Replacement Rate for an interest rate period will be binding and conclusive on the parties.

(c) If at any time subsequent to implementation of the Replacement Rate, the Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that adequate means do not exist for ascertaining the Replacement Rate, then the Agent shall give written notice thereof (or telephonic notice, promptly confirmed in writing) to Borrower and the Lenders as soon as practicable thereafter. Until the Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, the Loans shall be converted to Loans bearing interest at the Base Rate.

#### **Section 4.3. Illegality.**

Notwithstanding any other provision of this Agreement, if any Lender shall reasonably determine (which determination shall be conclusive and binding) that it has become unlawful for such Lender to honor its obligation to make or maintain LIBOR Loans hereunder, then such Lender shall promptly notify the Borrower thereof (with a copy to the Agent) and such Lender’s obligation to make, to Continue, or to Convert Base Rate Loans into LIBOR Loans shall be suspended until such time as such Lender may again make or maintain LIBOR Loans (in which case the provisions of Section 4.6 shall be applicable).

#### **Section 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 LIBOR Loan, or Conversion of a LIBOR 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 LIBOR Loan from such Lender on the requested date for such borrowing, or to Convert a Base Rate Loan into a LIBOR Loan or Continue a LIBOR Loan on the requested date of such Conversion or Continuation; or

(c) the assignment of any LIBOR 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. Calculation of all amounts payable to a Lender under this Section shall be made as though such Lender had actually funded LIBOR Loans through the purchase of deposits in the relevant market bearing interest at the rate applicable to such LIBOR Loans in an amount equal to the amount of the LIBOR Loans and having a maturity comparable to the relevant Interest Period.

#### **Section 4.5. Affected Lenders.**

If (a) a Lender requests compensation pursuant to Section 3.12 or 4.1, and the Requisite Lenders are not also doing the same, or (b) the obligation of any Lender to make LIBOR Loans or to Continue, or to Convert Base Rate Loans into, LIBOR 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 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 Loans and any unused Commitment 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 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, 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 any unused 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 3.12 or 4.1 with respect to periods up to the date of replacement.

#### **Section 4.6. Treatment of Affected Loans.**

If the obligation of any Lender to make LIBOR Loans or to Continue, or to Convert Base Rate Loans into, LIBOR Loans shall be suspended pursuant to Section 4.3, then such Lender's LIBOR Loans shall be automatically Converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for LIBOR 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 LIBOR 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) (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 LIBOR Loans have been so Converted, all payments and prepayments of principal that would otherwise be applied to such Lender's LIBOR Loans shall be applied instead to its Base Rate Loans; and

(b) any portion of such Lender's Loans that would otherwise be made or Continued by such Lender as LIBOR 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 LIBOR 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 LIBOR 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 LIBOR Loans of 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 LIBOR Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding LIBOR Loans and by such Lender are held pro rata (as to principal amounts, Types and Interest Periods) in accordance with their respective Commitment Percentages.

#### **Section 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 portion of its Loan affected by the matters or circumstances described in Section 3.12, 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 of America.

### **ARTICLE V. CONDITIONS PRECEDENT**

#### **Section 5.1. Initial Conditions Precedent.**

The effectiveness of this Agreement and obligation of the Lenders to make the Loans 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;
  - (ii) Notes executed by the Borrower, payable to each Lender and complying with the applicable provisions of Section 2.8;
  - (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, 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 Notices of Borrowing, Notices of Continuation and Notices of Conversion;
  - (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 3.6, 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, 2019 (and, if any Loans are funded on the Effective Date, updated to give pro forma effect to the financing contemplated by this Agreement and the use of the proceeds of any Loans funded on the Effective Date);

(xii) [reserved];

(xiii) (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

(xiv) 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, 2018 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; and

(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.

#### **Section 5.2. Additional Conditions Precedent.**

The obligations of the Lenders to make any Loans is subject to the further condition precedent that: (a) no Default or Event of Default shall exist as of the date of the making of such Loans or would exist immediately after giving effect thereto; 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, 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 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 (or, in the case of any such representation or warranty already qualified by materiality, in all respects) on and as of such earlier date) and except for changes in factual circumstances not prohibited under the Loan Documents. Each Credit Event shall constitute a certification by the Parent and the Borrower to the effect set forth in the preceding sentence (both as of the date of the giving of notice relating to such Credit Event and, unless the Borrower otherwise notifies the Agent prior to the date of such Credit Event, as of the date of the occurrence of such Credit Event). In addition, if such Credit Event is the making of a Loan, the Parent and the Borrower shall be deemed to have represented to the Agent and the Lenders at the time such Loan is made that all conditions to the occurrence of such Credit Event contained in this Article V have been satisfied.

### **ARTICLE VI. REPRESENTATIONS AND WARRANTIES**

#### **Section 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 Agreement 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 Agreement 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 Agreement 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 Revolving Credit Facility; 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 Agreement 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 Agreement 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 Agreement 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, 2018, 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 & Touche LLP, and (ii) the unaudited consolidated balance sheet of the Parent and its consolidated Subsidiaries for the fiscal quarter ending September 30, 2019, 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 Agreement 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, 2018, 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 Agreement 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 Agreement 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 Agreement Date, Schedule 6.1(x) is a correct and complete list of all Eligible Properties. Schedule 6.1(x) sets forth as of the Agreement 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) Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and, to the extent they are acting in any capacity in connection with the credit facility established hereby, agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and employees and to the knowledge of the Borrower its directors and, to the extent they are acting in any capacity in connection with the credit facility established hereby, agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Borrower, any Subsidiary or, to the knowledge of the Borrower or such Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of the Borrower, any agents of the Borrower or any Subsidiary to the extent that they are acting in any capacity in connection with the credit facility established hereby, is a Sanctioned Person. No Loan, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

(z) 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.

(aa) EEA Financial Institution. No Loan Party is an EEA Financial Institution.

## **Section 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 Agreement 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 Agreement Date, the Effective Date and the date of the occurrence of any Credit Event, 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.

## **ARTICLE 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:

### **Section 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.

### **Section 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 maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and, to the extent they are acting in any capacity in connection with the credit facility established hereby, agents with Anti-Corruption Laws and applicable Sanctions.

### **Section 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.



#### **Section 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).

#### **Section 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.

#### **Section 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.

#### **Section 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.

#### **Section 7.8. Use of Proceeds.**

The Borrower shall use the proceeds of the Loans for general corporate purposes only, including without limitation, repayment of Indebtedness. No part of the proceeds of the Loans 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 any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, 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.

#### **Section 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.

#### **Section 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.

#### **Section 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.

#### **Section 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.

#### **Section 7.13. REIT Status.**

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

#### **Section 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.

### **ARTICLE 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:

#### **Section 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).

### **Section 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.

### **Section 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 of 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.

### **Section 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 of 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) 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.

#### **Section 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 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 8.1, 8.2, and 8.4(b) and (c) by posting any such Information to the Parent’s internet website (as of the Agreement Date, [www.piedmontreit.com](http://www.piedmontreit.com)) or to the website of the Securities and Exchange Commission ([www.sec.gov](http://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 the Borrower's 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, THE LEAD ARRANGER 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 or 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.

#### **Section 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".

### **ARTICLE 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:

#### **Section 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, 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 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 (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 Secured Indebtedness that matures within 24 months of such date of determination) 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, 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.

### **Section 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.

### **Section 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 Agreement 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.

### **Section 9.4. [Reserved].**

### **Section 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 Agreement 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.

#### **Section 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.

#### **Section 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, 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 of 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 of America, 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.

#### **Section 9.8. Fiscal Year.**

The Parent shall not change its fiscal year from that in effect as of the Agreement Date.

#### **Section 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.

#### **Section 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.

#### **Section 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.

### **ARTICLE X. DEFAULT**

#### **Section 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 Agreement 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 the Existing Revolving Credit Facility shall occur.

## **Section 10.2. Remedies Upon Event of Default.**

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

(a) Acceleration.

(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 (ii) 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) the unused Commitments and the obligation of the Lenders to make Loans hereunder shall 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 unused 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.

### **Section 10.3. 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 the Loans, to be applied for the ratable benefit of the Lenders;
- (d) payments of principal on the Loans, to be applied for the ratable benefit of the Lenders;
- (e) amounts due the Agent and the Lenders pursuant to Sections 11.7 and 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.

#### **Section 10.4. 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.

#### **Section 10.5. 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.

### **ARTICLE XI. THE AGENT**

#### **Section 11.1. Authorization and Action.**

Each Lender hereby appoints and authorizes the Agent to take such action as contractual representative on such Lender's behalf and to exercise such powers under this Agreement and the other Loan Documents as are specifically delegated to the Agent by the terms hereof and thereof, together with such actions and powers as are reasonably incidental thereto. Not in limitation of the foregoing, each Lender authorizes and directs the Agent to enter into the Loan Documents for the benefit of the Lenders. Each Lender hereby agrees that, except as otherwise set forth herein, any action taken by the Requisite Lenders in accordance with the provisions of this Agreement or the Loan Documents, and the exercise by the Requisite Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. Nothing herein shall be construed to deem the Agent a trustee or fiduciary for any Lender or to impose on the Agent duties or obligations other than those expressly provided for herein. 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. At the request of a Lender, the Agent will forward to such Lender copies or, where appropriate, originals of the documents delivered to the Agent pursuant to this Agreement or the other Loan Documents. The Agent

will also furnish to any Lender, upon the request of such Lender, a copy of any certificate or notice furnished to the Agent by the Borrower, any other Loan Party or any other Affiliate of the Borrower, pursuant to this Agreement or any other Loan Document not already delivered to such Lender pursuant to the terms of this Agreement or any such other Loan Document. The Agent shall not have any duties or obligations except those expressly set forth herein. As to any matters not expressly provided for by the Loan Documents (including, without limitation, enforcement or collection of any of the Obligations), the Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Requisite Lenders (or all of the Lenders if explicitly required under any other provision of this Agreement), and such instructions shall be binding upon all Lenders and all holders of any of the Obligations; provided, however, that, notwithstanding anything in this Agreement to the contrary, the Agent shall not be required to take any action which exposes the Agent to personal liability or which is contrary to this Agreement or any other Loan Document or Applicable Law. Not in limitation of the foregoing, the Agent shall not exercise any right or remedy it or the Lenders may have under any Loan Document upon the occurrence of a Default or an Event of Default unless the Requisite Lenders (or all of the Lenders if explicitly required under any provision of this Agreement) have so directed the Agent to exercise such right or remedy. The Agent may perform any 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 of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Commitments as well as activities as Agent. The Agent shall not be responsible for the negligence or misconduct of any sub-agent 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-agent. With the exception of Section 11.8 hereof, the provisions of this Article XI are solely for the benefit of the Agent and the Lenders, and the Borrower shall not have rights as a third-party beneficiary of any of such provisions.

#### **Section 11.2. Agent's Reliance, Etc.**

Notwithstanding any other provisions of this Agreement or any other Loan Documents, neither the Agent nor any of its directors, officers, agents, employees or counsel shall be liable to any Lender for any action taken or omitted to be taken by it or them under or in connection with this Agreement or any other Loan Document, except for its or their own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment. Without limiting the generality of the foregoing, the Agent: (a) may treat the payee of any Note as the holder thereof until the Agent receives written notice of the assignment or transfer thereof signed by such payee and in form satisfactory to the Agent; (b) may consult with legal counsel (including its own counsel or counsel for the Borrower or any other Loan Party), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (c) makes no warranty or representation to any Lender or any other Person and shall not be responsible to any Lender or any other Person for any statements, warranties or representations made by any Person in or in connection with this Agreement or any other Loan Document; (d) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of any of this Agreement or any other Loan Document or the satisfaction of any conditions precedent under this Agreement or any Loan Document on the part of the Parent, the Borrower, any Loan Party or other Persons (except for the delivery to it of any certificate or document specifically required to be delivered to it pursuant to Section 5.1) or inspect the property, books

or records of the Parent, the Borrower, any Loan Party or any other Person; (e) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document, any other instrument or document furnished pursuant thereto or any collateral covered thereby or the perfection or priority of any Lien in favor of the Agent on behalf of the Lenders in any such collateral; (f) shall incur no liability to any Lender under or in respect of this Agreement or any other Loan Document by acting upon any notice, consent, certificate or other instrument or writing (which may be by telephone or telecopy) believed by it to be genuine and signed, sent or given by the proper party or parties; and (g) except as expressly set forth herein, the Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, the Parent or any of their respective Subsidiaries that is communicated to or obtained by the bank serving as Agent or any of its Affiliates in any capacity. Unless set forth in writing to the contrary, the making of its Loan by a Lender shall constitute a certification by such Lender to the Agent and the other Lenders that the Borrower has satisfied the conditions precedent for initial Loans set forth in Sections 5.1 and 5.2 and that have not previously been waived by the Requisite Lenders.

### **Section 11.3. Notice of Defaults.**

The Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or Event of Default (other than an Event of Default under Section 10.1(a) or Section 10.1(b)(i)) unless the Agent has received notice from a Lender or the Borrower referring to this Agreement, describing with reasonable specificity such Default or Event of Default and stating that such notice is a “notice of default.” If the Agent receives such a “notice of default”, the Agent shall give prompt notice thereof to the Lenders.

### **Section 11.4. Truist Bank as Lender.**

Truist Bank, as a Lender, shall have the same rights and powers under this Agreement and any other Loan Document 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, include Truist Bank in each case in its individual capacity. Truist Bank and its Affiliates may each accept deposits from, maintain deposits or credit balances for, invest in, lend money to, act as trustee under indentures of, serve as financial advisor to, and generally engage in any kind of business with, the Borrower, any other Loan Party or any other Affiliate thereof as if it were any other bank and without any duty to account therefor to the other Lenders. Further, the Agent and any Affiliate may accept fees and other consideration from the Borrower for services in connection with this Agreement and otherwise without having to account for the same to the other Lenders. The Lenders acknowledge that, pursuant to such activities, Truist Bank or its Affiliates may receive information regarding the Parent, the Borrower, other Loan Parties, other Subsidiaries and other Affiliates (including information that may be subject to confidentiality obligations in favor of such Person) and acknowledge that the Agent shall be under no obligation to provide such information to them.

### **Section 11.5. [Reserved].**

### **Section 11.6. Lender Credit Decision, Etc.**

Each Lender expressly acknowledges and agrees that neither the Agent nor any of its officers, directors, employees, agents, counsel, attorneys-in-fact or other Affiliates has made any representations or warranties as to the financial condition, operations, creditworthiness, solvency or other information concerning the business or affairs of the Parent, the Borrower, any other Loan Party, any Subsidiary or

any other Person to such Lender and that no act by the Agent hereafter taken, including any review of the affairs of the Parent, the Borrower, any other Loan Party or any other Subsidiary, shall be deemed to constitute any such representation or warranty by the Agent to any Lender. Each Lender acknowledges that it has made its own credit and legal analysis and decision to enter into this Agreement and the transactions contemplated hereby, independently and without reliance upon the Agent, any other Lender or counsel to the Agent, or any of their respective officers, directors, employees and agents, and based on the financial statements of the Parent, the Borrower, the Subsidiaries or any other Affiliate thereof, and inquiries of such Persons, its independent due diligence of the business and affairs of the Parent, the Borrower, the other Loan Parties, the Subsidiaries and other Persons, its review of the Loan Documents, the legal opinions required to be delivered to it hereunder, the advice of its own counsel and such other documents and information as it has deemed appropriate. Each Lender also acknowledges that it will, independently and without reliance upon the Agent, any other Lender or counsel to the Agent or any of their respective officers, directors, employees and agents, and based on such review, advice, documents and information as it shall deem appropriate at the time, continue to make its own decisions in taking or not taking action under the Loan Documents. Except for notices, reports and other documents and information expressly required to be furnished to the Lenders by the Agent under this Agreement or any of the other Loan Documents, the Agent shall have no duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, financial and other condition or creditworthiness of the Parent, the Borrower, any other Loan Party or any other Affiliate thereof which may come into possession of the Agent, or any of its officers, directors, employees, agents, attorneys-in-fact or other Affiliates. Each Lender acknowledges that the Agent's legal counsel in connection with the transactions contemplated by this Agreement is only acting as counsel to the Agent and is not acting as counsel to such Lender.

#### **Section 11.7. Indemnification of Agent.**

Each Lender agrees to indemnify the Agent and its Related Parties (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) pro rata in accordance with such Lender's respective Credit Percentage, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, reasonable out-of-pocket costs and expenses, or disbursements of any kind or nature whatsoever which may at any time be imposed on, incurred by, or asserted against the Agent (in its capacity as Agent but not as a Lender) in any way relating to or arising out of the Loan Documents, any transaction contemplated hereby or thereby or any action taken or omitted by the Agent under the Loan Documents (collectively, "Indemnifiable Amounts"); provided, however, that no Lender shall be liable for any portion of such Indemnifiable Amounts to the extent resulting from the Agent's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment or if the Agent fails to follow the written direction of the Requisite Lenders (or all of the Lenders if expressly required hereunder) unless such failure results from the Agent following the advice of counsel to the Agent of which advice the Lenders have received notice. Without limiting the generality of the foregoing but subject to the preceding proviso, each Lender agrees to reimburse the Agent (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), promptly upon demand for its ratable share of any out-of-pocket expenses (including reasonable counsel fees of the counsel(s) of the Agent's own choosing) incurred by the Agent in connection with the preparation, negotiation, execution, or enforcement of, or legal advice with respect to the rights or responsibilities of the parties under, the Loan Documents, any suit or action brought by the Agent to enforce the terms of the Loan Documents and/or collect any Obligations, any "lender liability" suit or claim brought against the Agent and/or the Lenders, and any claim or suit brought against the Agent, and/or the Lenders arising under any Environmental Laws. The agreements in this Section 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. If the Borrower shall reimburse the Agent for any Indemnifiable Amount following payment by any Lender to the Agent in respect of such Indemnifiable Amount pursuant to this Section, the Agent shall share such reimbursement on a ratable basis with each Lender making any such payment.

#### **Section 11.8. Successor Agent.**

(a) The Agent may resign at any time as Agent under the Loan Documents by giving written notice thereof to the Lenders and the Borrower. The Agent may be removed as Agent under the Loan Documents by the Requisite Lenders (other than the Lender then acting as Agent) or the Borrower as a result of its gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment upon 30 days' prior written notice to the Agent. Upon any such resignation or removal, the Requisite Lenders (other than the Lender then acting as Agent, in the case of the removal of the Agent under the immediately preceding sentence) shall have the right to appoint a successor Agent which appointment shall, provided no Default or Event of Default exists, be subject to the Borrower's approval, which approval shall not be unreasonably withheld or delayed (except that the Borrower shall, in all events, be deemed to have approved each Lender and its Affiliates that are Qualified Institutions as a successor Agent). If no successor Agent shall have been so appointed in accordance with the immediately preceding sentence, and shall have accepted such appointment, within 30 days after the resigning Agent's giving of notice of resignation or the Lenders' removal of the resigning Agent, then the resigning or removed Agent may, on behalf of the Lenders, appoint a successor Agent, which shall be a Lender, if any Lender shall be willing to serve, and otherwise shall be a commercial bank having total combined assets of at least \$50,000,000,000. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Agent, and the retiring or removed Agent shall be discharged from its duties and obligations under the Loan Documents. After any Agent's resignation or removal hereunder as Agent, the provisions of this Article XI and Sections 12.2 and 12.9 shall continue to inure to the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by it while it was Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its intent to resign, the retiring Agent may give notice of the effectiveness of its resignation to the Lenders and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) the Requisite Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Agent for the account of any Person other than the Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Agent shall directly be given or made to each Lender.

#### **Section 11.9. Titled Agents.**

Each of the Titled Agents in each such respective capacity, assumes no responsibility or obligation hereunder, including, without limitation, for servicing, enforcement or collection of any of the Loans, or for any duties as an agent hereunder for the Lenders. The titles of "Lead Arranger" and "Book Manager" are solely honorific and imply no fiduciary responsibility on the part of the Titled Agents to the Agent, the Borrower or any Lender and the use of such titles does not impose on the Titled Agents any

duties or obligations greater than those of any other Lender or entitle the Titled Agents to any rights other than those to which any other Lender is entitled.

#### **Section 11.10. 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 sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the 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) sub-clause (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 sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Agent and not, for the avoidance of doubt, to or for the benefit of the Parent, the Borrower or any other Loan Party, that the Agent is not 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).

**ARTICLE XII MISCELLANEOUS**

**Section 12.1. Notices.**

Unless otherwise provided herein, communications provided for hereunder shall be in writing and shall be mailed, telecopied or delivered as follows:

If to the Borrower:

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  
Telephone: (404) 572-2881  
Telecopy: (404) 572-5135

If to the Agent:

Truist Bank, as Agent  
CRE Vienna Middle Office  
Attn: Middle Office Hub Team Lead  
American Center West  
8330 Boone Blvd.  
Vienna, VA 22182

With a copy to:

Truist Bank Legal Department – CRE  
303 Peachtree Street, NE  
Atlanta, GA 30308

And

Truist Bank  
Agency Services  
303 Peachtree Street, NE  
Atlanta, GA 30308

If to a Lender:

To such Lender's address or telecopy number, as applicable, set forth in its Administrative Details Form;

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 hereunder 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.

#### **Section 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, 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., 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 (d) 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.

### **Section 12.3. Setoff.**

Subject to Section 3.3 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, each Affiliate of the Agent or any Lender, and each Participant, 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, an Affiliate of a Lender or a Participant 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, any such Affiliate of the Agent or such Lender, or such Participant, 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.

### **Section 12.4. Litigation; Jurisdiction; Other Matters; Waivers.**

(a) EACH PARTY HERETO ACKNOWLEDGES THAT ANY DISPUTE OR CONTROVERSY BETWEEN OR AMONG THE PARENT, THE BORROWER, THE AGENT OR ANY OF THE LENDERS WOULD BE BASED ON DIFFICULT AND COMPLEX ISSUES OF LAW AND FACT AND WOULD RESULT IN DELAY AND EXPENSE TO THE PARTIES. ACCORDINGLY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE LENDERS, THE AGENT, THE PARENT AND THE BORROWER HEREBY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT OR TRIBUNAL IN WHICH AN ACTION MAY BE COMMENCED BY OR AGAINST ANY PARTY HERETO ARISING OUT OF THIS AGREEMENT, THE NOTES, OR ANY OTHER LOAN DOCUMENT OR BY REASON OF ANY OTHER SUIT, CAUSE OF ACTION OR DISPUTE WHATSOEVER BETWEEN OR AMONG THE PARENT, THE BORROWER, THE AGENT OR ANY OF THE LENDERS OF ANY KIND OR NATURE RELATING TO ANY OF THE LOAN DOCUMENTS.

(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 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.

#### **Section 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 unused Commitment and 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 unused Commitment and 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 aggregate amount of unused Commitment and 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 such unused Commitment and 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 unused Commitment and Loans 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; and

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of unused Commitment and Loans if such assignment is to a Person that is not already a Lender with a Commitment or Loans, an Affiliate of such Lender or an Approved Fund with respect to such Lender.

(iv) Assignment and Acceptance. The parties to each assignment shall execute and deliver to the Agent an Assignment and Acceptance, 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 to a natural person.

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 Acceptance, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Acceptance, 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 Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance 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 Principal Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of and the 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 natural person 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 unused Commitment and Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the 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 3.12, 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 3.3 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 Commitment, Loans or

other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the 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 3.12 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 3.12 unless such Participant agrees, for the benefit of the Borrower and the Agent, to comply with Section 3.12(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.

#### **Section 12.6. Amendments.**

(a) Subject to Section 4.2(b) 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 the principal amount of the Loans of any Lender 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, the 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" or otherwise postpone any date fixed for any payment of any principal of or interest on, the 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);

(v) amend or otherwise modify the provisions of Section 3.2;

(vi) 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;

(vii) release any Guarantor from its obligations under the Facility Guaranty (except as otherwise permitted under Section 7.12(b));  
or

(viii) increase the number of Interest Periods permitted with respect to Loans under Section 2.3.

(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.

#### **Section 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.

#### **Section 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, 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 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.

#### **Section 12.9. Indemnification.**

(a) The Borrower shall and hereby agrees to indemnify, defend and hold harmless the Agent, each of the Lenders and each Related Party of the foregoing Persons (each referred to herein as an "Indemnified Party") from and against any and all of the following (collectively, the "Indemnified Costs"): losses, costs, claims, damages, liabilities, deficiencies, judgments or reasonable expenses of every kind and nature (including, without limitation, amounts paid in settlement, court costs and the reasonable fees and disbursements of counsel incurred in connection with any litigation, investigation, claim or proceeding or any advice rendered in connection therewith, but excluding losses, costs, claims, damages, liabilities, deficiencies, judgments or expenses indemnification in respect of which is specifically covered by Section 3.12 or 4.1 or expressly excluded from the coverage of such Section 3.12 or 4.1) incurred by an Indemnified Party in connection with, arising out of, or by reason of, any suit, cause of action, claim, arbitration, mediation, investigation or settlement, consent decree or other proceeding (the foregoing referred to herein as an "Indemnity Proceeding") which is in any way related directly or indirectly to: (i) this Agreement or any other Loan Document or the transactions contemplated thereby; (ii) the making of the Loans; (iii) any actual or proposed use by the Borrower of the proceeds of the Loans; (iv) the Agent's or any Lender's entering into this Agreement; (v) the fact that the Agent and the Lenders have established the credit facility evidenced hereby in favor of the Borrower; (vi) the fact that the Agent and the Lenders are creditors of the Borrower and have or are alleged to have information regarding the financial condition, strategic plans or business operations of the Parent, the Borrower and the Subsidiaries; (vii) the fact that the Agent and the Lenders are material creditors of the Borrower and are alleged to influence directly or indirectly the business decisions or affairs of the Parent, the Borrower and the Subsidiaries or their financial condition; (viii) the exercise of any right or remedy the Agent or the Lenders may have under this Agreement or the other Loan Documents; (ix) any civil penalty or fine assessed by the OFAC against, and all reasonable costs and expenses (including counsel fees and disbursements) incurred in connection with defense thereof by, the Agent or any Lender as a result of conduct of the Borrower, any other Loan Party or any Subsidiary that violates a sanction enforced by the OFAC; or (x) any violation or non-compliance by the Parent, the Borrower or any Subsidiary of any Applicable Law (including any Environmental Law) including, but not limited to, any Indemnity Proceeding commenced by (A) the Internal Revenue Service or state taxing authority or (B) any Governmental Authority or other Person under any Environmental Law, including any Indemnity Proceeding commenced by a Governmental Authority or other Person seeking remedial or other action to cause the Borrower or its Subsidiaries (or its respective properties) (or the Agent and/or the Lenders as successors to the Borrower) to be in compliance with such Environmental Laws; provided, however, that the Borrower shall not be obligated to indemnify any Indemnified Party for (A) any acts or omissions of

such Indemnified Party in connection with matters described in this subsection to the extent arising from the gross negligence or willful misconduct of such Indemnified Party, as determined by a court of competent jurisdiction in a final, non-appealable judgment or (B) Indemnified Costs to the extent arising directly out of or resulting directly from claims of one or more Indemnified Parties against another Indemnified Party that are not the result of any act or omission of any Loan Party.

(b) The Borrower's indemnification obligations under this Section 12.9 shall apply to all Indemnity Proceedings arising out of, or related to, the foregoing whether or not an Indemnified Party is a named party in such Indemnity Proceeding. In this regard, this indemnification shall cover all Indemnified Costs of any Indemnified Party in connection with any deposition of any Indemnified Party or compliance with any subpoena (including any subpoena requesting the production of documents). This indemnification shall, among other things, apply to any Indemnity Proceeding commenced by other creditors of the Borrower or any Subsidiary, any shareholder of the Borrower or any Subsidiary (whether such shareholder(s) are prosecuting such Indemnity Proceeding in their individual capacity or derivatively on behalf of the Borrower), any account debtor of the Borrower or any Subsidiary or by any Governmental Authority. If indemnification is to be sought hereunder by an Indemnified Party, then such Indemnified Party shall notify the Borrower of the commencement of any Indemnity Proceeding; provided, however, that the failure to so notify the Borrower shall not relieve the Borrower from any liability that it may have to such Indemnified Party pursuant to this Section 12.9 except to the extent such failure to notify materially and adversely affects the Borrower.

(c) This indemnification shall apply to any Indemnity Proceeding arising during the pendency of any bankruptcy proceeding filed by or against the Borrower and/or any Subsidiary.

(d) All out-of-pocket fees and expenses of, and all amounts paid to third-persons by, an Indemnified Party shall be advanced by the Borrower at the request of such Indemnified Party notwithstanding any claim or assertion by the Borrower that such Indemnified Party is not entitled to indemnification hereunder, upon receipt of an undertaking by such Indemnified Party that such Indemnified Party will reimburse the Borrower if it is actually and finally determined by a court of competent jurisdiction that such Indemnified Party is not so entitled to indemnification hereunder.

(e) An Indemnified Party may conduct its own investigation and defense of, and may formulate its own strategy with respect to, any Indemnity Proceeding covered by this Section and, as provided above, all Indemnified Costs incurred by such Indemnified Party shall be reimbursed by the Borrower. No action taken by legal counsel chosen by an Indemnified Party in investigating or defending against any such Indemnity Proceeding shall vitiate or in any way impair the obligations and duties of the Borrower hereunder to indemnify and hold harmless each such Indemnified Party; provided, however, that if (i) the Borrower is required to indemnify an Indemnified Party pursuant hereto and (ii) the Borrower has provided evidence reasonably satisfactory to such Indemnified Party that the Borrower has the financial wherewithal to reimburse such Indemnified Party for any amount paid by such Indemnified Party with respect to such Indemnity Proceeding, such Indemnified Party shall not settle or compromise any such Indemnity Proceeding without the prior written consent of the Borrower (which consent shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, an Indemnified Party may settle or compromise any such Indemnity Proceeding without the prior written consent of the Borrower where (x) no monetary relief is sought against such Indemnified Party in such Indemnity Proceeding or (y) there is an allegation of a violation of law by such Indemnified Party.

(f) If and to the extent that the obligations of the Borrower under this Section are unenforceable for any reason, the Borrower hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations which is permissible under Applicable Law.

(g) The Borrower's obligations under this Section shall survive any termination of this Agreement and the other Loan Documents and the payment in full in cash of the Obligations, and are in addition to, and not in substitution of, any other of their obligations set forth in this Agreement or any other Loan Document to which it is a party.

#### **Section 12.10. Termination; Survival.**

At such time as all Commitments have terminated and all Obligations (other than obligations which survive as provided in the following sentence) have been paid and satisfied in full and none of the Lenders is obligated any longer under this Agreement to make Loans, this Agreement shall terminate. The indemnities to which the Agent and the Lenders are entitled under the provisions of Sections 3.12, 4.1, 4.4, 11.7, 12.2 and 12.9 and any other provision of this Agreement and the other Loan Documents, and the provisions of Section 12.4, shall continue in full force and effect and shall protect the Agent and the Lenders (i) notwithstanding any termination of this Agreement, or of the other Loan Documents, against events arising after such termination as well as before and (ii) at all times after any such party ceases to be a party to this Agreement with respect to all matters and events existing on or prior to the date such party ceased to be a party to this Agreement.

#### **Section 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.

#### **Section 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).

#### **Section 12.13 Patriot Act.**

The Lenders and the Agent each hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, 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 such Act.

#### **Section 12.14. Counterparts; Electronic Execution.**

This Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this

Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, 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, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that nothing herein shall require the Agent to accept electronic signatures in any form or format without its prior written consent.

#### **Section 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.

#### **Section 12.16. Limitation of Liability.**

(a) Neither the Agent nor any Lender, nor any Related Party of the foregoing Persons 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 the Agent or any Lender 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. No Indemnified Party referred to in Section 12.9 above 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 Indemnified Party’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 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.

**Section 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.

**Section 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.

**Section 12.19. Acknowledgement and Consent to Bail-In of EEA 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 EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA 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 EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA 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 EEA 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 any EEA Resolution Authority.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the parties hereto have caused this Term Loan 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: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PIEDMONT OFFICE REALTY TRUST, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signatures Continued on Next Page]

**[Signature Page to Term Loan Agreement with Piedmont Operating Partnership, LP]**

TRUIST BANK, as Agent and as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule I**

**Commitments**

<b><u>Lender</u></b>	<b><u>Commitment</u></b>
TRUIST BANK	\$150,000,000.00
<b>TOTAL</b>	<b>\$150,000,000.00</b>



**Schedule EP**  
**Excluded Properties**

---

<b>Building</b>	<b>City</b>	<b>State</b>	<b>Total SF</b>
3100 Clarendon Boulevard	Arlington	VA	261,000
Two Pierce Place	Itasca	IL	484,000
200 South Orange Avenue <sup>(1)</sup>	Orlando	FL	646,000
1155 Perimeter Center West	Atlanta	GA	377,000
<b>TOTAL</b>			<b>1,768,000</b>

---

(1) Property was formerly known as SunTrust Center.

**Schedule 1.1(a)**

**List of Loan Parties**

Borrower: Piedmont Operating Partnership, LP, a Delaware limited partnership

Parent: Piedmont Office Realty Trust, Inc., a Maryland corporation

## 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] Assignor identified in item 1 below ([the][each, an] “Assignor”) and [the][each] 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] hereunder are several and not joint.] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “Credit 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 Credit 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 Credit 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 Credit 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*]

3. Borrower(s): Piedmont Operating Partnership, LP

4. Agent: Truist Bank, as the administrative agent under the Credit Agreement

5. Credit Agreement: The \$150,000,000 Term Loan Agreement dated as of February 10, 2020 among Piedmont Operating Partnership, LP, Piedmont Office Realty Trust, Inc., the Lenders parties thereto, Truist Bank, as Agent, and the other agents parties thereto

6. Assigned Interest[s]:

Assignor[s]	Assignee[s]	Aggregate Amount of Loans for all Lenders	Amount Loan Assigned	Percentage Assigned of Loan	CUSIP Number
		\$	\$	%	
		\$	\$	%	

[7. Trade Date: \_\_\_\_\_]

Effective Date: \_\_\_\_\_, 202\_\_ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

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

ASSIGNOR[S]

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNEE[S]

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Consented to and] Accepted:

TRUIST BANK, as Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Consented to:]

PIEDMONT OPERATING PARTNERSHIP, LP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## 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 Credit 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 or (iv) 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 Credit 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 Credit Agreement (subject to such consents, if any, as may be required under Section 12.5(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date specified for this Assignment and Assumption, it shall be bound by the provisions of the Credit 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 Credit 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 Agent or any other Lender 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) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the] [such] Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, [the] [any] Assignor or any other Lender, 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. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy 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

FORM OF NOTICE OF BORROWING

\_\_\_\_\_, 2020

Truist Bank, as Agent  
American Center West  
8330 Boone Blvd.  
Vienna, VA 22182

With a copy (for  
information purposes only) to:  
Truist Bank Legal Department- CRE  
303 Peachtree Street, NE  
Atlanta, GA 30308

And

Truist Bank  
Agency Services  
303 Peachtree Street, NE  
Atlanta, GA 30308

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, 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 Credit Agreement.

1. Pursuant to Section 2.1(b) of the Credit Agreement, the Borrower hereby requests that the Lenders make Loans to the Borrower in an aggregate principal amount equal to \$\_\_\_\_\_.
2. The Borrower requests that such Loans be made available to the Borrower on \_\_\_\_\_, 2020.

3. The Borrower hereby requests that the requested Loans all be of the following Type:

**[Check one box only]**

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

- [Check one box only]**
- 1 month
  - 2 months
  - 3 months
  - \_\_\_\_\_

4. The proceeds of this borrowing of Loans will be used for the following purpose:

\_\_\_\_\_

5. The Borrower requests that the proceeds of this borrowing of Loans be made available to the Borrower by \_\_\_\_\_.

The Borrower hereby certifies to the Agent and the Lenders that as of the date hereof and as of the date of the making of the requested Loans and after giving effect thereto, (a) no Default or Event of Default exists or shall 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. In addition, the Borrower certifies to the Agent and the Lenders that all conditions to the making of the requested Loans contained in Article V of the Credit Agreement will have been satisfied (or waived in accordance with the applicable provisions of the Loan Documents) at the time such Loans are made.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Notice of Borrowing 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 CONTINUATION

\_\_\_\_\_, 202\_

Truist Bank, as Agent  
American Center West  
8330 Boone Blvd.  
Vienna, VA 22182

With a copy (for  
information purposes only) to:  
Truist Bank Legal Department- CRE  
303 Peachtree Street, NE  
Atlanta, GA 30308

And

Truist Bank  
Agency Services  
303 Peachtree Street, NE  
Atlanta, GA 30308

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, 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 Credit Agreement.

Pursuant to Section 2.6 of the Credit Agreement, the Borrower hereby requests a Continuation of a borrowing of Loans under the Credit Agreement, and in that connection sets forth below the information relating to such Continuation as required by such Section of the Credit Agreement:

1. The proposed date of such Continuation is \_\_\_\_\_, 202\_.

2. The aggregate principal amount of Loans subject to the requested Continuation is \$\_\_\_\_\_.
3. The portion of such principal amount subject to such Continuation is \$\_\_\_\_\_.
4. The current Interest Period for the portion of the Loans subject to such Continuation ends on \_\_\_\_\_, 202\_\_.
5. The duration of the new Interest Period for the portion of the Loans subject to such Continuation is:
- [Check one box only]**
- 1 month
- 2 months
- 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 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 was given previously by telephone, this notice is to be considered the written confirmation of such telephone notice required by Section 2.6 of the Credit Agreement.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Notice of Continuation 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

FORM OF NOTICE OF CONVERSION

\_\_\_\_\_, 201\_

Truist Bank, as Agent  
American Center West  
8330 Boone Blvd.  
Vienna, VA 22182

With a copy (for  
information purposes only) to:  
Truist Bank Legal Department- CRE  
303 Peachtree Street, NE  
Atlanta, GA 30308

And

Truist Bank  
Agency Services  
303 Peachtree Street, NE  
Atlanta, GA 30308

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, 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 Credit Agreement.

Pursuant to Section 2.7 of the Credit Agreement, the Borrower hereby requests a Conversion of a borrowing of Loans of one Type into Loans of another Type under the Credit Agreement, and in that connection sets forth below the information relating to such Conversion as required by such Section of the Credit Agreement:

:

1. The proposed date of such Conversion is \_\_\_\_\_, 2020.

2. The Loans to be Converted pursuant hereto are **currently**:

**[Check one box only]**

- Base Rate Loans
- LIBOR Loans

3. The aggregate principal amount of the portion of the Loans subject to the requested Conversion is \$\_\_\_\_\_.

4. The portion of such principal amount subject to such Conversion is \$\_\_\_\_\_.

5. 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
- LIBOR Loans, each with an initial Interest Period for a duration of:

**[Check one box only]**

- 1 month
- 2 months
- 3 months
- \_\_\_\_\_

The Borrower hereby certifies to the Agent and the Lenders that as of the date hereof and as of the date of the requested Conversion and after giving effect thereto, (a) no Default or Event of Default exists or will exist (provided the certification under this clause (a) shall not be made in connection with the Conversion of a Loan into a Base Rate Loan), 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 Conversion was given previously by telephone, this notice is to be considered the written confirmation of such telephone notice required by Section 2.7 of the Credit Agreement.

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

PIEDMONT OPERATING PARTNERSHIP, LP

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

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

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

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

EXHIBIT E

FORM OF NOTE

\$ \_\_\_\_\_, 202\_

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 Truist Bank, as Agent (the "Agent") at Truist Bank, 303 Peachtree Street N.E., Atlanta, GA 30308, or at such other address as may be specified in writing by the Agent to the Borrower, the principal sum of \_\_\_\_\_ AND \_\_\_\_/100 DOLLARS (\$ \_\_\_\_\_) (or such lesser amount as shall equal the aggregate unpaid principal amount of the Loan made by the Lender to the Borrower under the Credit Agreement (as herein defined)), on the dates and in the principal amounts provided in the Credit Agreement, and to pay interest on the unpaid principal amount owing hereunder, at the rates and on the dates provided in the Credit Agreement.

The date and amount of the Loan made by the Lender to the Borrower, and each payment made on account of the principal thereof, shall be recorded by the Lender on its books and, prior to any transfer of this Note, endorsed by the Lender on the schedule attached hereto or any continuation thereof, provided that the failure of the Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower to make a payment when due of any amount owing under the Credit Agreement or hereunder.

This Note is one of the Notes referred to in the Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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 Credit Agreement.

The Credit 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 Credit 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.



IN WITNESS WHEREOF, the undersigned has executed and delivered this 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: \_\_\_\_\_

SCHEDULE OF LOANS

This Note evidences the Loan made under the within-described Credit Agreement to the Borrower, on the dates and in the principal amounts set forth below, subject to the payments and prepayments of principal set forth below:

<u>Date of Loan</u>	<u>Principal Amount of Loan</u>	<u>Amount Paid or Prepaid</u>	<u>Unpaid Principal Amount</u>	<u>Notation Made By</u>
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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 February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, as Agent (the "Agent") and the other parties thereto.

Pursuant to the provisions of Section 3.12(g)(ii)(B)(iii) of the Credit 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 Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

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

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

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

Date: \_\_\_\_\_, 201\_\_

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 February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, as Agent (the "Agent") and the other parties thereto.

Pursuant to the provisions of Section 3.12(g)(ii)(B)(iv) of the Credit 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 Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

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

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

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

Date: \_\_\_\_\_, 201\_\_

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 February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, as Agent (the "Agent") and the other parties thereto.

Pursuant to the provisions of Section 3.12(g)(ii)(B)(iv) of the Credit 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 Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

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

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

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

Date: \_\_\_\_\_, 201\_\_

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 February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, as Agent (the "Agent") and the other parties thereto.

Pursuant to the provisions of Section 3.12(g)(ii)(B)(iv) of the Credit 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 Credit 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 Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

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

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

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

Date: \_\_\_\_\_, 201\_\_

EXHIBIT G

FORM OF COMPLIANCE CERTIFICATE

\_\_\_\_\_, 201\_

Truist Bank, as Agent  
American Center West  
8330 Boone Blvd.  
Vienna, VA 22182

With a copy (for  
information purposes only) to:  
Truist Bank Legal Department- CRE  
303 Peachtree Street, NE  
Atlanta, GA 30308

And

Truist Bank  
Agency Services  
303 Peachtree Street, NE  
Atlanta, GA 30308

Ladies and Gentlemen:

Reference is made to that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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"), Truist Bank, 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 Credit Agreement.

Pursuant to Section 8.3 of the Credit 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 Credit Agreement.

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

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



**Schedule 1**

**[Calculations to be Attached]**

## EXHIBIT H

### FORM OF FACILITY GUARANTY

THIS FACILITY GUARANTY (this “Guaranty”) dated as of February 10, 2020, 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) TRUIST BANK, in its capacity as Agent (the “Agent”) for the Lenders under that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the “Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 ACKNOWLEDGES THAT ANY DISPUTE OR CONTROVERSY BETWEEN OR AMONG ANY GUARANTOR, THE AGENT OR ANY OF THE LENDERS WOULD BE BASED ON DIFFICULT AND COMPLEX ISSUES OF LAW AND FACT AND WOULD RESULT IN DELAY AND EXPENSE TO THE PARTIES. ACCORDINGLY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE LENDERS, THE AGENT AND EACH GUARANTOR HEREBY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT OR TRIBUNAL IN WHICH AN ACTION MAY BE COMMENCED BY OR AGAINST ANY PARTY HERETO ARISING OUT OF THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR BY REASON OF ANY OTHER SUIT, CAUSE OF ACTION OR DISPUTE WHATSOEVER BETWEEN OR AMONG ANY GUARANTOR, THE AGENT OR ANY OF THE LENDERS OF ANY KIND OR NATURE RELATING TO ANY OF THE LOAN DOCUMENTS.

(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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 Credit 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 am. 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 Credit 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 Credit Agreement or any of the other Loan Documents, or any of the transactions contemplated by the Credit 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 Credit 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 Credit Agreement or any of the other Loan Documents, or any of the transactions contemplated by the Credit 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 Credit Agreement.

[Signature on Next Page]

IN WITNESS WHEREOF, each Guarantor has duly executed and delivered this Facility 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

## ANNEX I

### FORM OF ACCESSION AGREEMENT

THIS ACCESSION AGREEMENT dated as of \_\_\_\_\_, 202\_, executed and delivered by \_\_\_\_\_, a \_\_\_\_\_ (the "New Guarantor"), in favor of (a) TRUIST BANK, in its capacity as Agent (the "Agent") for the Lenders under that certain Term Loan Agreement dated as of February 10, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit 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 Credit 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 Credit 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 Credit 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 February 10, 2020 (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 Credit Agreement.

[Signatures on Next Page]

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 (US)  
1180 Peachtree Street  
Atlanta, GA 30309

Accepted:

TRUIST BANK, as Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **Piedmont Announces Completion of Leadership Transition Plan**

–On 10<sup>TH</sup> Anniversary of IPO, Donald A. Miller Steps Down from Board–

**ATLANTA– February 12, 2020** – Piedmont Office Realty Trust (the “Company” or “Piedmont”) (NYSE: PDM) announced today that it has successfully completed the Company’s leadership transition plan and that its former Chief Executive Officer, Donald A. Miller, CFA, has now stepped down from its Board of Directors after the Company announced last week annual results for 2019. The move is the culmination of the Company’s succession planning efforts as a result of Mr. Miller’s June 2019 retirement whereby C. Brent Smith was appointed President and Chief Executive Officer and member of the Company’s Board of Directors. Mr. Miller had agreed to remain a member of the Board of Directors for a short period to complete an effective transition.

“As we celebrate the tenth anniversary of Piedmont’s initial public offering this week, I find it a very fitting occasion to reflect on how rewarding the last decade at Piedmont has been,” commented Mr. Miller. “Recycling approximately \$2.2 billion into assets over the last ten years, we have executed a consistent strategy focused on aggregating high-quality assets in a targeted group of highly-amenitized markets; a strategy that the investment community obviously appreciates based on our top-quartile stock performance over the last three years relative to our peer group. I couldn’t be more proud of the job that Brent and the rest of the Piedmont team have done during my tenure and over the last seven months since my retirement. I am very excited to follow, now as an investor, the next chapter of Piedmont’s success,” said Mr. Miller.

Commenting on the transition, C. Brent Smith, Piedmont’s President and Chief Executive Officer said, “We are grateful for Don’s leadership and guidance over the last thirteen years, leading Piedmont through its transition to a successful public company. We feel that the Company is well positioned for the future and look forward to continuing to build on the solid platform that Don helped establish.”

### **About Piedmont:**

Piedmont Office Realty Trust, Inc. (NYSE: PDM) is an owner, manager, developer, redeveloper, and operator of high-quality, Class A office properties located primarily in select sub-markets within seven major Eastern U.S. office markets. Its geographically-diversified, almost \$5 billion portfolio is currently comprised of approximately 18 million square feet. The Company is a fully-integrated, self-managed real estate investment trust (REIT) with local management offices in each of its major markets and is investment-grade rated by Standard & Poor’s (BBB) and Moody’s (Baa2). As of December 31, 2019, over 60% of the company’s portfolio was ENERGY STAR certified and approximately 35% was LEED certified. For more information, see [www.piedmontreit.com](http://www.piedmontreit.com).



Contact: Meredi Lee  
Company: Piedmont Office Realty Trust  
Phone: 1 770 418 8677  
Email: Meredi.Lee@Piedmontreit.com



## Piedmont Acquires Galleria Office Towers in Dallas

**ATLANTA– February 12, 2020** – Piedmont Office Realty Trust (the “Company” or “Piedmont”) (NYSE: PDM) announced today that it has completed the purchase of the “Galleria Office Towers”, three Class-A office towers totalling approximately 1.4 million square feet with associated parking garages, and a 1.9-acre land parcel located at the intersection of the Dallas North Tollway and LBJ Freeway (I-635) in the Lower Tollway submarket of Dallas, TX. Combined with Piedmont’s existing holdings, the acquisition of Galleria Office Towers will increase the Company’s Dallas footprint to 3.6 million square feet, making it Piedmont’s second largest market and resulting in approximately 50% of its portfolio being located in the Sun Belt.

The Galleria is a 3.7 million square foot master-planned, mixed-use development with unmatched connectivity to the DFW Metroplex. The Galleria Office Towers are seamlessly integrated through air-conditioned skybridges into the mixed-use amenity base, including the Galleria Dallas retail destination, encompassing over 30 dining options and 1.5 million square feet of shopping, along with the 448-room Westin Galleria Hotel, creating a vibrant and highly amenitized destination. The office towers are each 24 to 26 stories, range in size between 434,000 and 531,000 square feet, and are 90-100% leased to a roster of high-quality, diverse tenants including Amazon, Ryan LLC, Ansira Partners, Kimley-Horn, and Hospital Corp. of America, among many others.

Commenting on the transaction, C. Brent Smith, Piedmont’s President and Chief Executive Officer said, “The Galleria Office Towers are an excellent strategic fit for our portfolio. They offer immediate scale in one of the most dynamic submarkets in Dallas, while allowing us to expand our current space offerings and capture additional synergies with our existing 2.1 million square foot Dallas portfolio. Like our recent Atlanta acquisitions, this transaction again exemplifies our strategy of aggregating high-quality, amenitized assets in dense, walkable environments which give us the ability to create unique community-building experiences for our tenants. Further, we plan to couple this acquisition with the disposition of one of our larger, mature, non-core assets, 1901 Market Street in Philadelphia, again demonstrating our ability to redeploy sales proceeds accretively into our targeted markets.”

For more information about the transaction, an investment overview presentation has been posted to the Investor Relations section of the Company’s website, Piedmontreit.com, through the link entitled “Galleria Office Towers – Dallas - February 2020.”

### Forward Looking Statements

Certain statements contained in this press release constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company intends for all

such forward-looking statements to be covered by the safe-harbor provisions for forward-looking statements contained in Section 27A of the Securities Act and Section 21E of the Exchange Act, as applicable. Such information is subject to certain risks and uncertainties, as well as known and unknown risks, which could cause actual results to differ materially from those projected or anticipated. Therefore, such statements are not intended to be a guarantee of the Company's performance in future periods. Such forward-looking statements can generally be identified by our use of forward-looking terminology such as "may," "will," "expect," "intend," "anticipate," "believe," "continue" or similar words or phrases that are predictions of future events or trends and which do not relate solely to historical matters.

Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this press release. The Company cannot guarantee the accuracy of any such forward-looking statements contained in this press release, and the Company does not intend to publicly update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise.

### **About Piedmont:**

Piedmont Office Realty Trust, Inc. (NYSE: PDM) is an owner, manager, developer, redeveloper, and operator of high-quality, Class A office properties located primarily in select sub-markets within seven major Eastern U.S. office markets. Its geographically-diversified, almost \$5 billion portfolio is currently comprised of approximately 18 million square feet. The Company is a fully-integrated, self-managed real estate investment trust (REIT) with local management offices in each of its major markets and is investment-grade rated by Standard & Poor's (BBB) and Moody's (Baa2). As of December 31, 2019, over 60% of the company's portfolio was ENERGY STAR certified and approximately 35% was LEED certified. For more information, see [www.piedmontreit.com](http://www.piedmontreit.com).

Contact: Meredi Lee  
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Email: [Meredi.Lee@Piedmontreit.com](mailto:Meredi.Lee@Piedmontreit.com)