

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2017

or

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

For the transition period from _____ to _____

Commission file number: 001-35908

ARMADA HOFFLER PROPERTIES, INC.

(Exact Name of Registrant as Specified in its Charter)

Maryland
(State of Organization)

46-1214914
(IRS Employer
Identification No.)

222 Central Park Avenue, Suite 2100
Virginia Beach, Virginia
(Address of Principal Executive Offices)

23462
(Zip Code)

(757) 366-4000
(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files). Yes No

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

Large Accelerated Filer	<input type="checkbox"/>	Accelerated Filer	<input checked="" type="checkbox"/>
Non-Accelerated Filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller Reporting Company	<input type="checkbox"/>
		Emerging Growth Company	<input checked="" type="checkbox"/>

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

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

As of November 1, 2017, the Registrant had 44,936,652 shares of common stock outstanding.

ARMADA HOFFLER PROPERTIES, INC.
QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTER ENDED SEPTEMBER 30, 2017

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PART I. Financial Information**Item 1. Financial Statements****ARMADA HOFFLER PROPERTIES, INC.
Condensed Consolidated Balance Sheets****(In thousands, except par value and share data)**

	September 30, 2017	December 31, 2016
	(Unaudited)	
<u>ASSETS</u>		
Real estate investments:		
Income producing property	\$ 906,225	\$ 894,078
Held for development	680	680
Construction in progress	62,948	13,529
	969,853	908,287
Accumulated depreciation	(157,932)	(139,553)
Net real estate investments	811,921	768,734
Cash and cash equivalents	19,721	21,942
Restricted cash	3,195	3,251
Accounts receivable, net	15,826	15,052
Notes receivable	75,522	59,546
Construction receivables, including retentions	35,923	39,433
Construction contract costs and estimated earnings in excess of billings	110	110
Equity method investments	11,169	10,235
Other assets	57,611	64,165
Total Assets	\$ 1,030,998	\$ 982,468
<u>LIABILITIES AND EQUITY</u>		
Indebtedness, net	\$ 488,609	\$ 522,180
Accounts payable and accrued liabilities	14,383	10,804
Construction payables, including retentions	48,160	51,130
Billings in excess of construction contract costs and estimated earnings	5,232	10,167
Other liabilities	41,181	39,209
Total Liabilities	\$ 597,565	\$ 633,490
Redeemable noncontrolling interest	2,000	—
Stockholders' equity:		
Preferred stock, \$0.01 par value, 100,000,000 shares authorized, none issued and outstanding as of September 30, 2017 and December 31, 2016	—	—
Common stock, \$0.01 par value, 500,000,000 shares authorized, 44,936,652 and 37,490,361 shares issued and outstanding as of September 30, 2017 and December 31, 2016, respectively	449	374
Additional paid-in capital	288,485	197,114
Distributions in excess of earnings	(56,755)	(49,345)
Total stockholders' equity	232,179	148,143
Noncontrolling interests	199,254	200,835
Total Equity	431,433	348,978
Total Liabilities and Equity	\$ 1,030,998	\$ 982,468

See Notes to Condensed Consolidated Financial Statements.

ARMADA HOFFLER PROPERTIES, INC.
Condensed Consolidated Statements of Income

(In thousands, except per share data)

(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Revenues				
Rental revenues	\$ 27,096	\$ 25,305	\$ 81,083	\$ 72,839
General contracting and real estate services revenues	41,201	38,552	161,391	108,555
Total revenues	68,297	63,857	242,474	181,394
Expenses				
Rental expenses	6,830	5,834	19,069	16,234
Real estate taxes	2,693	2,356	7,797	7,087
General contracting and real estate services expenses	39,377	37,274	154,588	104,336
Depreciation and amortization	9,239	8,885	28,018	25,636
General and administrative expenses	2,098	2,156	7,762	6,864
Acquisition, development and other pursuit costs	61	345	477	1,486
Impairment charges	19	149	50	184
Total expenses	60,317	56,999	217,761	161,827
Operating income	7,980	6,858	24,713	19,567
Interest income	1,910	1,024	4,966	1,928
Interest expense	(4,253)	(4,124)	(13,282)	(11,893)
Loss on extinguishment of debt	—	(82)	—	(82)
Gain on real estate dispositions	4,692	3,753	8,087	30,440
Change in fair value of interest rate derivatives	87	498	300	(2,264)
Other income	74	35	154	154
Income before taxes	10,490	7,962	24,938	37,850
Income tax provision	(29)	(16)	(781)	(240)
Net income	10,461	7,946	24,157	37,610
Net income attributable to noncontrolling interests	(2,973)	(2,734)	(7,262)	(12,994)
Net income attributable to stockholders	\$ 7,488	\$ 5,212	\$ 16,895	\$ 24,616
Net income attributable to stockholders per share (basic and diluted)	\$ 0.17	\$ 0.15	\$ 0.41	\$ 0.77
Weighted-average common shares outstanding (basic and diluted)	44,934	33,792	41,575	31,913
Dividends and distributions declared per common share and unit	\$ 0.19	\$ 0.18	\$ 0.57	\$ 0.54

See Notes to Condensed Consolidated Financial Statements.

ARMADA HOFFLER PROPERTIES, INC.
Condensed Consolidated Statement of Equity

(In thousands, except share data)
(Unaudited)

	Shares of common stock	Common Stock	Additional paid- in capital	Distributions in excess of earnings	Total stockholders' equity	Noncontrolling interests	Total Equity
Balance, January 1, 2017	37,490,361	\$ 374	\$ 197,114	\$ (49,345)	\$ 148,143	\$ 200,835	\$ 348,978
Net income	—	—	—	16,895	16,895	7,262	24,157
Net proceeds from sales of common stock	7,350,690	74	91,307	—	91,381	—	91,381
Restricted stock awards	116,704	1	1,381	—	1,382	—	1,382
Restricted stock award forfeitures	(21,103)	—	(289)	—	(289)	—	(289)
Issuance of common units for acquisition of interest in real estate investment	—	—	(987)	—	(987)	982	(5)
Redemption of operating partnership units	—	—	(41)	—	(41)	(188)	(229)
Dividends and distributions declared	—	—	—	(24,305)	(24,305)	(9,637)	(33,942)
Balance, September 30, 2017	<u>44,936,652</u>	<u>\$ 449</u>	<u>\$ 288,485</u>	<u>\$ (56,755)</u>	<u>\$ 232,179</u>	<u>\$ 199,254</u>	<u>\$ 431,433</u>

See Notes to Condensed Consolidated Financial Statements.

ARMADA HOFFLER PROPERTIES, INC.
Condensed Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	Nine Months Ended September 30,	
	2017	2016
OPERATING ACTIVITIES		
Net income	\$ 24,157	\$ 37,610
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation of buildings and tenant improvements	19,385	17,055
Amortization of leasing costs and in-place lease intangibles	8,633	8,581
Accrued straight-line rental revenue	(927)	(765)
Amortization of leasing incentives and above or below-market rents	(140)	(61)
Accrued straight-line ground rent expense	401	291
Bad debt expense	425	178
Noncash stock compensation	1,047	864
Impairment charges	50	184
Noncash interest expense	940	687
Noncash loss on extinguishment of debt	—	82
Gain on real estate dispositions	(8,087)	(30,440)
Change in the fair value of interest rate derivatives	(300)	2,264
Changes in operating assets and liabilities:		
Property assets	(3,612)	(4,938)
Property liabilities	3,209	3,856
Construction assets	4,065	(5,863)
Construction liabilities	(12,648)	9,197
Net cash provided by operating activities	36,598	38,782
INVESTING ACTIVITIES		
Development of real estate investments	(28,731)	(48,671)
Tenant and building improvements	(8,104)	(4,399)
Acquisitions of real estate investments, net of cash received	(28,020)	(177,865)
Dispositions of real estate investments	12,557	96,312
Notes receivable issuances	(15,754)	(42,110)
Decrease in capital improvement reserves	(203)	(210)
Leasing costs	(149)	(1,601)
Leasing incentives	(147)	(188)
Contributions to equity method investments	(934)	(8,949)
Net cash used for investing activities	(69,485)	(187,681)
FINANCING ACTIVITIES		
Proceeds from sales of common stock	96,044	51,088
Offering costs	(4,663)	(1,183)
Debt issuances, credit facility and construction loan borrowings	124,206	290,105
Debt and credit facility repayments, including principal amortization	(152,201)	(167,659)
Debt issuance costs	(751)	(1,791)
Redemption of operating partnership units	(229)	(58)
Dividends and distributions	(31,740)	(24,702)
Net cash provided by financing activities	30,666	145,800
Net decrease in cash and cash equivalents	(2,221)	(3,099)
Cash and cash equivalents, beginning of period	21,942	26,989
Cash and cash equivalents, end of period	\$ 19,721	\$ 23,890
Supplemental Disclosures:		
Noncash transactions:		
Redeemable noncontrolling interest from development	\$ 2,000	\$ —
Deferred payment for land acquisition	\$ 600	\$ —

See Notes to Condensed Consolidated Financial Statements.

ARMADA HOFFLER PROPERTIES, INC.
Notes to Condensed Consolidated Financial Statements

(Unaudited)

1. Business of Organization

Armada Hoffler Properties, Inc. (the “Company”) is a full service real estate company with extensive experience developing, building, owning and managing high-quality, institutional-grade office, retail and multifamily properties in attractive markets primarily throughout the Mid-Atlantic and Southeastern United States. The Company is the sole general partner of Armada Hoffler, L.P. (the “Operating Partnership”). The operations of the Company are carried on primarily through the Operating Partnership and the wholly owned subsidiaries of the Operating Partnership. Both the Company and the Operating Partnership were formed on October 12, 2012 and commenced operations upon completion of the underwritten initial public offering of shares of the Company’s common stock and certain related formation transactions on May 13, 2013.

As of September 30, 2017, the Company's operating property portfolio consisted of the following properties:

Property	Segment	Location	Ownership Interest
4525 Main Street	Office	Virginia Beach, Virginia*	100%
Armada Hoffler Tower	Office	Virginia Beach, Virginia*	100%
One Columbus	Office	Virginia Beach, Virginia*	100%
Two Columbus	Office	Virginia Beach, Virginia*	100%
249 Central Park Retail	Retail	Virginia Beach, Virginia*	100%
Alexander Pointe	Retail	Salisbury, North Carolina	100%
Bermuda Crossroads	Retail	Chester, Virginia	100%
Broad Creek Shopping Center	Retail	Norfolk, Virginia	100%
Broadmoor Plaza	Retail	South Bend, Indiana	100%
Brooks Crossing ⁽¹⁾	Retail	Newport News, Virginia	65%
Columbus Village	Retail	Virginia Beach, Virginia*	100%
Columbus Village II	Retail	Virginia Beach, Virginia*	100%
Commerce Street Retail	Retail	Virginia Beach, Virginia*	100%
Courthouse 7-Eleven	Retail	Virginia Beach, Virginia	100%
Dick's at Town Center	Retail	Virginia Beach, Virginia*	100%
Dimmock Square	Retail	Colonial Heights, Virginia	100%
Fountain Plaza Retail	Retail	Virginia Beach, Virginia*	100%
Gainsborough Square	Retail	Chesapeake, Virginia	100%
Greentree Shopping Center	Retail	Chesapeake, Virginia	100%
Hanbury Village	Retail	Chesapeake, Virginia	100%
Harper Hill Commons	Retail	Winston-Salem, North Carolina	100%
Harrisonburg Regal	Retail	Harrisonburg, Virginia	100%
Lightfoot Marketplace ⁽²⁾	Retail	Williamsburg, Virginia	70%
North Hampton Market	Retail	Taylors, South Carolina	100%
North Point Center	Retail	Durham, North Carolina	100%
Oakland Marketplace	Retail	Oakland, Tennessee	100%
Parkway Marketplace	Retail	Virginia Beach, Virginia	100%
Patterson Place	Retail	Durham, North Carolina	100%
Perry Hall Marketplace	Retail	Perry Hall, Maryland	100%
Providence Plaza	Retail	Charlotte, North Carolina	100%
Renaissance Square	Retail	Davidson, North Carolina	100%
Sandbridge Commons	Retail	Virginia Beach, Virginia	100%

Property	Segment	Location	Ownership Interest
Socastee Commons	Retail	Myrtle Beach, South Carolina	100%
Southgate Square	Retail	Colonial Heights, Virginia	100%
Southshore Shops	Retail	Chesterfield, Virginia	100%
South Retail	Retail	Virginia Beach, Virginia*	100%
South Square	Retail	Durham, North Carolina	100%
Stone House Square	Retail	Hagerstown, Maryland	100%
Studio 56 Retail	Retail	Virginia Beach, Virginia*	100%
Tyre Neck Harris Teeter	Retail	Portsmouth, Virginia	100%
Waynesboro Commons	Retail	Waynesboro, Virginia	100%
Wendover Village	Retail	Greensboro, North Carolina	100%
Encore Apartments	Multifamily	Virginia Beach, Virginia*	100%
Johns Hopkins Village ⁽³⁾	Multifamily	Baltimore, Maryland	80%
Liberty Apartments	Multifamily	Newport News, Virginia	100%
Smith's Landing	Multifamily	Blacksburg, Virginia	100%
The Cosmopolitan	Multifamily	Virginia Beach, Virginia*	100%

(1) The Company is entitled to a preferred return of 8% on its investment in Brooks Crossing.

(2) The Company is entitled to a preferred return of 9% on its investment in Lightfoot Marketplace.

(3) See discussion of redeemable noncontrolling interest in Note 9 for additional information. The Company is entitled to a preferred return of 9% on its investment in Johns Hopkins Village.

*Located in the Town Center of Virginia Beach

As of September 30, 2017, the following properties that the Company consolidates for financial statement purposes were under development or construction:

Property	Segment	Location	Ownership Interest
Town Center Phase VI	Mixed-use	Virginia Beach, Virginia*	100%
Harding Place ⁽¹⁾	Multifamily	Charlotte, North Carolina	80%
595 King Street	Multifamily	Charleston, South Carolina	92.5%
530 Meeting Street	Multifamily	Charleston, South Carolina	90%

(1) The Company is entitled to a preferred return of 9% on a portion of its investment in Harding Place.

*Located in the Town Center of Virginia Beach

Please see Note 5 for information related to the Company's investment in Durham City Center II, LLC, which is an unconsolidated subsidiary that the Company accounts for using the equity method of accounting.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying condensed consolidated financial statements were prepared in accordance with accounting principles generally accepted in the United States ("GAAP").

The condensed consolidated financial statements include the financial position and results of operations of the Company and its consolidated subsidiaries. All significant intercompany transactions and balances have been eliminated in consolidation.

In the opinion of management, the condensed consolidated financial statements reflect all adjustments, consisting of normal recurring accruals, which are necessary for the fair presentation of the financial condition and results of operations for the interim periods presented.

The accompanying condensed consolidated financial statements were prepared in accordance with the requirements for interim financial information. Accordingly, these interim financial statements have not been audited and exclude certain disclosures required for annual financial statements. Also, the operating results presented for interim periods are not necessarily indicative of the results that may be expected for any other interim period or for the entire year. These interim financial statements should be read in conjunction with the audited consolidated financial statements of the Company included in the Company's Annual Report on Form 10-K for the year ended December 31, 2016.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed. Such estimates are based on management's historical experience and best judgment after considering past, current and expected events and economic conditions. Actual results could differ from management's estimates.

Significant Accounting Policies

The accompanying condensed consolidated financial statements were prepared on the basis of the accounting principles described in the Company's Annual Report on Form 10-K for the year ended December 31, 2016.

Recent Accounting Pronouncements

On May 28, 2014, the Financial Accounting Standards Board ("FASB") issued a new standard that provides a single, comprehensive model for recognizing revenue from contracts with customers. The new standard requires additional disclosures about the Company's revenue recognition and could change the way the Company recognizes revenue from construction and development contracts with third party customers. Management is currently reviewing the Company's existing construction contracts to assess the potential impacts of the new standard. A substantial portion of the Company's revenue consists of rental revenues from leasing arrangements, such as base rent, which is specifically excluded from the revenue guidance. Non-lease components, such as tenant reimbursements for common area maintenance, will be subject to the revenue guidance. The Company does not expect the new standard to have a material impact on the measure and recognition of gains and losses on the sale of properties. The new standard will be effective for the Company on January 1, 2018. The Company plans to adopt the new standard using the full retrospective method.

On February 25, 2016, the FASB issued a new lease standard that requires lessees to recognize most leases in their balance sheets as lease liabilities with corresponding right-of-use assets. The new standard also makes targeted changes to lessor accounting. The new standard will be effective for the Company on January 1, 2019 and requires a modified retrospective transition approach for all leases existing at, or entered into after, the beginning of the earliest comparative period presented, with an option to use certain transition relief. Management is currently evaluating the potential impact of the new standard on the Company's consolidated financial statements.

On March 30, 2016, the FASB issued new guidance that changed the accounting for certain aspects of share-based payments to employees. Entities are required to recognize the income tax effects of awards in the income statement when the awards vest or are settled, and the Company is allowed to account for forfeitures as they occur. The Company adopted the guidance on January 1, 2017 and it did not have a material impact on the Company's consolidated financial statements.

On August 26, 2016, the FASB issued new guidance that addresses eight classification issues related to the statement of cash flows. Early adoption is permitted, including adoption in an interim period. This guidance should be applied retrospectively to each period presented. This new guidance will be effective for the Company on January 1, 2018. Management is currently evaluating the potential impact of the new guidance on the Company's consolidated financial statements.

On February 22, 2017, the FASB issued new guidance that clarifies the scope and application of guidance on sales or transfers of nonfinancial assets and in substance nonfinancial assets to customers, including partial sales. The new guidance applies to all nonfinancial assets, including real estate, and defines an in substance nonfinancial asset. The new guidance will be effective for the Company on January 1, 2018, with early adoption permitted. Management is currently evaluating the potential impact of the new standard on the Company's consolidated financial statements.

On August 28, 2017, the FASB issued new guidance that simplifies some of the requirements relating to accounting for derivatives and hedging. The new guidance eliminates the requirement to separately measure and report hedge ineffectiveness for a highly effective hedge and also simplifies certain documentation and assessment requirements relating

to the determination of hedge effectiveness. The new guidance will be effective for the Company on January 1, 2019, with early adoption permitted. The Company does not currently have any derivatives designated as hedging instruments for accounting purposes. The application of this guidance to future hedging relationships could reduce or eliminate the gains and losses that would otherwise be recorded for these derivative instruments.

3. Segments

Net operating income (segment revenues minus segment expenses) is the measure used by the Company's chief operating decision-maker to assess segment performance. Net operating income is not a measure of operating income or cash flows from operating activities as measured by GAAP and is not indicative of cash available to fund cash needs. As a result, net operating income should not be considered an alternative to cash flows as a measure of liquidity. Not all companies calculate net operating income in the same manner. The Company considers net operating income to be an appropriate supplemental measure to net income because it assists both investors and management in understanding the core operations of the Company's real estate and construction businesses.

Net operating income of the Company's reportable segments for the three and nine months ended September 30, 2017 and 2016 was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
(Unaudited)				
<i>Office real estate</i>				
Rental revenues	\$ 4,762	\$ 5,277	\$ 14,427	\$ 16,097
Rental expenses	1,447	1,553	4,138	4,307
Real estate taxes	481	485	1,381	1,550
Segment net operating income	2,834	3,239	8,908	10,240
<i>Retail real estate</i>				
Rental revenues	15,880	14,340	47,089	41,485
Rental expenses	2,699	2,264	7,698	6,820
Real estate taxes	1,588	1,339	4,557	3,953
Segment net operating income	11,593	10,737	34,834	30,712
<i>Multifamily residential real estate</i>				
Rental revenues	6,454	5,688	19,567	15,257
Rental expenses	2,684	2,017	7,233	5,107
Real estate taxes	624	532	1,859	1,584
Segment net operating income	3,146	3,139	10,475	8,566
<i>General contracting and real estate services</i>				
Segment revenues	41,201	38,552	161,391	108,555
Segment expenses	39,377	37,274	154,588	104,336
Segment gross profit	1,824	1,278	6,803	4,219
Net operating income	\$ 19,397	\$ 18,393	\$ 61,020	\$ 53,737

General contracting and real estate services revenues for the three months ended September 30, 2017 and 2016 exclude revenue related to intercompany construction contracts of \$13.9 million and \$7.9 million, respectively. General contracting services revenues for the nine months ended September 30, 2017 and 2016 exclude revenue related to intercompany construction contracts of \$31.3 million and \$40.7 million, respectively.

General contracting and real estate services expenses for the three months ended September 30, 2017 and 2016 exclude expenses related to intercompany construction contracts of \$13.7 million and \$7.7 million, respectively. General contracting and real estate services expenses for the nine months ended September 30, 2017 and 2016 exclude expenses related to intercompany construction contracts of \$31.0 million and \$40.2 million, respectively.

General contracting and real estate services expenses for the three months ended September 30, 2017 and 2016 include noncash stock compensation expense of less than \$0.1 million and \$0.1 million, respectively. General contracting and real

estate services expenses for the nine months ended September 30, 2017 and 2016 include noncash stock compensation expense of \$0.2 million and \$0.4 million, respectively.

The following table reconciles net operating income to net income, the most directly comparable GAAP measure, for the three and nine months ended September 30, 2017 and 2016 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(Unaudited)			
Net operating income	\$ 19,397	\$ 18,393	\$ 61,020	\$ 53,737
Depreciation and amortization	(9,239)	(8,885)	(28,018)	(25,636)
General and administrative expenses	(2,098)	(2,156)	(7,762)	(6,864)
Acquisition, development and other pursuit costs	(61)	(345)	(477)	(1,486)
Impairment charges	(19)	(149)	(50)	(184)
Interest income	1,910	1,024	4,966	1,928
Interest expense	(4,253)	(4,124)	(13,282)	(11,893)
Loss on extinguishment of debt	—	(82)	—	(82)
Gain on real estate dispositions	4,692	3,753	8,087	30,440
Change in fair value of interest rate derivatives	87	498	300	(2,264)
Other income	74	35	154	154
Income tax provision	(29)	(16)	(781)	(240)
Net income	\$ 10,461	\$ 7,946	\$ 24,157	\$ 37,610

General and administrative expenses for the three months ended September 30, 2017 and 2016 include noncash stock compensation expense of \$0.2 million and \$0.1 million, respectively. General and administrative expenses for the nine months ended September 30, 2017 and 2016 include noncash stock compensation expense of \$0.8 million and \$0.6 million, respectively.

4. Real Estate Investment

Property Acquisitions

On January 4, 2017, the Company acquired undeveloped land in Charleston, South Carolina for a contract price of \$7.1 million plus capitalized acquisition costs of \$0.2 million. The Company intends to use the land for the future development of the 595 King Street property.

On July 11, 2017, the Company acquired undeveloped land in Charleston, South Carolina for a contract price of \$6.7 million plus capitalized acquisition costs of \$0.1 million. The Company intends to use the land for the future development of the 530 Meeting Street property.

On July 25, 2017, the Company acquired the outparcel phase of Wendover Village in Greensboro, North Carolina for a contract price of \$14.3 million plus capitalized acquisition costs of \$0.1 million. The following table summarizes the purchase price allocation, including acquisition costs, for this property (in thousands):

Land	\$ 5,550
Site improvements	232
Building and improvements	6,975
In-place leases	1,382
Above-market leases	327
Below-market leases	(50)
Net assets acquired	\$ 14,416

Property Dispositions

On January 20, 2017, the Company completed the sale of the Wawa outparcel at Greentree Shopping Center. Net proceeds after transaction costs were \$4.4 million. The gain on the disposition was \$3.4 million.

On July 13, 2017, the Company completed the sale of two office properties leased by the Commonwealth of Virginia in Chesapeake, Virginia and Virginia Beach, Virginia. Aggregate net proceeds from the dispositions of the properties after transaction costs and repayment of the loan associated with the Chesapeake, Virginia property were \$7.9 million, and the aggregate gain on the dispositions was \$4.2 million.

On August 10, 2017, the Company completed the sale of a land outparcel at Sandbridge Commons. Net proceeds after transaction costs and a partial loan paydown were \$0.3 million. The gain on the disposition was \$0.5 million.

5. Equity Method Investment

City Center

On February 25, 2016, the Company acquired a 37% interest in Durham City Center II, LLC ("City Center") for purposes of developing a 22-story mixed use tower in Durham, North Carolina. As of September 30, 2017 and December 31, 2016, the Company has invested \$11.2 million and \$10.3 million, respectively, in City Center. The Company has agreed to guarantee 37% of the construction loan for City Center; however, the loan is collateralized by 100% of the assets of City Center. As of September 30, 2017, \$18.7 million has been drawn against the construction loan, of which \$7.8 million is attributable to the Company's portion of the loan.

As of September 30, 2017 and December 31, 2016, the difference between the carrying value of the Company's initial investment in City Center and the amount of underlying equity was immaterial. For the three and nine months ended September 30, 2017 and 2016, City Center did not have any operating activity, and therefore the Company did not receive any dividends or allocated income.

Based on the terms of City Center's operating agreement, the Company has concluded that City Center is a variable interest entity ("VIE"), and that the Company holds a variable interest. The Company does not have the power to direct the activities of the project that most significantly impact its performance. Accordingly, the Company is not the project's primary beneficiary and, therefore, does not consolidate City Center in its consolidated financial statements.

6. Notes Receivable

Point Street Apartments

On October 15, 2015, the Company agreed to invest up to \$28.2 million in the Point Street Apartments project in the Harbor Point area of Baltimore, Maryland. Point Street Apartments is an estimated \$92 million development project with plans for a 17-story building comprised of 289 residential units and 18,000 square feet of street-level retail space. Beatty Development Group ("BDG") is the developer of the project and has engaged the Company to serve as construction general contractor. Point Street Apartments is scheduled to open in the first quarter of 2018; however, management can provide no assurances that Point Street Apartments will open on the anticipated timeline or be completed at the anticipated cost.

BDG secured a senior construction loan of up to \$67.0 million to fund the development and construction of Point Street Apartments on November 10, 2016. The Company has agreed to guarantee \$25.0 million of the senior construction loan in exchange for the option to purchase up to an 88% controlling interest in Point Street Apartments upon completion of the project as follows: (i) an option to purchase a 79% indirect interest in Point Street Apartments for \$27.3 million, exercisable within one year from the project's completion (the "First Option") and (ii) provided that the Company has exercised the First Option, an option to purchase an additional 9% indirect interest in Point Street Apartments for \$3.1 million, exercisable within 27 months from the project's completion (the "Second Option"). The Company currently has a \$2.1 million letter of credit for the guarantee of the senior construction loan.

The Company's investment in the Point Street Apartments project is in the form of a loan pursuant to which BDG may borrow up to \$28.2 million (the "BDG loan"). Interest on the BDG loan accrues at 8.0% per annum and matures on the earliest of: (i) November 1, 2018, which may be extended by BDG under two one-year extension options, (ii) the maturity date or earlier termination of the senior construction loan or (iii) the date the Company exercises the Second Option as described further below.

In the event the Company exercises the First Option, BDG is required to pay down the outstanding BDG loan in full, with the difference between the BDG loan and \$28.2 million applied to the senior construction loan. In the event the Company exercises the Second Option, BDG is required to simultaneously repay any remaining amounts outstanding under the BDG loan, with any excess proceeds received from the exercise of the Second Option applied against the senior construction loan. In the event the Company does not exercise either the First Option or the Second Option, the interest rate on the BDG loan will automatically be reduced to the interest rate on the senior construction loan for the remaining term of the BDG loan.

As of September 30, 2017 and December 31, 2016, the Company had funded \$22.0 million and \$20.7 million, respectively, under the BDG loan. During the three months ended September 30, 2017 and 2016, the Company recognized \$0.4 million and \$0.4 million, respectively, of interest income on the BDG loan. During the nine months ended September 30, 2017 and 2016, the Company recognized \$1.3 million and \$0.8 million, respectively, of interest income on the BDG loan. BDG is current on the BDG loan.

Management has concluded that this entity is a VIE. Because BDG is the developer of Point Street Apartments, the Company does not have the power to direct the activities of the project that most significantly impact its performance, nor is the Company the party most closely associated with the project. Therefore, the Company is not the project's primary beneficiary and does not consolidate the project in its consolidated financial statements.

Annapolis Junction

On April 21, 2016, the Company entered into a note receivable with a maximum balance of \$48.1 million in connection with the Annapolis Junction Apartments project in Maryland ("Annapolis Junction"). Annapolis Junction Apartments is an estimated \$102.0 million development project with plans for 416 residential units. It is part of a mixed-use development project that is also planned to have 17,000 square feet of retail space and a 150-room hotel. Annapolis Junction Apartments Owner, LLC ("AJAO") is the developer of the residential component and has engaged the Company to serve as construction general contractor for the residential component. Portions of Annapolis Junction opened during the third quarter of 2017, and the remaining portions are scheduled to open during the fourth quarter of 2017; however, management can provide no assurances that the remaining portions of Annapolis Junction will open on the anticipated timeline or at the anticipated cost.

AJAO secured a senior construction loan of up to \$60.0 million to fund the development and construction of Annapolis Junction's residential component on September 30, 2016. The Company has agreed to guarantee up to \$25.0 million of the senior construction loan in exchange for the option to purchase up to an 88% controlling interest in Annapolis Junction upon completion of the project as follows: (i) an option to purchase an 80% indirect interest in Annapolis Junction's residential component for the lesser of the seller's budgeted or actual cost, exercisable within one year from the project's completion (the "First Option") and (ii) provided that the Company has exercised the First Option, an option to purchase an additional 8% indirect interest in Annapolis Junction for the lesser of the seller's actual or budgeted cost, exercisable within 27 months from the project's completion (the "Second Option").

The Company's investment in the Annapolis Junction project is in the form of a loan under which AJAO may borrow up to \$48.1 million, including a \$6.0 million interest reserve (the "AJAO loan"). Interest on the AJAO loan accrues at 10.0% per annum and matures on the earliest of: (i) December 21, 2020, which may be extended by AJAO under two one-year extension options, (ii) the maturity date or earlier termination of the senior construction loan or (iii) the date the Company exercises the Second Option as described further below. In the event that the Company exercises the First Option, AJAO is required to simultaneously pay down both the senior construction loan and the AJAO loan by 80%, at which time the interest rate on the AJAO loan will automatically be reduced to the interest rate on the senior construction loan. In the event the Company exercises the Second Option, AJAO is required to simultaneously repay any remaining amounts outstanding under the AJAO loan, with any excess proceeds received from the exercise of the Second Option applied against the remaining balance of the senior construction loan. In the event that the Company does not exercise either the First Option or the Second Option, the interest rate on the AJAO loan will automatically be reduced to the interest rate on the senior construction loan for the remaining term of the AJAO loan.

As of September 30, 2017 and December 31, 2016, the Company had funded \$41.9 million and \$38.9 million, respectively, on the AJAO loan. During the three months ended September 30, 2017 and 2016, the Company recognized \$1.1 million and \$0.7 million, respectively, of interest income on the AJAO loan. During the nine months ended September 30, 2017 and 2016, the Company recognized \$3.1 million and \$1.1 million, respectively, of interest income on the AJAO loan. AJAO is current on the AJAO loan.

Management has concluded that this entity is a VIE. Because AJAO is the developer of Annapolis Junction, the Company does not have the power to direct the activities of the project that most significantly impact its performance, nor is the Company the party most closely associated with the project. Therefore, the Company is not the project's primary beneficiary and does not consolidate the project in its consolidated financial statements.

Decatur

On May 15, 2017, the Company invested in the development of a \$34 million Whole Foods anchored center located in Decatur, Georgia. The Company's investment is in the form of a mezzanine loan of up to \$21.8 million to the developer, North Decatur Square Holdings, LLC ("NDSH"). The mezzanine loan bears interest at an annual rate of 15%. The note matures on the earliest of (i) May 15, 2022, (ii) the maturity of the senior construction loan, (iii) the sale of NDSH or (iv) the sale of the center. NDSH is current on this loan.

As of September 30, 2017, the Company had funded \$11.4 million on this loan. During the three and nine months ended September 30, 2017, the Company recognized \$0.4 million and \$0.6 million, respectively, of interest income on this loan.

Subsequent to September 30, 2017

Delray Plaza

On October 27, 2017, the Company invested in the development of a \$20.0 million Whole Foods anchored center located in Delray Beach, Florida. The Company's investment is in the form of a mezzanine loan of up to \$13.1 million to the developer, Delray Plaza Holdings, LLC ("DPH"). The mezzanine loan bears interest at an annual rate of 15%. The note matures on the earliest of (i) October 27, 2020, (ii) the date of any sale or refinancing of the development project, or (iii) the disposition or change in control of the development project. The Company has funded \$5.9 million of this loan.

7. Indebtedness

Credit Facility

On February 20, 2015, the Operating Partnership, as borrower, and the Company, as parent guarantor, entered into a \$200.0 million senior unsecured credit facility (the "credit facility") that included a \$150.0 million senior unsecured revolving credit facility and a \$50.0 million senior unsecured term loan facility. During 2016, the Company increased the borrowing capacity under the term loan facility to \$100.0 million. During the first quarter of 2017, the Company increased the borrowing capacity under the term loan facility to \$125.0 million, increasing the total capacity of the credit facility to \$275.0 million pursuant to the accordion feature.

Depending on the Operating Partnership's total leverage, the revolving credit facility bore interest at LIBOR (the London Inter-Bank Offered Rate) plus a margin ranging from 1.40% to 2.00% and the term loan facility bore interest at LIBOR plus a margin ranging from 1.35% to 1.95%, in each case depending on the Company's total leverage as defined under the credit agreement. As of September 30, 2017, the effective interest rates on the revolving credit facility and the term loan facility were 2.78% and 2.74%, respectively. As of September 30, 2017, the revolving credit facility had a scheduled maturity date of February 20, 2019, with a one-year extension option, subject to certain conditions, and the term loan facility had a scheduled maturity date of February 20, 2020. The Operating Partnership may, at any time, voluntarily prepay any loan under the credit facility in whole or in part without premium or penalty.

As of September 30, 2017, the outstanding balances on the revolving credit facility and the term loan facility were \$58.0 million and \$125.0 million, respectively.

Subsequent to September 30, 2017

On October 26, 2017, the Company amended and restated the credit facility (the "amended credit facility") to (i) extend the maturity date of the revolving credit facility to October 2021 (with options to extend up to October 2022, subject to certain conditions) and (ii) extend the maturity date of the term loan facility to October 2022. The borrowing capacity under the term loan facility was increased to \$150.0 million, increasing the total capacity of the amended credit facility to \$300.0 million. The determination of interest rates charged under the amended credit facility remained unchanged.

In October 2017, the Company increased its borrowings under the revolving credit facility by \$8.0 million and, in conjunction with the closing of the amended credit facility, increased its borrowings under the term loan facility by \$25.0 million.

Other Financing Activity

On February 1, 2017, the Company paid off the North Point Center Note 5 in full for \$0.6 million.

On February 24, 2017, the Company secured a \$29.8 million construction loan for the Harding Place project in Charlotte, North Carolina.

On April 7, 2017, the Company paid off the Harrisonburg Regal note in full for \$3.2 million.

On April 19, 2017, the Company entered into a second amendment to the credit agreement for the Lightfoot Marketplace loan, which amended certain definitions and covenant requirements.

On June 29, 2017, the Company secured a \$27.9 million construction loan for the Town Center Phase VI project in Virginia Beach, Virginia.

On July 13, 2017, the Company paid off the remaining balance of \$4.9 million for the note secured by the Commonwealth of Virginia building in Chesapeake, Virginia in conjunction with the sale of this property.

On August 9, 2017, the Company refinanced the Hanbury Village note. The new note matures in August 2022 and has a fixed annual interest rate of 3.78%.

On August 10, 2017, the Company paid off \$0.7 million of the Sandbridge Commons note in conjunction with the sale of a land outparcel at this property.

On September 1, 2017, the Company entered into a modification of The Cosmopolitan note, which reduced the interest rate from 3.75% to 3.35%.

During the nine months ended September 30, 2017, the Company borrowed \$3.6 million under its construction loans to fund new development and construction.

Subsequent to September 30, 2017

On October 13, 2017, the Company paid off \$5.0 million of the Liberty Apartments note.

8. Derivative Financial Instruments

The Company may enter into interest rate derivative contracts to manage exposure to interest rate risks. The Company does not use derivative financial instruments for trading or speculative purposes. Derivative financial instruments are recognized at fair value and presented within other assets and liabilities in the condensed consolidated balance sheets. Gains and losses resulting from changes in the fair value of derivatives that are neither designated nor qualify as hedging instruments are recognized within the change in fair value of interest rate derivatives in the condensed consolidated statements of income. For derivatives that qualify as cash flow hedges, the effective portion of the gain or loss is reported as a component of other comprehensive loss and reclassified into earnings in the periods during which the hedged forecasted transaction affects earnings.

On February 1, 2017, the North Point Center Note 5 was paid in full, which terminated the interest rate swap agreement associated with the note. The loss on the interest rate swap agreement was not significant.

On February 7, 2017, the Operating Partnership entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on March 1, 2019.

On June 23, 2017, the Operating Partnership entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on July 1, 2019.

On September 18, 2017, the Operating Partnership entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on October 1, 2019.

The Company's derivatives were comprised of the following as of September 30, 2017 and December 31, 2016 (in thousands):

	September 30, 2017			December 31, 2016		
	Notional Amount	(Unaudited) Fair Value		Notional Amount	Fair Value	
		Asset	Liability		Asset	Liability
Interest rate swaps	\$ 56,124	\$ 10	\$ (447)	\$ 56,901	\$ —	\$ (829)
Interest rate caps	370,000	707	—	270,000	259	—
Total	\$ 426,124	\$ 717	\$ (447)	\$ 326,901	\$ 259	\$ (829)

The changes in the fair value of the Company's derivatives during the three and nine months ended September 30, 2017 and 2016 were comprised of the following (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(Unaudited)			
Interest rate swaps	\$ 124	\$ 481	\$ 392	\$ (2,007)
Interest rate caps	(37)	17	(92)	(257)
Total change in fair value of interest rate derivatives	\$ 87	\$ 498	\$ 300	\$ (2,264)

9. Equity

Stockholders' Equity

On May 4, 2016, the Company commenced an at-the-market continuous equity offering program (the "ATM Program") through which the Company could, from time to time, issue and sell shares of its common stock having an aggregate offering price of up to \$75.0 million. During the nine months ended September 30, 2017, the Company issued and sold an aggregate of 450,690 shares of common stock at a weighted average price of \$14.08 per share under the ATM Program, receiving net proceeds, after offering costs and commissions, of \$6.2 million.

On May 12, 2017, the Company completed an underwritten public offering of 6.9 million shares of common stock at a public offering price of \$13.00 per share, which resulted in net proceeds after offering costs and commissions of \$85.3 million.

As of September 30, 2017 and December 31, 2016, the Company's authorized capital was 500 million shares of common stock and 100 million shares of preferred stock. The Company had 44,936,652 and 37,490,361 shares of common stock issued and outstanding as of September 30, 2017 and December 31, 2016, respectively. No shares of preferred stock were issued and outstanding as of September 30, 2017 or December 31, 2016.

Redeemable Noncontrolling Interests

The noncontrolling interest holder of Johns Hopkins Village has the option to redeem the 20% noncontrolling interest in that entity (the "Put Option"). Currently, the Put Option may be redeemed for \$2.0 million in cash or the equivalent amount in Class A units of limited partnership interest in the Operating Partnership ("Class A Units"), which is in the holder's control. Beginning in August 2018, the Put Option may be settled for the fair value of the 20% noncontrolling interest in Johns Hopkins Village, as determined by appraised value. Because the method of the Put Option's redemption is outside of the Company's control, it has been included in temporary equity. If the Put Option is exercised for redemption in the form of Class A Units, the noncontrolling interest will be reclassified into permanent equity.

Noncontrolling Interests

As of September 30, 2017 and December 31, 2016, the Company held a 71.6% and 68.1% interest, respectively, in the Operating Partnership. The Company is the primary beneficiary of the Operating Partnership as it has the power to direct the activities of the Operating Partnership and the rights to absorb 71.6% of the net income of the Operating Partnership. As the primary beneficiary, the Company consolidates the financial position and results of operations of the Operating Partnership. Noncontrolling interests in the Company represent units of limited partnership interest in the Operating Partnership not held by the Company. The Company's financial position and results of operations are the same as those of the Operating Partnership. The noncontrolling interest for the consolidated entities under development or construction (see Note 1) was zero as of September 30, 2017 and December 31, 2016.

As of September 30, 2017, there were 17,570,512 Class A Units not held by the Company.

As partial consideration for the acquisition of Columbus Village, the Operating Partnership issued 1,000,000 Class B Units on July 10, 2015 and issued 275,000 Class C Units on January 10, 2017. The Class B Units were automatically converted to Class A Units on July 10, 2017. Subject to the occurrence of certain events, the Class C Units will not earn or accrue distributions until January 10, 2018, at which time they automatically will convert into Class A Units.

On January 10, 2017, the Operating Partnership issued 68,691 Class A Units to acquire the remaining 20% interest in the Town Center Phase VI project.

Common Stock Dividends and Class A Unit Distributions

On January 5, 2017, the Company paid cash dividends of \$6.7 million to common stockholders and the Operating Partnership paid cash distributions of \$3.0 million to holders of Class A Units.

On April 6, 2017, the Company paid cash dividends of \$7.2 million to common stockholders and the Operating Partnership paid cash distributions of \$3.2 million to holders of Class A Units.

On July 6, 2017, the Company paid dividends of \$8.6 million to common stockholders and the Operating Partnership paid cash distributions of \$3.1 million to holders of Class A Units.

On August 4, 2017, the Board of Directors declared a cash dividend and distribution of \$0.19 per share and unit payable on October 5, 2017 to stockholders and unitholders of record on September 27, 2017.

Subsequent to September 30, 2017

On October 2, 2017, due to the request of holders of Class A Units to tender an aggregate of 358,879 units for redemption by the Operating Partnership, the Company elected to satisfy the redemption requests with an aggregate cash payment of \$4.9 million.

On October 5, 2017, the Company paid dividends of \$8.5 million to common stockholders and the Operating Partnership paid cash distributions of \$3.3 million to holders of Class A Units.

10. Stock-Based Compensation

On June 14, 2017, the Company's stockholders approved the Company's Amended and Restated 2013 Equity Incentive Plan (the "Amended Plan"), which, among other things, increased the number of shares of the Company's common stock reserved for issuance under the Amended Plan by 1,000,000 shares, from 700,000 shares to 1,700,000 shares. As of September 30, 2017, there were 1,084,942 shares available for issuance under the Amended Plan.

During the nine months ended September 30, 2017, the Company granted an aggregate of 117,201 shares of restricted stock to employees and non-employee directors with a weighted average grant date fair value of \$14.03 per share. Employee restricted stock awards generally vest over a period of two years: one-third immediately on the grant date and the remaining two-thirds in equal amounts on the first two anniversaries following the grant date, subject to continued service to the Company. Non-employee director restricted stock awards vest either immediately upon grant or over a period of one year, subject to continued service to the Company.

During the nine months ended September 30, 2017, the Company issued performance-based awards in the form of restricted stock units to certain employees. The performance period for these awards is three years, with a required two-year service period immediately following the expiration of the performance period. The compensation expense and the effect on the Company's weighted average diluted shares calculation were immaterial.

During the three months ended September 30, 2017 and 2016, the Company recognized \$0.3 million and \$0.3 million, respectively, of stock-based compensation expense. During the nine months ended September 30, 2017 and 2016, the Company recognized \$1.4 million and \$1.2 million, respectively, of stock-based compensation expense. As of September 30, 2017, there were 112,838 nonvested restricted shares outstanding; the total unrecognized compensation expense related to nonvested restricted shares was \$0.8 million, which the Company expects to recognize over the next 23 months.

11. Fair Value of Financial Instruments

Fair value measurements are based on assumptions that market participants would use in pricing an asset or a liability. The hierarchy for inputs used in measuring fair value is as follows:

Level 1—quoted prices in active markets for identical assets or liabilities

Level 2—observable inputs other than quoted prices in active markets for identical assets and liabilities

Level 3—unobservable inputs

Except as disclosed below, the carrying amounts of the Company's financial instruments approximate their fair value. Financial assets and liabilities whose fair values are measured on a recurring basis using Level 2 inputs consist of interest rate swaps and caps. The Company measures the fair values of these assets and liabilities based on prices provided by independent market participants that are based on observable inputs using market-based valuation techniques.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. For disclosure purposes, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement.

The fair value of the Company's long term debt is sensitive to fluctuations in interest rates. Discounted cash flow analysis based on Level 2 inputs is generally used to estimate the fair value of the Company's long term debt. Considerable judgment is used to estimate the fair value of financial instruments. The estimates of fair value presented herein are not necessarily indicative of the amounts that could be realized upon disposition of the financial instruments.

The carrying amounts and fair values of the Company's financial instruments, all of which are based on Level 2 inputs, as of September 30, 2017 and December 31, 2016, were as follows (in thousands):

	September 30, 2017		December 31, 2016	
	Carrying Value	Fair Value	Carrying Value	Fair Value
	(Unaudited)			
Indebtedness	\$ 488,609	\$ 491,026	\$ 522,180	\$ 527,414
Interest rate swap liabilities	447	447	829	829
Interest rate swap assets	10	10	—	—
Interest rate cap assets	707	707	259	259

12. Related Party Transactions

The Company provides general contracting and real estate services to certain related party entities that are not included in these condensed consolidated financial statements. Revenue from construction contracts with related party entities of the Company for the three months ended September 30, 2017 and 2016 was less than \$0.1 million and \$6.8 million, respectively, and gross profit from such contracts for the three months ended September 30, 2017 and 2016 was less than \$0.1 million and \$0.3 million, respectively. Revenue from construction contracts with related party entities of the Company for the nine months ended September 30, 2017 and 2016 was \$7.4 million and \$21.7 million, respectively, and gross profit from such contracts for the nine months ended September 30, 2017 and 2016 was \$0.4 million and \$0.8 million, respectively.

Real estate services fees from affiliated entities of the Company were not significant for the three and nine months ended September 30, 2017 or 2016. In addition, affiliated entities also reimburse the Company for monthly maintenance and facilities management services provided to the properties. Cost reimbursements earned by the Company from affiliated entities were not significant for the three and nine months ended September 30, 2017 and 2016.

The Operating Partnership entered into tax protection agreements that indemnify certain directors and executive officers of the Company from their tax liabilities resulting from the potential future sale of certain of the Company's properties within seven (or, in a limited number of cases, ten) years of the completion of the Company's initial public offering and formation transactions completed on May 13, 2013. In addition, the tax protection agreements provide that the Operating Partnership will offer certain of the original contributors, including certain of the Company's directors and executive officers, the opportunity to guarantee debt, or, alternatively, to enter into a deficit restoration obligation, for ten years from the closing of the Company's initial public offering in a manner intended to provide an allocation of Operating Partnership liabilities to the partner for U.S. federal income tax purposes. Pursuant to these tax protection agreements, certain of the Company's executive officers have guaranteed approximately \$0.3 million of the Operating Partnership's outstanding debt as of September 30, 2017.

The loan for the City Center joint venture is underwritten by a syndicate which includes Park Sterling Bank. The Chief Executive Officer of Park Sterling Bank is the Chairman of the Company's Audit Committee.

13. Commitments and Contingencies

Legal Proceedings

The Company is from time to time involved in various disputes, lawsuits, warranty claims, environmental and other matters arising in the ordinary course of business. Management makes assumptions and estimates concerning the likelihood and amount of any potential loss relating to these matters.

The Company currently is a party to various legal proceedings. Management accrues a liability for litigation if an unfavorable outcome is determined to be probable and the amount of loss can be reasonably estimated. If an unfavorable outcome is determined to be probable and a range of loss can be reasonably estimated, management accrues the best estimate within the range; however, if no amount within the range is a better estimate than any other, the minimum amount within the range is accrued. Legal fees related to litigation are expensed as incurred. Management does not believe that the ultimate outcome of these matters, either individually or in the aggregate, could have a material adverse effect on the Company's financial position or results of operations; however, litigation is subject to inherent uncertainties.

Under the Company's leases, tenants are typically obligated to indemnify the Company from and against all liabilities, costs and expenses imposed upon or asserted against it as owner of the properties due to certain matters relating to the operation of the properties by the tenant.

Commitments

The Company has a bonding line of credit for its general contracting construction business and is contingently liable under performance and payment bonds, bonds for cancellation of mechanics liens and defect bonds. Such bonds collectively totaled \$44.9 million and \$40.5 million as of September 30, 2017 and December 31, 2016, respectively.

The Operating Partnership has entered into standby letters of credit using the available capacity under the senior unsecured credit facility. Letters of credit generally are available for draw down in the event the Company does not perform. As of September 30, 2017 and December 31, 2016, the Operating Partnership had total outstanding letters of credit of \$4.1 million and \$4.1 million, respectively. The amounts outstanding at September 30, 2017 and December 31, 2016 include \$2.0 million relating to construction projects and a \$2.1 million letter of credit related to the guarantee on the Point Street Apartments senior construction loan.

Review Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders of
Armada Hoffler Properties, Inc.

We have reviewed the condensed consolidated balance sheet of Armada Hoffler Properties, Inc. as of September 30, 2017, and the related condensed consolidated statements of income for the three and nine-month periods ended September 30, 2017 and 2016, the condensed consolidated statements of cash flows for the nine-month periods ended September 30, 2017 and 2016 and the condensed consolidated statement of equity for the nine-month period ended September 30, 2017. These financial statements are the responsibility of the Company's management.

We conducted our review in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the condensed consolidated financial statements referred to above for them to be in conformity with U.S. generally accepted accounting principles.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of Armada Hoffler Properties, Inc. as of December 31, 2016, and the related consolidated statements of comprehensive income, equity, and cash flows for the year then ended (not presented herein) and we expressed an unqualified audit opinion on those consolidated financial statements in our report dated March 1, 2017. In our opinion, the accompanying condensed consolidated balance sheet as of December 31, 2016, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ Ernst & Young LLP

Tysons, Virginia
November 1, 2017

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

References to “we,” “our,” “us,” and “our company” refer to Armada Hoffler Properties, Inc., a Maryland corporation, together with our consolidated subsidiaries, including Armada Hoffler, L.P., a Virginia limited partnership (the “Operating Partnership”), of which we are the sole general partner. The following discussion should be read in conjunction with the financial statements and notes thereto appearing elsewhere in this report.

Forward-Looking Statements

This report contains forward-looking statements within the meaning of the federal securities laws. We caution investors that any forward-looking statements presented in this report, or which management may make orally or in writing from time to time, are based on beliefs and assumptions made by, and information currently available to, management. When used, the words “anticipate,” “believe,” “expect,” “intend,” “may,” “might,” “plan,” “estimate,” “project,” “should,” “will,” “result” and similar expressions, which do not relate solely to historical matters, are intended to identify forward-looking statements. Such statements are subject to risks, uncertainties and assumptions and are not guarantees of future performance, which may be affected by known and unknown risks, trends, uncertainties and factors that are beyond our control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or projected. We caution you that while forward-looking statements reflect our good faith beliefs when we make them, they are not guarantees of future performance and are impacted by actual events when they occur after we make such statements. We expressly disclaim any responsibility to update forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. Accordingly, investors should use caution in relying on past forward-looking statements, which are based on results and trends at the time they are made, to anticipate future results or trends.

Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described (or that they will happen at all). The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

- adverse economic or real estate developments, either nationally or in the markets in which our properties are located;
- our failure to develop the properties in our development pipeline successfully, on the anticipated timeline, or at the anticipated costs;
- our failure to generate sufficient cash flows to service our outstanding indebtedness;
- defaults on, early terminations of, or non-renewal of leases by tenants, including significant tenants;
- bankruptcy or insolvency of a significant tenant or a substantial number of smaller tenants;
- difficulties in identifying or completing development, acquisition, or disposition opportunities;
- our failure to successfully operate developed and acquired properties;
- our failure to generate income in our general contracting and real estate services segment in amounts that we anticipate;
- fluctuations in interest rates and increased operating costs;
- our failure to obtain necessary outside financing on favorable terms or at all;
- our inability to extend the maturity of or refinance existing debt or comply with the financial covenants in the agreements that govern our existing debt;
- financial market fluctuations;
- risks that affect the general retail environment or the market for office properties or multifamily units;
- the competitive environment in which we operate;
- decreased rental rates or increased vacancy rates;
- conflicts of interests with our officers and directors;
- lack or insufficient amounts of insurance;

- environmental uncertainties and risks related to adverse weather conditions and natural disasters;
- other factors affecting the real estate industry generally;
- our failure to maintain our qualification as a real estate investment trust (“REIT”) for U.S. federal income tax purposes;
- limitations imposed on our business and our ability to satisfy complex rules in order for us to maintain our qualification as a REIT for U.S. federal income tax purposes; and
- changes in governmental regulations or interpretations thereof, such as real estate and zoning laws and increases in real property tax rates and taxation of REITs.

While forward-looking statements reflect our good faith beliefs, they are not guarantees of future performance. We disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events, or other changes after the date of this Quarterly Report on Form 10-Q, except as required by applicable law. We caution investors not to place undue reliance on these forward-looking statements and urge investors to carefully review the disclosures we make concerning risks and uncertainties in the sections entitled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our most recent Annual Report on Form 10-K, as well as risks, uncertainties and other factors discussed in this Quarterly Report on Form 10-Q and identified in other documents that we file from time to time with the U.S. Securities and Exchange Commission (the “SEC”).

Business Description

We are a full-service real estate company with extensive experience developing, building, owning and managing high-quality, institutional-grade office, retail and multifamily properties in attractive markets primarily throughout the Mid-Atlantic and Southeastern United States. As of September 30, 2017, our operating property portfolio consisted of the following properties:

Property	Segment	Location	Ownership Interest
4525 Main Street	Office	Virginia Beach, Virginia*	100%
Armada Hoffer Tower	Office	Virginia Beach, Virginia*	100%
One Columbus	Office	Virginia Beach, Virginia*	100%
Two Columbus	Office	Virginia Beach, Virginia*	100%
249 Central Park Retail	Retail	Virginia Beach, Virginia*	100%
Alexander Pointe	Retail	Salisbury, North Carolina	100%
Bermuda Crossroads	Retail	Chester, Virginia	100%
Broad Creek Shopping Center	Retail	Norfolk, Virginia	100%
Broadmoor Plaza	Retail	South Bend, Indiana	100%
Brooks Crossing ⁽¹⁾	Retail	Newport News, Virginia	65%
Columbus Village	Retail	Virginia Beach, Virginia*	100%
Columbus Village II	Retail	Virginia Beach, Virginia*	100%
Commerce Street Retail	Retail	Virginia Beach, Virginia*	100%
Courthouse 7-Eleven	Retail	Virginia Beach, Virginia	100%
Dick's at Town Center	Retail	Virginia Beach, Virginia*	100%
Dimmock Square	Retail	Colonial Heights, Virginia	100%
Fountain Plaza Retail	Retail	Virginia Beach, Virginia*	100%
Gainsborough Square	Retail	Chesapeake, Virginia	100%
Greentree Shopping Center	Retail	Chesapeake, Virginia	100%
Hanbury Village	Retail	Chesapeake, Virginia	100%
Harper Hill Commons	Retail	Winston-Salem, North Carolina	100%
Harrisonburg Regal	Retail	Harrisonburg, Virginia	100%
Lightfoot Marketplace ⁽²⁾	Retail	Williamsburg, Virginia	70%

Property	Segment	Location	Ownership Interest
North Hampton Market	Retail	Taylors, South Carolina	100%
North Point Center	Retail	Durham, North Carolina	100%
Oakland Marketplace	Retail	Oakland, Tennessee	100%
Parkway Marketplace	Retail	Virginia Beach, Virginia	100%
Patterson Place	Retail	Durham, North Carolina	100%
Perry Hall Marketplace	Retail	Perry Hall, Maryland	100%
Providence Plaza	Retail	Charlotte, North Carolina	100%
Renaissance Square	Retail	Davidson, North Carolina	100%
Sandbridge Commons	Retail	Virginia Beach, Virginia	100%
Socastee Commons	Retail	Myrtle Beach, South Carolina	100%
Southgate Square	Retail	Colonial Heights, Virginia	100%
Southshore Shops	Retail	Chesterfield, Virginia	100%
South Retail	Retail	Virginia Beach, Virginia*	100%
South Square	Retail	Durham, North Carolina	100%
Stone House Square	Retail	Hagerstown, Maryland	100%
Studio 56 Retail	Retail	Virginia Beach, Virginia*	100%
Tyre Neck Harris Teeter	Retail	Portsmouth, Virginia	100%
Waynesboro Commons	Retail	Waynesboro, Virginia	100%
Wendover Village	Retail	Greensboro, North Carolina	100%
Encore Apartments	Multifamily	Virginia Beach, Virginia*	100%
Johns Hopkins Village ⁽³⁾	Multifamily	Baltimore, Maryland	80%
Liberty Apartments	Multifamily	Newport News, Virginia	100%
Smith's Landing	Multifamily	Blacksburg, Virginia	100%
The Cosmopolitan	Multifamily	Virginia Beach, Virginia*	100%

(1) We are entitled to a preferred return of 8% on our investment in Brooks Crossing.

(2) We are entitled to a preferred return of 9% on our investment in Lightfoot Marketplace.

(3) See discussion of redeemable noncontrolling interest in Note 9 for additional information. We are entitled to a preferred return of 9% on our investment in Johns Hopkins Village.

*Located in the Town Center of Virginia Beach

As of September 30, 2017, the following properties that we consolidate for financial reporting purposes were either under development or construction:

Property	Segment	Location	Ownership Interest
Town Center Phase VI	Mixed-use	Virginia Beach, Virginia*	100%
Harding Place ⁽¹⁾	Multifamily	Charlotte, North Carolina	80%
595 King Street	Multifamily	Charleston, South Carolina	92.5%
530 Meeting Street	Multifamily	Charleston, South Carolina	90%

(1) We are entitled to a preferred return of 9% on a portion of our investment in Harding Place.

*Located in the Town Center of Virginia Beach

Please see Note 5 to our condensed consolidated financial statements in Item 1 of this Quarterly Report on Form 10-Q for information related to our investment in Durham City Center II, LLC, which is an unconsolidated subsidiary that we account for under the equity method of accounting.

Acquisitions and Dispositions

On January 4, 2017, we acquired undeveloped land in Charleston, South Carolina for a contract price of \$7.1 million plus capitalized acquisition costs of \$0.2 million. We intend to use the land for the future development of the 595 King Street property.

On January 20, 2017, we completed the sale of the Wawa outparcel at Greentree Shopping Center. Net proceeds after transaction costs were \$4.4 million. The gain on the disposition was \$3.4 million.

On July 11, 2017, we acquired undeveloped land in Charleston, South Carolina for a contract price of \$6.7 million plus capitalized acquisition costs of \$0.1 million. We intend to use the land for the future development of the 530 Meeting Street property.

On July 13, 2017, we completed the sale of two office properties leased by the Commonwealth of Virginia in Chesapeake, Virginia and Virginia Beach, Virginia. Aggregate net proceeds from the dispositions of the properties after transaction costs and repayment of the loan associated with the Chesapeake, Virginia property were \$7.9 million, and the aggregate gain on the dispositions was \$4.2 million.

On July 25, 2017, we acquired the outparcel phase of Wendover Village in Greensboro, North Carolina for a contract price of \$14.3 million plus capitalized acquisition costs of \$0.1 million.

On August 10, 2017, we completed the sale of a land outparcel at Sandbridge Commons. Net proceeds after transaction costs and a partial loan paydown were \$0.3 million. The gain on the disposition was \$0.5 million.

Third Quarter 2017 Highlights

The following highlights our results of operations and significant transactions for the three months ended September 30, 2017:

- Net income of \$10.5 million, or \$0.17 per diluted share, compared to \$7.9 million, or \$0.15 per diluted share, for the three months ended September 30, 2016.
- Funds from operations ("FFO") of \$15.5 million, or \$0.25 per diluted share, compared to \$13.1 million, or \$0.25 per diluted share, for the three months ended September 30, 2016. See "Non-GAAP Financial Measures."
- Normalized funds from operations ("Normalized FFO") of \$15.5 million, or \$0.25 per diluted share, compared to \$13.2 million, or \$0.26 per diluted share, for the three months ended September 30, 2016. See "Non-GAAP Financial Measures."
- Core operating property portfolio occupancy at 94.7% as of September 30, 2017 compared to 94.2% as of June 30, 2017.
- Property segment net operating income ("NOI") of \$17.6 million compared to \$17.1 million for the three months ended September 30, 2016:
 - Office NOI of \$2.8 million compared to \$3.2 million
 - Retail NOI of \$11.6 million compared to \$10.7 million
 - Multifamily NOI of \$3.1 million compared to \$3.1 million
- Same store NOI of \$13.8 million compared to \$14.5 million for the three months ended September 30, 2016:
 - Office same store NOI of \$1.9 million compared to \$2.2 million
 - Retail same store NOI of \$9.4 million compared to \$9.6 million
 - Multifamily same store NOI of \$2.4 million compared to \$2.7 million
- General contracting and real estate services segment gross profit of \$1.8 million compared to \$1.3 million for the three months ended September 30, 2016.
- Third party construction backlog of \$76.7 million as of September 30, 2017.
- Declared cash dividends of \$0.19 per share and Class A unit.

Segment Results of Operations

As of September 30, 2017, we operated our business in four segments: (i) office real estate, (ii) retail real estate, (iii) multifamily residential real estate and (iv) general contracting and real estate services, which are conducted through our taxable REIT subsidiaries (“TRS”). Net operating income (segment revenues minus segment expenses), or “NOI”, is the measure used by management to assess segment performance and allocate our resources among our segments. NOI is not a measure of operating income or cash flows from operating activities as measured by accounting principles generally accepted in the United States (“GAAP”) and is not indicative of cash available to fund cash needs. As a result, NOI should not be considered an alternative to cash flows as a measure of liquidity. Not all companies calculate NOI in the same manner. We consider NOI to be an appropriate supplemental measure to net income because it assists both investors and management in understanding the core operations of our real estate and construction businesses. See Note 3 to our condensed consolidated financial statements in Item 1 of this Quarterly Report on Form 10-Q for a reconciliation of NOI to net income.

We define same store properties as those properties that we owned and operated and that were stabilized for the entirety of both periods presented. Same store properties exclude those that were in lease-up during either of the periods presented. We generally consider a property to be in lease-up until the earlier of: (i) the quarter after the property reaches 80% occupancy or (ii) the thirteenth quarter after the property receives its certificate of occupancy.

Beginning with the three months ended March 31, 2017, our calculation of core occupancy included, and in future periods will include, the square footage from ground leases where we are the lessor. We did not retrospectively apply this new calculation methodology to prior periods. If we were to exclude these ground leases in the calculation of core occupancy, our core occupancy as of September 30, 2017 would have been 94.3%.

Office Segment Data

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 4,762	\$ 5,277	\$ (515)	\$ 14,427	\$ 16,097	\$ (1,670)
Property expenses	1,928	2,038	(110)	5,519	5,857	(338)
Segment NOI	\$ 2,834	\$ 3,239	\$ (405)	\$ 8,908	\$ 10,240	\$ (1,332)

Office segment NOI for the three and nine months ended September 30, 2017 decreased \$0.4 million and \$1.3 million, respectively, compared to the corresponding periods in 2016. The decreases are due to decreased occupancy at Armada Hoffer Tower and property dispositions. The Richmond Tower office building, which was sold in the first quarter of 2016, and the Oyster Point office building, which was sold in the third quarter of 2016, contributed \$0.2 million and \$0.9 million, respectively, in office segment NOI for the three and nine months ended September 30, 2016. The Commonwealth of Virginia-Chesapeake and Commonwealth of Virginia-Virginia Beach office buildings, which contributed an aggregate of \$0.2 million and \$0.8 million in office segment NOI for the three and nine months ended September 30, 2016, respectively, were sold in the third quarter of 2017.

Office Same Store Results

Office same store results for the three and nine months ended September 30, 2017 exclude new real estate development – 4525 Main Street – as well as the Richmond Tower and Oyster Point office buildings, which we sold in the first quarter of 2016 and the third quarter of 2016, respectively, and the Commonwealth of Virginia-Chesapeake and Commonwealth of Virginia-Virginia Beach office buildings, which were sold in the third quarter of 2017.

Office same store rental revenues, property expenses and NOI for the three and nine months ended September 30, 2017 and 2016 were as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 3,378	\$ 3,595	\$ (217)	\$ 10,258	\$ 10,805	\$ (547)
Property expenses	1,451	1,407	44	4,085	3,986	99
Same Store NOI	\$ 1,927	\$ 2,188	\$ (261)	\$ 6,173	\$ 6,819	\$ (646)
Non-Same Store NOI	907	1,051	(144)	2,735	3,421	(686)
Segment NOI	\$ 2,834	\$ 3,239	\$ (405)	\$ 8,908	\$ 10,240	\$ (1,332)

Office same store NOI for the three and nine months ended September 30, 2017 decreased 11.9% and 9.5%, respectively, compared to the corresponding periods in 2016 due to the expansion and relocation of a tenant from One Columbus to 4525 Main Street during the three months ended December 31, 2016 and the expansion and relocation of another tenant from Two Columbus to 4525 Main Street during the three months ended September 30, 2017. For the three and nine months ended September 30, 2017, the NOI from these tenants that relocated to 4525 Main Street are included in Non-Same Store NOI. In addition, decreased occupancy at the Armada Hoffer Tower contributed to the period-over-period decreases in office same store NOI.

Retail Segment Data

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 15,880	\$ 14,340	\$ 1,540	\$ 47,089	\$ 41,485	\$ 5,604
Property expenses	4,287	3,603	684	12,255	10,773	1,482
Segment NOI	\$ 11,593	\$ 10,737	\$ 856	\$ 34,834	\$ 30,712	\$ 4,122

Retail segment NOI for the three and nine months ended September 30, 2017 increased \$0.9 million and \$4.1 million, respectively, compared to the corresponding periods in 2016. The increases are a result of the acquisitions of Southgate Square, Southshore Shops, Columbus Village II, Renaissance Square, the outparcel phase of Wendover Village, and the 11-property retail portfolio, together with the completion of the Lightfoot Marketplace and Brooks Crossing developments.

Retail Same Store Results

Retail same store results for the three months ended September 30, 2017 exclude the remaining nine properties of the 11-property retail portfolio, as well as Southgate Square, Lightfoot Marketplace, Southshore Shops, Brooks Crossing, Columbus Village II, Renaissance Square, and the outparcel phase of Wendover Village.

Retail same store rental revenues, property expenses and NOI for the three and nine months ended September 30, 2017 and 2016 were as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 13,166	\$ 12,989	\$ 177	\$ 28,297	\$ 27,846	\$ 451
Property expenses	3,721	3,359	362	8,107	7,717	390
Same Store NOI	\$ 9,445	\$ 9,630	\$ (185)	\$ 20,190	\$ 20,129	\$ 61
Non-Same Store NOI	2,148	1,107	1,041	14,644	10,583	4,061
Segment NOI	\$ 11,593	\$ 10,737	\$ 856	\$ 34,834	\$ 30,712	\$ 4,122

Retail same store NOI decreased 1.9% and increased 0.3%, respectively, for the three and nine months ended September 30, 2017 compared to the corresponding periods in 2016. The decrease for the three months ended September 30, 2017 was the result of higher administrative expense, maintenance and repair expense, and bad debt expense. The increase for the nine months ended September 30, 2017 was the result of higher occupancy across the same store portfolio.

Multifamily Segment Data

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 6,454	\$ 5,688	\$ 766	\$ 19,567	\$ 15,257	\$ 4,310
Property expenses	3,308	2,549	759	9,092	6,691	2,401
Segment NOI	\$ 3,146	\$ 3,139	\$ 7	\$ 10,475	\$ 8,566	\$ 1,909

Multifamily segment NOI did not change materially for the three months ended September 30, 2017 and increased \$1.9 million for the nine months ended September 30, 2017 compared to the corresponding periods in 2016. The increase for the nine months ended September 30, 2017 was primarily a result of activity for Johns Hopkins Village, which was placed into service in the third quarter of 2016.

Multifamily Same Store Results

Multifamily same store results exclude new real estate development – specifically Johns Hopkins Village, which was placed into service in the third quarter of 2016.

Multifamily same store rental revenues, property expenses and NOI for the three and nine months ended September 30, 2017 and 2016 were as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Rental revenues	\$ 4,793	\$ 4,872	\$ (79)	\$ 14,230	\$ 14,354	\$ (124)
Property expenses	2,356	2,206	150	6,595	6,342	253
Same Store NOI	\$ 2,437	\$ 2,666	\$ (229)	\$ 7,635	\$ 8,012	\$ (377)
Non-Same Store NOI	709	473	236	2,840	554	2,286
Segment NOI	\$ 3,146	\$ 3,139	\$ 7	\$ 10,475	\$ 8,566	\$ 1,909

Multifamily same store NOI for the three and nine months ended September 30, 2017 decreased 8.6% and 4.7%, respectively, compared to the corresponding periods in 2016. The decreases are primarily due to decreased occupancy at The Cosmopolitan attributed to construction activities at an adjacent property and the loss of retail tenants at that property.

General Contracting and Real Estate Services Segment Data

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Segment revenues	\$ 41,201	\$ 38,552	\$ 2,649	\$ 161,391	\$ 108,555	\$ 52,836
Segment expenses	39,377	37,274	2,103	154,588	104,336	50,252
Segment gross profit	\$ 1,824	\$ 1,278	\$ 546	\$ 6,803	\$ 4,219	\$ 2,584
Operating margin	4.4%	3.3%	1.2%	4.2%	3.9%	0.3%

Segment profit for the three and nine months ended September 30, 2017 increased \$0.5 million and \$2.6 million, respectively, compared to the corresponding periods in 2016 because of several new large projects started subsequent to the first quarter of 2016 as well as higher margins in this segment.

The changes in third party construction backlog for the three and nine months ended September 30, 2017 and 2016 were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(unaudited, \$ in thousands)			
Beginning backlog	\$ 116,657	\$ 252,318	\$ 217,718	\$ 83,433
New contracts/change orders	1,251	32,498	20,211	271,288
Work performed	(41,165)	(38,384)	(161,186)	(108,289)
Ending backlog	\$ 76,743	\$ 246,432	\$ 76,743	\$ 246,432

As of September 30, 2017, we had \$26.2 million in backlog on the City Center project, \$19.0 million in backlog on the Point Street Apartments project, and \$17.9 million in backlog on the Dinwiddie Municipal Complex project.

Consolidated Results of Operations

The following table summarizes the results of operations for the three and nine months ended September 30, 2017 and 2016:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Revenues						
Rental revenues	\$ 27,096	\$ 25,305	\$ 1,791	\$ 81,083	\$ 72,839	\$ 8,244
General contracting and real estate services revenues	41,201	38,552	2,649	161,391	108,555	52,836
Total revenues	68,297	63,857	4,440	242,474	181,394	61,080
Expenses						
Rental expenses	6,830	5,834	996	19,069	16,234	2,835
Real estate taxes	2,693	2,356	337	7,797	7,087	710
General contracting and real estate services expenses	39,377	37,274	2,103	154,588	104,336	50,252
Depreciation and amortization	9,239	8,885	354	28,018	25,636	2,382
General and administrative expenses	2,098	2,156	(58)	7,762	6,864	898
Acquisition, development and other pursuit costs	61	345	(284)	477	1,486	(1,009)
Impairment charges	19	149	(130)	50	184	(134)
Total expenses	60,317	56,999	3,318	217,761	161,827	55,934
Operating income	7,980	6,858	1,122	24,713	19,567	5,146
Interest income	1,910	1,024	886	4,966	1,928	3,038
Interest expense	(4,253)	(4,124)	(129)	(13,282)	(11,893)	(1,389)
Loss on extinguishment of debt	—	(82)	82	—	(82)	82
Gain on real estate dispositions	4,692	3,753	939	8,087	30,440	(22,353)
Change in fair value of interest rate derivatives	87	498	(411)	300	(2,264)	2,564
Other income	74	35	39	154	154	—
Income before taxes	10,490	7,962	2,528	24,938	37,850	(12,912)
Income tax provision	(29)	(16)	(13)	(781)	(240)	(541)
Net income	\$ 10,461	\$ 7,946	\$ 2,515	\$ 24,157	\$ 37,610	\$ (13,453)

Rental revenues for the three and nine months ended September 30, 2017 increased \$1.8 million and \$8.2 million, respectively, compared to the corresponding periods in 2016, as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Office	\$ 4,762	\$ 5,277	\$ (515)	\$ 14,427	\$ 16,097	\$ (1,670)
Retail	15,880	14,340	1,540	47,089	41,485	5,604
Multifamily	6,454	5,688	766	19,567	15,257	4,310
	<u>\$ 27,096</u>	<u>\$ 25,305</u>	<u>\$ 1,791</u>	<u>\$ 81,083</u>	<u>\$ 72,839</u>	<u>\$ 8,244</u>

Office rental revenues for the three and nine months ended September 30, 2017 decreased 9.8% and 10.4%, respectively, compared to the corresponding periods in 2016 primarily as a result of decreased occupancy at Armada Hoffler Tower and as a result of the sales of the Richmond Tower, Oyster Point, Commonwealth of Virginia-Chesapeake and Commonwealth of Virginia-Virginia Beach office buildings, which contributed an aggregate of \$0.4 million and \$1.4 million in office rental revenues for the three and nine months ended September 30, 2016, respectively.

Retail rental revenues for the three and nine months ended September 30, 2017 increased 10.7% and 13.5%, respectively, compared to the corresponding periods in 2016 as a result of property acquisitions. The acquisitions of the remaining nine properties of the 11-property retail portfolio, Southgate Square, Southshore Shops, Columbus Village II, Renaissance Square, and the outparcel phase of Wendover Village, together with the completion of Brooks Crossing and Lightfoot Marketplace developments, contributed an aggregate of \$1.5 million and \$4.7 million in increased retail rental revenues for the three and nine months ended September 30, 2017, respectively, which was partially offset by dispositions.

Multifamily rental revenues for the three and nine months ended September 30, 2017 increased 13.5% and 28.2%, respectively, compared to the corresponding periods in 2016 as a result of the completion of the Johns Hopkins Village development, which was placed into service in the third quarter of 2016, and higher occupancy at Encore Apartments and Smith's Landing.

General contracting and real estate services revenues for the three and nine months ended September 30, 2017 increased 6.9% and 48.7%, respectively, compared to the corresponding periods in 2016 because of several new large projects started subsequent to the first quarter of 2016.

Rental expenses for the three and nine months ended September 30, 2017 increased \$1.0 million and \$2.8 million, respectively, compared to the corresponding periods in 2016, as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Office	\$ 1,447	\$ 1,553	\$ (106)	\$ 4,138	\$ 4,307	\$ (169)
Retail	2,699	2,264	435	7,698	6,820	878
Multifamily	2,684	2,017	667	7,233	5,107	2,126
	<u>\$ 6,830</u>	<u>\$ 5,834</u>	<u>\$ 996</u>	<u>\$ 19,069</u>	<u>\$ 16,234</u>	<u>\$ 2,835</u>

Office rental expenses for the three and nine months ended September 30, 2017 decreased 6.8% and 3.9%, respectively, compared to the corresponding periods in 2016 due to the sales of the Richmond Tower, Oyster Point, Commonwealth of Virginia-Chesapeake and Commonwealth of Virginia-Virginia Beach office buildings. Retail rental expenses for the three and nine months ended September 30, 2017 increased 19.2% and 12.9% compared to the respective periods in 2016 as a result of property acquisitions and the completion of development projects that were placed into service subsequent to the first quarter of 2016 as well as increased bad debt expenses. Multifamily rental expenses for the three and nine months ended September 30, 2017 increased 33.1% and 41.6% compared to the respective periods in 2016 primarily due to placing Johns Hopkins Village into service.

Real estate taxes for the three and nine months ended September 30, 2017 increased \$0.3 million and \$0.7 million, respectively, compared to the corresponding periods in 2016, as follows:

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2017	2016	Change	2017	2016	Change
	(unaudited, \$ in thousands)					
Office	\$ 481	\$ 485	\$ (4)	\$ 1,381	\$ 1,550	\$ (169)
Retail	1,588	1,339	249	4,557	3,953	604
Multifamily	624	532	92	1,859	1,584	275
	<u>\$ 2,693</u>	<u>\$ 2,356</u>	<u>\$ 337</u>	<u>\$ 7,797</u>	<u>\$ 7,087</u>	<u>\$ 710</u>

Office real estate taxes for the three and nine months ended September 30, 2017 decreased 0.8% and 10.9% compared to the respective periods in 2016 due to the sales of the Richmond Tower, Oyster Point, Commonwealth of Virginia-Chesapeake, and Commonwealth of Virginia-Virginia Beach office buildings. Retail and multifamily real estate taxes for the three and nine months ended September 30, 2017 increased compared to the corresponding periods in 2016 as a result of acquisitions, completion of development projects that were placed into service subsequent to the first quarter of 2016 and increases from new tax assessments.

General contracting and real estate services expenses for the three and nine months ended September 30, 2017 increased 5.6% and 48.2%, respectively, compared to the corresponding periods in 2016 as a result of several new large projects started subsequent to the first quarter of 2016.

Depreciation and amortization for the three and nine months ended September 30, 2017 increased 4.0% and 9.3%, respectively, compared to the corresponding periods in 2016 as a result of property acquisitions and completion of development projects that were placed into service subsequent to the first quarter of 2016.

General and administrative expenses for the three months ended September 30, 2017 decreased 2.7% compared to the three months ended September 30, 2016 due to a reduction in franchise fees. General and administrative expenses for the nine months ended September 30, 2017 increased 13.1% compared to the nine months ended September 30, 2016 as a result of higher regulatory and compliance costs and higher compensation and benefit costs from increased employee headcount.

Acquisition, development and other pursuit costs for the three and nine months ended September 30, 2017 decreased compared to the corresponding periods in 2016. The costs incurred in the nine months ended September 30, 2016 were primarily related to the acquisition of the 11-property retail portfolio in January 2016.

Impairment charges for the three and nine months ended September 30, 2017 and 2016 were primarily due to lease terminations.

Interest income for the three and nine months ended September 30, 2017 increased compared to the corresponding periods in 2016 due to higher notes receivable balances, including the Decatur mezzanine loan originated in May 2017.

Interest expense for the three and nine months ended September 30, 2017 increased 3.1% and 11.7%, respectively, compared to the corresponding periods in 2016 primarily as a result of higher interest rates.

The loss on extinguishment of debt for the three and nine months ended September 30, 2016 was due to unamortized debt issuance costs associated with repaid mortgages as well as costs associated with modifying our credit facility.

During the nine months ended September 30, 2017, we recognized a gain of \$3.4 million on our sale of the Greentree Wawa outparcel, a gain of \$4.2 million on our sale of the Commonwealth of Virginia-Chesapeake and Commonwealth of Virginia-Virginia Beach office buildings and a gain of \$0.5 million on our sale of the land outparcel at Sandbridge Commons. During the nine months ended September 30, 2016, we recognized gains of \$30.4 million on our sales of the Richmond Tower office building and the Newport News Economic Authority building.

The change in fair value of interest rate derivatives for the three months ended September 30, 2017 was an increase of \$0.1 million compared to an increase of \$0.5 million for the corresponding period in 2016 due to less dramatic changes in forward LIBOR (the London Inter-Bank Offered Rate). The change in fair value of interest rate derivatives for the nine months

ended September 30, 2017 was an increase of \$0.3 million compared to a decrease of \$2.3 million for the corresponding period in 2016. The expense for the nine months ended September 30, 2016 was due to dedesignation of our hedge accounting.

Income tax provisions that we recognized during the three and nine months ended September 30, 2017 and 2016 were attributable to the taxable profits and losses of our development and construction businesses that we operate through our TRS.

Liquidity and Capital Resources

Overview

We believe our primary short-term liquidity requirements consist of general contractor expenses, operating expenses and other expenditures associated with our properties, including tenant improvements, leasing commissions and leasing incentives, dividend payments to our stockholders required to maintain our REIT qualification, debt service, capital expenditures, new real estate development projects and strategic acquisitions. We expect to meet our short-term liquidity requirements through net cash provided by operations, reserves established from existing cash, borrowings under construction loans to fund new real estate development and construction, borrowings available under our senior unsecured credit facility and net proceeds from the sale of common stock.

Our long-term liquidity needs consist primarily of funds necessary for the repayment of debt at or prior to maturity, general contracting expenses, property development and acquisitions, tenant improvements and capital improvements. We expect to meet our long-term liquidity requirements with net cash from operations, long-term secured and unsecured indebtedness, and the issuance of equity and debt securities. We also may fund property development and acquisitions and capital improvements using our senior unsecured credit facility pending long-term financing.

As of September 30, 2017, we had unrestricted cash and cash equivalents of \$19.7 million available for both current liquidity needs as well as development activities. We also had restricted cash of \$3.2 million available for property improvements and required maintenance. As of September 30, 2017, we had \$92.0 million of available borrowings under our credit facility to meet our short-term liquidity requirements.

Credit Facility

On October 26, 2017, we entered into an amended and restated credit agreement (the “amended credit agreement”), which provides for a \$300.0 million credit facility comprised of a \$150.0 million senior unsecured revolving credit facility (the “revolving credit facility”) and a \$150.0 million senior unsecured term loan facility (the “term loan facility” and, together with the revolving credit facility, the “credit facility”), with Bank of America, N.A., as administrative agent, swing line lender and L/C issuer, Regions Bank and PNC Bank, National Association, as syndication agents, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Regions Capital Markets and PNC Capital Markets LLC, as joint lead arrangers, Merrill Lynch, Pierce, Fenner & Smith Incorporated as sole bookrunner and the other lenders party thereto. The amended credit facility replaces our prior \$150.0 million revolving credit facility, which was scheduled to mature on February 20, 2019, and our prior \$125.0 million term loan facility, which was scheduled to mature on February 20, 2021. We intend to use future borrowings under the credit facility for general corporate purposes, including funding acquisitions and development and redevelopment of properties in our portfolio and for working capital.

The credit facility includes an accordion feature that allows the total commitments to be increased to \$450.0 million, subject to certain conditions, including obtaining commitments from any one or more lenders. The revolving credit facility has a scheduled maturity date of October 26, 2021, with two six-month extension options, subject to certain conditions, including payment of a 0.075% extension fee at each extension. The term loan facility has a scheduled maturity date of October 26, 2022.

The revolving credit facility bears interest at LIBOR plus a margin ranging from 1.40% to 2.00% and the term loan facility bears interest at LIBOR plus a margin ranging from 1.35% to 1.95%, in each case depending on our total leverage. We are also obligated to pay an unused commitment fee of 15 or 25 basis points on the unused portions of the commitments under the revolving credit facility, depending on the amount of borrowings under the credit facility. If we attain investment grade credit ratings from S&P and Moody’s, we may elect to have borrowings become subject to interest rates based on our credit ratings.

The Operating Partnership is the borrower under the credit facility, and its obligations under the credit facility are guaranteed by us and certain of its subsidiaries that are not otherwise prohibited from providing such guaranty.

The credit agreement contains customary representations and warranties and financial and other affirmative and negative covenants. Our ability to borrow under the credit facility is subject to our ongoing compliance with a number of financial covenants, affirmative covenants and other restrictions, including the following:

- Total leverage ratio of not more than 60% (or 65% for the two consecutive quarters following any acquisition that is equal to or greater than 10% of our total asset value (as defined in the credit agreement), but only up to two times during the term of the credit facility);

- Ratio of adjusted EBITDA (as defined in the credit agreement) to fixed charges of not less than 1.50 to 1.0;
- Tangible net worth of not less than the sum of 75% of tangible net worth (as defined in the credit agreement) as of September 30, 2017 and 75% of the net equity proceeds received after June 30, 2017;
- Ratio of secured indebtedness to total asset value of not more than 40%;
- Ratio of secured recourse debt to total asset value of not more than 20%;
- Total unsecured leverage ratio of not more than 60% (or 65% for the two consecutive quarters following any acquisition that is equal to or greater than 10% of our total asset value, but only up to two times during the term of the credit facility);
- Unencumbered interest coverage ratio (as defined in the credit agreement) of not less than 1.75 to 1.0;
- Ratio of unencumbered NOI (as defined in the credit agreement) to all unsecured debt of not less than 12%;
- Maintenance of a minimum of at least 15 unencumbered properties (as defined in the credit agreement) with an unencumbered asset value (as defined in the credit agreement) of not less than \$300.0 million at any time; and
- Minimum occupancy rate (as defined in the credit agreement) for all unencumbered properties of not less than 80% at any time.

The credit facility limits our ability to pay cash dividends. However, so long as no default or event of default exists, the credit agreement allows us to pay cash dividends with respect to any 12-month period in an amount not to exceed the greater of: (i) 95% of adjusted funds from operations (as defined in the credit agreement) or (ii) the amount required for us (a) to maintain our status as a REIT and (b) to avoid income or excise tax under the Internal Revenue Code of 1986, as amended. If certain defaults or events of default exist, we may pay cash dividends with respect to any 12-month period to the extent necessary to maintain our status as a REIT. The credit facility also restricts the amount of capital that we can invest in specific categories of assets, such as unimproved land holdings, development properties, notes receivable, mortgages, mezzanine loans and unconsolidated affiliates, and restricts the amount of stock and OP units that we may repurchase during the term of the credit facility.

We may, at any time, voluntarily prepay any loan under the credit facility in whole or in part without premium or penalty.

The credit agreement includes customary events of default, in certain cases subject to customary periods to cure. The occurrence of an event of default, following the applicable cure period, would permit the lenders to, among other things, declare the unpaid principal, accrued and unpaid interest and all other amounts payable under the credit facility to be immediately due and payable.

We are currently in compliance with all covenants under the credit facility.

Consolidated Indebtedness

The following table sets forth our consolidated indebtedness as of September 30, 2017 (\$ in thousands):

	Amount Outstanding	Interest Rate(a)	Effective Rate for Variable Debt	Maturity Date	Balance at Maturity
Secured Debt					
Lightfoot Marketplace	\$ 12,894	LIBOR+1.90%	3.13%	November 14, 2017	\$ 12,894
Sandbridge Commons	8,530	LIBOR+1.85%	3.08%	January 17, 2018	8,045
Columbus Village Note 1	6,124	LIBOR+2.00%	3.05% (b)	April 5, 2018	6,033
Columbus Village Note 2	2,232	LIBOR+2.00%	3.23%	April 5, 2018	2,108
Johns Hopkins Village	46,698	LIBOR+1.90%	3.13%	July 30, 2018	46,698
North Point Note 1	9,623	6.45%		February 5, 2019	9,333
Southgate Square	20,871	LIBOR+2.00%	3.23%	April 29, 2021	18,925
249 Central Park Retail	16,910 (c)	LIBOR+1.95%	3.18%	August 8, 2021	15,959
South Retail	7,420 (c)	LIBOR+1.95%	3.18%	August 8, 2021	7,002
Fountain Plaza Retail	10,180 (c)	LIBOR+1.95%	3.18%	August 8, 2021	9,608
4525 Main Street	32,034 (d)	3.25%		September 10, 2021	30,774
Encore Apartments	24,966 (d)	3.25%		September 10, 2021	24,006
Hanbury Village	19,622	3.78%		August 15, 2022	17,109
Socastee Commons	4,796 (e)	4.57%		January 6, 2023	4,223
North Point Note 2	2,486	7.25%		September 15, 2025	1,344
Smith's Landing	19,954	4.05%		June 1, 2035	—
Liberty Apartments	19,763 (e)	5.66%		November 1, 2043	—
The Cosmopolitan	45,390	3.35%		July 1, 2051	—
Harding Place	—	LIBOR+2.95%		February 24, 2020	—
Town Center Phase VI	—	LIBOR+3.50%		June 29, 2020	—
Total secured debt	\$ 310,493				\$ 214,061
Unsecured Debt					
Senior unsecured revolving credit facility	58,000	LIBOR+1.40% to 2.00%	2.78%	February 20, 2019 (f)	58,000
Senior unsecured term loan	75,000	LIBOR+1.35% to 1.95%	2.73%	February 20, 2020 (f)	75,000
Senior unsecured term loan	50,000	LIBOR+1.35% to 1.95%	3.50% (b)	February 20, 2020 (f)	50,000
Total unsecured debt	\$ 183,000				\$ 183,000
Total principal balances	493,493				397,061
Unamortized GAAP adjustments	(4,884)				—
Indebtedness, net	\$ 488,609				\$ 397,061

(a) LIBOR rate is determined by individual lenders.

(b) Subject to an interest rate swap agreement.

(c) Cross collateralized.

(d) Cross collateralized.

(e) Principal balance excluding fair value adjustments.

(f) As described above, following an amendment and restatement of the credit agreement on October 26, 2017, the revolving credit facility has a scheduled maturity date of October 26, 2021, with a one-year extension option, subject to certain conditions, and the term loan facility has a scheduled maturity date of October 26, 2022.

We are currently in compliance with all covenants on our outstanding indebtedness.

As of September 30, 2017, our principal payments during the following years are as follows (\$ in thousands):

Year ⁽¹⁾	Amount Due	Percentage of Total
2017	\$ 13,948	3%
2018	67,263	14%
2019	71,376	15%
2020	130,057	26%
2021	110,458	22%
Thereafter	100,391	20%
	\$ 493,493	100%

(1) Does not reflect the effect of any maturity extension options.

On February 1, 2017, we paid off the North Point Center Note 5 in full for \$0.6 million.

On April 7, 2017, we paid off the Harrisonburg Regal note in full for \$3.2 million.

On April 19, 2017, we entered into a second amendment to the credit agreement for the Lightfoot Marketplace loan, which amended certain definitions and covenant requirements.

On July 13, 2017, we paid off the remaining balance of \$4.9 million for the note secured by the Commonwealth of Virginia building in Chesapeake, Virginia in conjunction with the sale of this property.

On August 9, 2017, we refinanced the Hanbury Village note. The new note matures in August 2022 and has a fixed annual interest rate of 3.78%.

On August 10, 2017, we paid off \$0.7 million of the Sandbridge Commons note in conjunction with the sale of a land outparcel at this property.

On September 1, 2017, we entered into a modification of The Cosmopolitan note, which reduced the annual interest rate from 3.75% to 3.35%.

On October 13, 2017, we paid off \$5.0 million of the Liberty Apartments note.

Interest Rate Derivatives

On February 20, 2015, we entered into a \$50.0 million floating-to-fixed interest rate swap attributable to one-month LIBOR indexed interest payments. The \$50.0 million interest rate swap has a fixed rate of 2.00%, an effective date of March 1, 2016 and a maturity date of February 20, 2020. We entered into this interest rate swap agreement in connection with the \$50.0 million senior unsecured term loan facility that bears interest at LIBOR plus 1.35% to 1.95%, depending on our total leverage.

On July 13, 2015, we entered into a \$6.5 million floating-to-fixed interest rate swap attributable to one-month LIBOR indexed interest payments. The \$6.5 million interest rate swap has a fixed rate of 3.05%, an effective date of July 13, 2015 and a maturity date of April 5, 2018.

On February 7, 2017, we entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on March 1, 2019.

On June 23, 2017, we entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on July 1, 2019.

On September 18, 2017, we entered into a LIBOR interest rate cap agreement on a notional amount of \$50.0 million at a strike rate of 1.50% for a premium of less than \$0.2 million. The interest rate cap agreement expires on October 1, 2019.

As of September 30, 2017, we were party to the following LIBOR interest rate cap agreements (\$ in thousands):

Effective Date	Maturity Date	Strike Rate	Notional Amount
October 26, 2015	October 15, 2017	1.25%	75,000
February 25, 2016	March 1, 2018	1.50%	75,000
June 17, 2016	June 17, 2018	1.00%	70,000
February 7, 2017	March 1, 2019	1.50%	50,000
June 23, 2017	July 1, 2019	1.50%	50,000
September 18, 2017	October 1, 2019	1.50%	50,000
Total			\$ 370,000

Off-Balance Sheet Arrangements

We have entered into standby letters of credit using the available capacity under the credit facility. Letters of credit generally are available for draw down in the event we do not perform. As of September 30, 2017, we had aggregate outstanding standby letters of credit totaling \$4.1 million that expire during 2017. However, any of our standby letters of credit may be renewed for additional periods until completion of the related construction contracts. The amounts outstanding at September 30, 2017 include \$2.0 million relating to construction projects and a \$2.1 million letter of credit related to the guarantee on the Point Street Apartments senior construction loan.

Cash Flows

	Nine Months Ended September 30,		
	2017	2016	Change
	(\$ in thousands)		
Operating Activities	\$ 36,598	\$ 38,782	\$ (2,184)
Investing Activities	(69,485)	(187,681)	118,196
Financing Activities	30,666	145,800	(115,134)
Net Increase (Decrease)	\$ (2,221)	\$ (3,099)	\$ 878
Cash and Cash Equivalents, Beginning of Period	\$ 21,942	\$ 26,989	
Cash and Cash Equivalents, End of Period	\$ 19,721	\$ 23,890	

Net cash provided by operating activities during the nine months ended September 30, 2017 decreased 5.6% compared to the nine months ended September 30, 2016, primarily as a result of timing differences in operating assets and liabilities.

During the nine months ended September 30, 2017, we invested 63.0% less cash compared to the nine months ended September 30, 2016. The primary component of the 2016 investments was our acquisition of the 11-property retail portfolio.

Net cash provided by financing activities during the nine months ended September 30, 2017 decreased 79.0% compared to the nine months ended September 30, 2016, primarily as a result of debt and credit facility repayments during the 2017 period, partially offset by increased net proceeds from equity issuances.

Non-GAAP Financial Measures

We calculate FFO in accordance with the standards established by the National Association of Real Estate Investment Trusts ("NAREIT"). NAREIT defines FFO as net income (loss) (calculated in accordance with GAAP), excluding gains (or losses) from sales of depreciable operating property, real estate related depreciation and amortization (excluding amortization of deferred financing costs) and after adjustments for unconsolidated partnerships and joint ventures.

FFO is a supplemental non-GAAP financial measure. Management uses FFO as a supplemental performance measure because we believe that FFO is beneficial to investors as a starting point in measuring our operational performance. Specifically, in excluding real estate related depreciation and amortization and gains and losses from property dispositions, which do not relate to or are not indicative of operating performance, FFO provides a performance measure that, when compared year-over-year, captures trends in occupancy rates, rental rates and operating costs. We also believe that, as a widely recognized measure of the performance of REITs, FFO will be used by investors as a basis to compare our operating performance with that of other REITs.

However, because FFO excludes depreciation and amortization and captures neither the changes in the value of our properties that result from use or market conditions nor the level of capital expenditures and leasing commissions necessary to maintain the operating performance of our properties, all of which have real economic effects and could materially impact our results from operations, the utility of FFO as a measure of our performance is limited. In addition, other equity REITs may not calculate FFO in accordance with the NAREIT definition as we do, and, accordingly, our calculation of FFO may not be comparable to such other REITs' calculation of FFO. Accordingly, FFO should be considered only as a supplement to net income as a measure of our performance. FFO should not be used as a measure of our liquidity, nor is it indicative of funds available to fund our cash needs, including our ability to pay dividends or service indebtedness. Also, FFO should not be used as a supplement to or substitute for cash flow from operating activities computed in accordance with GAAP.

We also believe that the computation of FFO in accordance with NAREIT's definition includes certain items that are not indicative of the results provided by our operating property portfolio and affect the comparability of our year-over-year performance. Accordingly, management believes that Normalized FFO is a more useful performance measure that excludes certain items, including but not limited to, debt extinguishment losses and prepayment penalties, property acquisition, development and other pursuit costs, mark-to-market adjustments for interest rate derivatives and other non-comparable items.

The following table sets forth a reconciliation of FFO and Normalized FFO for the three and nine months ended September 30, 2017 and 2016 to net income, the most directly comparable GAAP measure:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
	(unaudited, \$ in thousands)			
Net income	\$ 10,461	\$ 7,946	\$ 24,157	\$ 37,610
Depreciation and amortization	9,239	8,885	28,018	25,636
Gain on operating real estate dispositions	(4,200)	(3,753)	(7,595)	(30,010)
Funds from operations	\$ 15,500	\$ 13,078	\$ 44,580	\$ 33,236
Acquisition, development and other pursuit costs	61	345	477	1,486
Impairment charges	19	149	50	184
Loss on extinguishment of debt	—	82	—	82
Change in fair value of interest rate derivatives	(87)	(498)	(300)	2,264
Normalized funds from operations	\$ 15,493	\$ 13,156	\$ 44,807	\$ 37,252
Net income per diluted share and unit	\$ 0.17	\$ 0.15	\$ 0.41	\$ 0.77
FFO per diluted share and unit	\$ 0.25	\$ 0.25	\$ 0.75	\$ 0.68
Normalized FFO per diluted share and unit	\$ 0.25	\$ 0.26	\$ 0.75	\$ 0.76
Weighted average common shares and units - diluted	62,779	51,512	59,423	48,869

The adjustment for gain on operating real estate dispositions excludes the gain recognized in the three months ended March 31, 2016 on the Newport News Economic Authority building because this building was sold before being placed in service. Additionally, the adjustment for gain on operating real estate dispositions excludes the gain recognized in the three months ended September 30, 2017 on the land outparcel at Sandbridge Commons because this was a non-operating parcel.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements that have been prepared in accordance with GAAP. The preparation of these financial statements requires us to exercise our best judgment in making estimates that affect the reported amounts of assets, liabilities, revenues and expenses. We base our estimates on historical experience and other assumptions that we believe to be reasonable under the circumstances. We evaluate our estimates on an ongoing basis, based upon then-currently available information. Actual results could differ from these estimates. We discuss the accounting policies and estimates that are most critical to understanding our reported financial results in our Annual Report on Form 10-K for the year ended December 31, 2016.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

The primary market risk to which we are exposed is interest rate risk. Our primary interest rate exposure is LIBOR. We primarily use fixed interest rate financing to manage our exposure to fluctuations in interest rates. On a limited basis, we

also use derivative financial instruments to manage interest rate risk. We do not use these derivatives for trading or other speculative purposes.

At September 30, 2017, approximately \$234.8 million, or 47.6%, of our debt had fixed interest rates and approximately \$258.7 million, or 52.4%, had variable interest rates. At September 30, 2017, LIBOR was approximately 123 basis points. Assuming no increase in the level of our variable rate debt, if LIBOR increased by 100 basis points, our cash flow would increase by approximately \$0.5 million per year as a result of the interest rate caps. Assuming no increase in the level of our variable rate debt, if LIBOR decreased by 100 basis points, our cash flow would increase by approximately \$2.4 million per year.

Item 4. Controls and Procedures

We maintain disclosure controls and procedures (as such term is defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) that are designed to ensure that information required to be disclosed in our reports under the Exchange Act is processed, recorded, summarized and reported within the time periods specified in the rules and regulations of the SEC and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

We have carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, regarding the effectiveness of our disclosure controls and procedures as of September 30, 2017, the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer have concluded, as of September 30, 2017, that our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in reports filed or submitted under the Exchange Act: (i) is processed, recorded, summarized and reported within the time periods specified in the SEC's rules and forms and (ii) is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure.

There have been no changes to our internal control over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II. Other Information

Item 1. Legal Proceedings

We are not currently a party, as plaintiff or defendant, to any legal proceedings that we believe to be material or which, individually or in the aggregate, would be expected to have a material effect on our business, financial condition or results of operations if determined adversely to us. We may be subject to ongoing litigation relating to our portfolio and the properties comprising our portfolio, and we expect to otherwise be party from time to time to various lawsuits, claims and other legal proceedings that arise in the ordinary course of our business.

Item 1A. Risk Factors

There have been no material changes from the risk factors disclosed in Item 1A. Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2016.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

None.

Issuer Purchases of Equity Securities

None.

Item 3. Defaults on Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

The description of the credit facility under "Management's Discussion and Analysis of Financial Condition and Results of Operations-Liquidity and Capital Resources-Credit Facility" is incorporated by reference in this Item 5.

Item 6. Exhibits

The exhibits listed in the accompanying Exhibit Index are filed, furnished or incorporated by reference (as applicable) as part of this Quarterly Report on Form 10-Q.

Exhibit Index

Exhibit No.	Description
10.1	Amended and Restated Credit Agreement, dated as of October 26, 2017, among Armada Hoffler, L.P., as Borrower, Armada Hoffler Properties, Inc., as Parent, Bank of America, N.A., as Administrative Agent, and the other agents and Lenders party thereto.
10.2	Amended and Restated Guaranty Agreement, dated as of October 26, 2017, among certain subsidiaries of Armada Hoffler, L.P. named therein for the benefit of the Administrative Agent and the Lenders named in the Amended and Restated Credit Agreement.
15.1	Acknowledgment of Ernst & Young LLP, Independent Registered Public Accounting Firm
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF	XBRL Definition Linkbase

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ARMADA HOFFLER PROPERTIES, INC.

Date: November 1, 2017

/s/ LOUIS S. HADDAD

Louis S. Haddad
President and Chief Executive Officer
(Principal Executive Officer)

Date: November 1, 2017

/s/ MICHAEL P. O'HARA

Michael P. O'Hara
Chief Financial Officer and Treasurer
(Principal Accounting and Financial Officer)

AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of October 26, 2017

among

ARMADA HOFFLER, L.P.,
as Borrower,

ARMADA HOFFLER PROPERTIES, INC.,
as Parent,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swing Line Lender
and
L/C Issuer,

and

The Other Lenders Party Hereto

REGIONS BANK
and
PNC BANK, NATIONAL ASSOCIATION,
as
Syndication Agents

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
REGIONS CAPITAL MARKETS
and
PNC CAPITAL MARKETS LLC,
as
Joint Lead Arrangers

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
as
Sole Bookrunner

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AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT (this “**Agreement**”) is entered into as of October 26, 2017, among ARMADA HOFFLER, L.P., a Virginia limited partnership (“**Borrower**”), ARMADA HOFFLER PROPERTIES, INC., a Maryland corporation (“**Parent**”), each lender from time to time party hereto (collectively, the “**Lenders**” and individually, a “**Lender**”), and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer.

Borrower, Parent, Administrative Agent, L/C Issuer, and certain Lenders are parties to that certain Credit Agreement dated as of February 20, 2015 (as amended, the “**Original Credit Agreement**”).

The parties hereto desire to amend and restate the Original Credit Agreement in its entirety.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

Article I. Definitions and Accounting Terms

1.01 **Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below:

“**Acceptable Ground Lease**” means each ground lease with respect to any Unencumbered Property executed by a member of the Consolidated Group, as lessee, (a) that has a remaining lease term (including extension or renewal rights) of at least thirty-five (35) years, calculated as of the date such Property becomes an Unencumbered Property, (b) that is in full force and effect, (c) is transferable and assignable either without the landlord’s prior consent or with such consent, which, however, will not be unreasonably withheld or conditioned by landlord, (d) pursuant to which (i) no default or terminating event exists thereunder, and (ii) no event has occurred which but for the passage of time, or notice, or both would constitute a default or terminating event thereunder, and (e) that is otherwise acceptable to Administrative Agent in its reasonable discretion.

“**Adjusted EBITDA**” means, EBITDA for the Consolidated Group for the most recently ended Calculation Period *minus* the aggregate Annual Capital Expenditure Adjustment.

“**Adjusted Funds from Operations**” means, for the Consolidated Group for any period, the sum of (a) Net Income *plus* (b) depreciation and amortization expense determined in accordance with GAAP excluding amortization expense attributable to capitalized debt costs; *provided that* there shall not be included in such calculation (i) any proceeds of any insurance policy other than rental or business interruption insurance received by such Person, (ii) any gain or loss which is classified as “extraordinary” in accordance with GAAP, (iii) any capital gains and taxes on capital gains, (iv) income (or loss) associated with third-party ownership of non-controlling Equity Interests, (v) gains or losses on the sale of discontinued operations, (vi) gains or losses from early extinguishment of Indebtedness, (vii) acquisitions costs deducted in the calculation of Net Income, (viii) non-cash compensation expenses, and (ix) non-cash gains and losses resulting from mark-to-market adjustments associated with Swap Contracts.

“**Administrative Agent**” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“**Administrative Agent’s Office**” means Administrative Agent’s address and, as appropriate, account as set forth on **Schedule 11.02**, or such other address or account as Administrative Agent may from time to time notify Borrower and the Lenders.

“**Administrative Questionnaire**” means an Administrative Questionnaire in substantially the form of **Exhibit D-2** or any other form approved by Administrative Agent.

“**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.

“**Aggregate Revolving Credit Commitments**” means the Revolving Credit Commitments of all the Lenders, as adjusted from time to time in accordance with the terms of this Agreement. The Aggregate Revolving Credit Commitments as of the Closing Date shall be \$150,000,000.

“**Agreement**” has the meaning specified in the introductory paragraph hereto.

“**Annual Capital Expenditure Adjustment**” means, for any Property: (a) for office Properties, an amount equal to the *product of* (i) \$0.25 *multiplied by* (ii) the aggregate net rentable area (determined on a square feet basis) of all such Properties; (b) for retail Properties, an amount equal to the *product of* (i) \$0.15 *multiplied by* (ii) the aggregate net rentable area (determined on a square feet basis) of all such Properties; and (c) for residential Properties, \$200 per unit.

“**Applicable Percentage**” means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) at any time during the Availability Period in respect of such Facility, such Term Lender’s Term Commitment at such time and (ii) thereafter, the principal amount of such Term Lender’s Term Loans at such time, and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender’s Revolving Credit Commitment at such time, as any such Applicable Percentage for the respective Facility may be adjusted as provided in **Section 2.17**. If the Revolving Credit Commitment of each Lender to make Loans and the obligation of L/C Issuer to make L/C Credit Extensions have been terminated pursuant to **Section 9.02** or if the Aggregate Revolving Credit Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on **Schedule 2.01** or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“**Applicable Rate**” means:

(a) Subject to **clause (b)** below, in respect of the Revolving Credit Facility and the Term Facility, the applicable percentage per annum set forth below determined by reference to the Total Leverage Ratio as set forth in the most-recent Compliance Certificate received by Administrative Agent pursuant to **Section 7.02(a)**:

Pricing Level	Total Leverage Ratio	Letters of Credit	Applicable Rate			
			Revolving Credit Facility Eurodollar Rate	Revolving Credit Facility Base Rate	Term Facility Eurodollar Rate	Term Facility Base Rate
1	< 45%	1.400%	1.400%	0.400%	1.350%	0.350%
2	≥ 45%but < 50%	1.550%	1.550%	0.550%	1.500%	0.500%
3	≥ 50%but < 55%	1.750%	1.750%	0.750%	1.700%	0.700%
4	≥ 55%	2.000%	2.000%	1.000%	1.950%	0.950%

Any increase or decrease in the Applicable Rate resulting from a change in the Total Leverage Ratio shall become effective as of the first (1st) Business Day immediately following the date a Compliance Certificate is delivered pursuant to **Section 7.02(a)**; *provided that* if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of Required Lenders, Pricing Level 4 shall apply as of the first (1st) Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered. The Applicable Rate in effect from the Closing Date until adjusted as set forth above shall be set at Pricing Level 1.

Notwithstanding anything to the contrary contained in this **clause (a)**, the determination of the Applicable Rate under this **clause (a)** for any period shall be subject to the provisions of **Section 2.10(b)**.

(b) If Parent or Borrower attains an Investment Grade Rating from both Moody’s and S&P, then Borrower may, upon written notice to Administrative Agent, make an irrevocable one time written election to exclusively use the below table based on the Debt Rating of Parent or Borrower (setting forth the date for such election to be effective), and thereafter the Applicable Rate shall be determined based on the applicable rate per annum set forth in the below table notwithstanding any failure of Parent or Borrower to maintain an Investment Grade Rating from either Moody’s or S&P or any failure of Parent or Borrower to maintain a Debt Rating:

Debt Rating	Applicable Rate				Term Facility Eurodollar Rate	Term Facility Base Rate
	Facility Fee Rate	Letters of Credit	Revolving Credit Facility Eurodollar Rate	Revolving Credit Facility Base Rate		
≥ A-/A3	0.125%	0.825%	0.825%	0.000%	0.900%	0.000%
BBB+/Baa1	0.150%	0.875%	0.875%	0.000%	0.950%	0.000%
BBB/Baa2	0.200%	1.000%	1.000%	0.000%	1.100%	0.100%
BBB-/Baa3	0.250%	1.200%	1.200%	0.200%	1.350%	0.350%
<BBB-/Baa3 or Unrated	0.300%	1.550%	1.550%	0.550%	1.750%	0.750%

If at any time Parent and/or Borrower has two (2) Debt Ratings, and such Debt Ratings are split, then: (i) if the difference between such Debt Ratings is one ratings category (e.g., Baa2 by Moody's and BBB- by S&P), the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the higher of the Debt Ratings were used; and (ii) if the difference between such Debt Ratings is two (2) ratings categories (e.g., Baa1 by Moody's and BBB- by S&P) or more, the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the rating that is one higher than the lower of the applicable Debt Ratings were used. If Borrower has elected to use the above table set forth in this **clause (b)** and (A) Parent and/or Borrower only has one Debt Rating, then the Ratings-Based Applicable Rate shall be the rate per annum that would be applicable if the rating that is one lower than such Debt Rating were used, and (B) Parent and/or Borrower no longer has a Debt Rating from either Moody's or S&P, then the Ratings-Based Applicable Rate shall be deemed to be < BBB-/Baa3 or Unrated. Each change in the Applicable Rate resulting from a change in a Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of delivery by Borrower to Administrative Agent of notice thereof pursuant to **Section 7.02(e)** and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the announcement thereof and ending on the date immediately preceding the effective date of the next such change.

"Applicable Revolving Credit Percentage" means, with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender's Applicable Percentage in respect of the Revolving Credit Facility at such time.

"Appropriate Lender" means, at any time, (a) with respect to any of the Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time, (b) with respect to the Letter of Credit Sublimit, (i) L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to **Section 2.03(a)**, the Revolving Credit Lenders and (c) with respect to the Swing Line Sublimit, (i) Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to **Section 2.04(a)**, the Revolving Credit Lenders.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arrangers" means Merrill Lynch, Pierce, Fenner & Smith Incorporated or one of its Affiliates, in its capacity as left lead arranger and sole book runner, and Regions Capital Markets and PNC Capital Markets LLC, each in its capacity as a joint right lead arranger.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by **Section 11.06(b)**), and accepted by Administrative Agent, in substantially the form of **Exhibit D-1** or any other form (including electronic documentation generated by use of an electronic platform) approved by Administrative Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

“Audited Financial Statements” means the audited consolidated balance sheet of the Consolidated Group for the fiscal year ended December 31, 2016, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of the Consolidated Group, including the notes thereto.

“Availability Period” means (a) in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (i) the Maturity Date with respect to the Revolving Credit Facility, (ii) the date of termination of the Revolving Credit Commitments pursuant to **Section 2.06**, and (iii) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of L/C Issuer to make L/C Credit Extensions pursuant to **Section 9.02** and (b) in respect of the Term Facility, the Closing Date.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an 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.

“Bank of America” means Bank of America, N.A. and its successors.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus one half of one percent (0.5%) per annum, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurodollar Rate plus one percent (1%) per annum. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Revolving Credit Loan or a Term Loan that bears interest based on the Base Rate.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in **Section 7.02**.

“**Borrowing**” means a Revolving Credit Borrowing, a Swing Line Borrowing or a Term Borrowing, as the context may require.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where Administrative Agent’s Office is located and, if such day relates to any Eurodollar Rate Loan, means any such day that is also a London Banking Day.

“**Calculation Period**” means, as of any date, the most recent four (4) fiscal quarter period ending on or prior to such date.

“**Capitalization Rate**” means, (a) with respect to multi-family and student housing Properties, six and one-half percent (6.50%); and (b) with respect to retail and office Properties, seven and one-half percent (7.50%).

“**Cash Collateralize**” means to pledge and deposit with or deliver to Administrative Agent, for the benefit of one or more of Administrative Agent, L/C Issuer or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if Administrative Agent and L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to Administrative Agent and L/C Issuer. “**Cash Collateral**” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“**Casualty**” means, with respect to any Unencumbered Property, such Unencumbered Property shall be damaged or destroyed, in whole or in part, by fire or other casualty.

“**Change in Law**” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided that* notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, regulations or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “**Change in Law**,” regardless of the date enacted, adopted or issued.

“**Change of Control**” means an event or series of events by which:

(a) any “*person*” or “*group*” (as such terms are used in *Sections 13(d)* and *14(d)* of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “*beneficial owner*” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “*option right*”)), directly or indirectly, of thirty-five percent (35%) or more of the equity securities of Parent entitled to vote for members of the board of directors or equivalent governing body of Parent on a

fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Parent cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in **clause (i)** above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in **clauses (i) and (ii)** above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or

(c) the passage of thirty (30) days from the date upon which any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of Parent, or control over the equity securities of Parent entitled to vote for members of the board of directors or equivalent governing body of Parent on a fully-diluted basis (and taking into account all such securities that such Person or group has the right to acquire pursuant to any option right) representing thirty-five percent (35%) or more of the combined voting power of such securities; or

(d) Parent shall cease to be the sole general partner of Borrower; or

(e) the general partner of Borrower shall no longer Control Borrower; or

(f) Parent shall cease to own, directly or indirectly, at least forty percent (40%) of the Equity Interests of Borrower.

“Closing Date” means the first date all the conditions precedent in **Section 5.01** are satisfied or waived in accordance with **Section 11.01**.

“Code” means the Internal Revenue Code of 1986.

“Commitment” means a Term Commitment or a Revolving Credit Commitment, as the context may require.

“Committed Loan Notice” means a notice of (a) a Term Borrowing, (b) a Revolving Credit Borrowing, (c) a conversion of Loans from one Type to the other, or (d) a continuation of Eurodollar Rate Loans, pursuant to **Section 2.02(a)**, which, if in writing, shall be substantially in the form of **Exhibit A-1** or such other form as may be approved by Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by Administrative Agent), appropriately completed and signed by a Responsible Officer of Borrower.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*) and any successor statute.

“Compliance Certificate” means a certificate substantially in the form of **Exhibit C**.

“Condemnation” means a temporary or permanent taking by any Governmental Authority as the result, in lieu, or in anticipation, of the exercise of the right of condemnation or eminent domain of all or any part of any Property, or any interest therein or right accruing thereto, including any right of access thereto or any change of grade affecting any Property or any part thereof.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated Group” means the Loan Parties and their Subsidiaries.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlling”** and **“Controlled”** have meanings correlative thereto.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Customary Recourse Exceptions” means, with respect to any Non-Recourse Debt, exclusions from the exculpation provisions with respect to such Non-Recourse Debt for fraud, misapplication of cash, environmental claims, breach of representations or warranties, failure to pay taxes and insurance, and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate indemnification agreements in non-recourse financings of real estate.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Debt Rating” means the long term unsecured senior, non-credit enhanced debt rating of Parent or Borrower by S&P or Moody’s.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate *plus* (ii) the highest Applicable Rate applicable to Base Rate Loans *plus* (iii) two percent (2%) per annum; *provided, however*, that with respect to a Eurodollar Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including the highest Applicable Rate) otherwise applicable to such Loan plus two percent (2%) per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the highest Applicable Rate plus two percent (2%) per annum.

“Defaulting Lender” means, subject to **Section 2.17(b)**, any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies Administrative Agent and Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to Administrative Agent, L/C Issuer, Swing Line Lender or any other Lender

any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two (2) Business Days of the date when due, (b) has notified Borrower, Administrative Agent, L/C Issuer or Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by Administrative Agent or Borrower, to confirm in writing to Administrative Agent and Borrower that it will comply with its prospective funding obligations hereunder (*provided that* such Lender shall cease to be a Defaulting Lender pursuant to this **clause (c)** upon receipt of such written confirmation by Administrative Agent and Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; *provided that* a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Administrative Agent that a Lender is a Defaulting Lender under any one or more of **clauses (a)** through **(d)** above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to **Section 2.17(b)**) as of the date established therefor by Administrative Agent in a written notice of such determination, which shall be delivered by Administrative Agent to Borrower, L/C Issuer, Swing Line Lender and each other Lender promptly following such determination.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"Development Property" means a Property that is (a) raw land or (b) currently under development or construction or scheduled for development or construction within one hundred eighty (180) days on which the improvements related to the development have not been completed.

"Disposition" or **"Dispose"** means the sale, transfer, license, lease (other than a real estate lease or license entered into in the ordinary course of business as part of Property leasing operations) or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Dollar" and **"\$"** mean lawful money of the United States.

"EBITDA" means, for the Consolidated Group, on a consolidated basis (without duplication), for any period, an amount equal to (a) Net Income of the Consolidated Group for such period, in each case, excluding (i) any non-recurring or extraordinary gains and losses for such period, (ii) any income or gain and any loss in each case resulting from early extinguishment of indebtedness, and (iii) any income or gain or any loss resulting from a swap or other derivative contract (including by virtue of a termination thereof), *plus* (b) an amount which, in the determination of Net Income for such period pursuant to **clause (a)** above,

has been deducted for or in connection with (i) Interest Expense (*plus*, amortization of deferred financing costs, to the extent included in the determination of Interest Expense per GAAP), (ii) income taxes, (iii) depreciation and amortization, (iv) amounts deducted as a result of the application of FAS 141, (v) non-cash expenses related to employee and trustee stock and stock option plans, and (vi) adjustments as a result of the straight lining of rents, all as determined in accordance with GAAP, *plus* (c) without duplication of amounts included in **clauses (a) and (b)** above with respect to Unconsolidated Affiliates, the amounts described in **clauses (a) and (b)** above of each Unconsolidated Affiliate of the Consolidated Group multiplied by the respective Unconsolidated Affiliate Interest of each member of the Consolidated Group in such Unconsolidated Affiliate.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegate) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under **Section 11.06(b)(iii)** and **(v)** (subject to such consents, if any, as may be required under **Section 11.06(b)(iii)**).

“Eligible Unencumbered Property” means, as of any date, each Property that satisfies the following:

(a) such Property is primarily an office, retail, for-rent multi-family or student housing Property;

(b) such Property is located within the continental United States;

(c) such Property is Wholly-Owned in fee simple or leased pursuant to an Acceptable Ground Lease by Borrower or a Subsidiary Guarantor which is organized in the continental United States;

(d) if such Property is owned or leased pursuant to an Acceptable Ground Lease by a Subsidiary that is not a Wholly-Owned Subsidiary of Borrower, then (i) Borrower owns, directly or indirectly, at least eighty percent (80%) of (A) all rights to receive distributions from the assets of such Subsidiary or (B) the issued and outstanding Equity Interests of such Subsidiary, free and clear of any Liens, and (ii) such Subsidiary is Controlled (including control over operating activities of such Subsidiary and the ability of such Subsidiary to Dispose of, grant Liens on, or otherwise encumber assets, incur, repay and prepay Indebtedness, provide Guarantees and make Restricted Payments, in each case without any requirement for the consent of any other Person) exclusively by Borrower and/or one or more Wholly-Owned Subsidiaries of Borrower;

(e) if such Property is owned or leased pursuant to an Acceptable Ground Lease by a Subsidiary Guarantor, then such Subsidiary Guarantor may not incur, Guarantee, or otherwise be liable for any Indebtedness (other than the Obligations);

(f) such Property is not subject to any ground lease (other than an Acceptable Ground Lease), any Lien (other than Permitted Liens), or any Negative Pledge;

(g) except for restrictions set forth herein, Borrower or the applicable Subsidiary Guarantor that owns or leases pursuant to an Acceptable Ground Lease such Property has the unilateral right to (i) Dispose of such Property, and (ii) create a Lien on such Property as security for Indebtedness of Borrower or such Subsidiary Guarantor;

(h) such Property is not unimproved land or property under development;

(i) such Property is free of all material structural defects or architectural deficiencies, Material Title Defects, or other adverse matters which, individually or collectively, could result in a Material Property Event;

(j) such Property has not suffered a Material Environmental Event; and

(k) such Property is not subject to any Casualty or Condemnation that is a Material Property Event.

“Environmental Claim” means any investigative, enforcement, cleanup, removal, containment, remedial, or other private or governmental or regulatory action at any time threatened, instituted, or completed pursuant to any applicable Environmental Law against any member of the Consolidated Group or against or with respect to any Property or any condition, use, or activity on any Property (including any such action against Administrative Agent or any Lender), and any claim at any time threatened or made by any Person against any member of the Consolidated Group or against or with respect to any Property or any condition, use, or activity on any Property (including any such claim against Administrative Agent or any Lender), relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or in any way arising in connection with any Hazardous Material or any Environmental Law.

“Environmental Laws” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to Hazardous Materials.

“Environmental Liability” means, with respect to any member of the Consolidated Group, any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of such member of the Consolidated Group directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such

Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) under common control with any Loan Party within the meaning of *Section 414(b)* or *(c)* of the Code (and *Sections 414(m)* and *(o)* of the Code for purposes of provisions relating to *Section 412* of the Code).

“**ERISA Event**” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of any Loan Party or any ERISA Affiliate from a Pension Plan subject to *Section 4063* of ERISA during a plan year in which such entity was a “*substantial employer*” as defined in *Section 4001(a)(2)* of ERISA or a cessation of operations that is treated as such a withdrawal under *Section 4062(e)* of ERISA; (c) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is “insolvent” within the meaning of *Section 4245* of ERISA; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under *Section 4041* or *4041A* of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under *Section 4042* of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of *Sections 430, 431* and *432* of the Code or *Sections 303, 304* and *305* of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under *Section 4007* of ERISA, upon any Loan Party or any ERISA Affiliate.

“**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.

“**Eurocurrency liabilities**” has the meaning specified in *Section 3.04(e)*.

“**Eurodollar Rate**” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“**LIBOR**”) or a comparable or successor rate, which rate is approved by Administrative Agent in consultation with Borrower, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by Administrative Agent from time to time) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined two (2) Business Days prior to such date for U.S. Dollar deposits with a term of one month commencing that day;

provided that (i) to the extent a comparable or successor rate is approved by Administrative Agent in consultation with Borrower in connection herewith, the approved rate shall be applied in a manner consistent

with market practice, (ii) to the extent such market practice is not administratively feasible for Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by Administrative Agent, and (iii) if the Eurodollar Rate shall be less than zero (0), such rate shall be deemed to be zero (0) for purposes of this Agreement.

“Eurodollar Rate Loan” means a Revolving Credit Loan or a Term Loan that bears interest at a rate based on **clause (a)** of the definition of **“Eurodollar Rate.”**

“Event of Default” has the meaning specified in **Section 9.01**.

“Excluded Subsidiary” means any Subsidiary (whether direct or indirect) of Borrower, other than any Subsidiary which owns or leases an Unencumbered Property or any Subsidiary which owns any of the Equity Interests of any such Subsidiary, which (a) is (i) formed for or converted to the specific purpose of holding title to Properties which are collateral for Indebtedness owing or to be owed by such Subsidiary, *provided that* such Indebtedness must be incurred or assumed within ninety (90) days, such ninety (90) day period to be extended for an additional sixty (60) days if Borrower provides an executed term sheet or commitment letter for the financing of such Property to Administrative Agent (or, in either instance, for such longer period as Administrative Agent may agree in writing) of such formation or conversion or such Subsidiary shall cease to qualify as an Excluded Subsidiary, and (ii) expressly prohibited in writing from Guaranteeing Indebtedness of any other Person pursuant to (A) a provision in any document, instrument or agreement evidencing such Indebtedness of such Subsidiary or (B) a provision of such Subsidiary’s Organization Documents, in each case, which provision was included in such Organization Document or such other document, instrument or agreement at the request of the applicable third-party creditor and as an express condition to the extension or assumption of such Indebtedness; *provided that* a Subsidiary meeting the requirements set forth in this **clause (a)** shall only remain an **“Excluded Subsidiary”** for so long as (1) each of the foregoing requirements set forth in this **clause (a)** are satisfied, (2) such Subsidiary does not Guarantee any other Indebtedness and (3) the Indebtedness with respect to which the restrictions noted in **clause (a)(ii)** are imposed remains outstanding; (b) is formed for or converted to the specific purpose of holding title to a Property which is a Development Property for a period of time not to exceed one hundred eighty (180) days (or for such longer period as Administrative Agent may agree in writing) after the date of such formation or conversion or such earlier date that such Subsidiary shall cease to qualify as an Excluded Subsidiary; (c)(i) becomes a Subsidiary following the Closing Date, (ii) is not a Wholly-Owned Subsidiary of Borrower, and (iii) with respect to which Borrower does not have sufficient voting power to cause such Subsidiary to become a Guarantor; or (d) is not a Subsidiary organized under the laws of a jurisdiction of the United States.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by Borrower under **Section 11.13**) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to **Section 3.01(a)(ii)** or **3.01(c)**, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it

changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with **Section 3.01(e)** and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Letters of Credit" means those certain letters of credit which are described on **Schedule 1.01**.

"Facility" means the Term Facility or the Revolving Credit Facility, as the context may require.

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"FATCA" means *Sections 1471 through 1474* of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof, any applicable intergovernmental agreement entered into thereunder (and any foreign legislation implemented to give effect to such intergovernmental agreements) and any agreements entered into pursuant to *Section 1471(b)(1)* of the Code.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided that* (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of one one-hundredth of one percent (1/100 of 1%)) charged to Bank of America on such day on such transactions as determined by Administrative Agent.

"Fee Letter" means any fee letter among Borrower, Administrative Agent and any Arranger.

"First Extended Revolving Maturity Date" means April 26, 2022.

"Fixed Charges" means, for the Consolidated Group, on a consolidated basis for any period, the sum (without duplication) of (a) Interest Expense, *plus* (b) scheduled principal payments on account of Indebtedness of the Consolidated Group (including, for purposes hereof, scheduled reductions in commitments, but excluding any regularly scheduled principal payments on any Indebtedness which pays such Indebtedness in full, but only to the extent that the amount of such final payment is greater than the scheduled principal payment immediately preceding such final payment), *plus* (c) Restricted Payments paid in cash with respect to preferred Equity Interests of any member of the Consolidated Group, *plus* (d) the amounts described in **clauses (a), (b), and (c)** above of each Unconsolidated Affiliate of the Consolidated Group multiplied by the respective Unconsolidated Affiliate Interest of each member of the Consolidated Group in such Unconsolidated Affiliate, all for the most recently ended Calculation Period.

"Foreign Lender" means (a) if Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if 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 Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to L/C Issuer, such Defaulting Lender’s Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to Swing Line Lender, such Defaulting Lender’s Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the **“primary obligor”**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term **“Guarantee”** as a verb has a corresponding meaning.

“Guaranteed Obligations” has the meaning specified in **Section 4.01**.

“Guaranties” means, collectively, the Subsidiary Guaranty and the Guaranty given by Parent pursuant to **Article IV** of this Agreement, and **“Guaranty”** means any one of the Guaranties.

“Guarantors” means Parent and the Subsidiary Guarantors and **“Guarantor”** means any one of the Guarantors.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature, in each case regulated pursuant to any Law.

“Increase Effective Date” has the meaning specified in **Section 2.15(d)**.

“Indebtedness” means, for any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments to the extent such instruments or agreements support financial, rather than performance, obligations; for the avoidance of doubt, performance bonds issued for the account of such Person in the ordinary course of business shall be excluded from **“Indebtedness;”**

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than sixty (60) days after the date on which such trade account payable was created);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) capital leases and Synthetic Lease Obligations;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference *plus* accrued and unpaid dividends; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in **clause (a)**, Other Taxes.

“Indemnitees” has the meaning specified in **Section 11.04(b)**.

“Information” has the meaning specified in **Section 11.07**.

“Initial Revolving Maturity Date” means October 26, 2021.

“Interest Expense” means, for the Consolidated Group, on a consolidated basis for the most recently ended Calculation Period, without duplication, total interest expense determined in accordance with GAAP (including for the avoidance of doubt capitalized interest and interest expense attributable to the Consolidated Group’s ownership interests in Unconsolidated Affiliates).

“Interest Payment Date” means the first Business Day of each month and the Maturity Date.

“Interest Period” means as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one (1), two (2), three (3), or six (6) months thereafter, in each case subject to availability as selected by Borrower in its Committed Loan Notice; *provided that*:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period pertaining to a Eurodollar Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Investment Grade Rating” means a Debt Rating for Parent or Borrower of BBB- or better from S&P and Baa3 or better from Moody’s.

“IRS” means the United States Internal Revenue Service.

“**ISP**” means, with respect to any Letter of Credit, the “International Standby Practices 1998f” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“**Issuer Documents**” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by L/C Issuer and Borrower (or any Subsidiary) or in favor of L/C Issuer and relating to such Letter of Credit.

“**Laws**” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“**L/C Advance**” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

“**L/C Borrowing**” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

“**L/C Credit Extension**” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“**L/C Issuer**” means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“**L/C Obligations**” means, as at any date, the aggregate amount available to be drawn under all outstanding Letters of Credit *plus* the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with **Section 1.06**. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of *Rule 3.14* of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“**Lease**” means each existing or future lease, sublease (to the extent of any Loan Party’s rights thereunder), or other agreement (other than an Acceptable Ground Lease) under the terms of which any Person has or acquires any right to occupy or use any Property, or any part thereof, or interest therein, and each existing or future guaranty of payment or performance thereunder.

“**Lender**” has the meaning specified in the introductory paragraph hereto and, unless the context requires otherwise, includes Swing Line Lender.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify Borrower and Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

“**Letter of Credit**” means any standby letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit.

“**Letter of Credit Application**” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by L/C Issuer.

“**Letter of Credit Expiration Date**” means the day that is one (1) year after the Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

“**Letter of Credit Fee**” has the meaning specified in **Section 2.03(h)**.

“**Letter of Credit Sublimit**” means an amount equal to \$20,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“**LIBOR**” has the meaning specified in the definition of Eurodollar Rate.

“**Lien**” means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to any real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“**Loan**” means an extension of credit by a Lender to Borrower under **Article II** in the form of a Term Loan, a Revolving Credit Loan or a Swing Line Loan.

“**Loan Documents**” means this Agreement, each Note, each Issuer Document, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of **Section 2.16** of this Agreement, the Subsidiary Guaranty, and the Fee Letter.

“**Loan Parties**” means, collectively, Borrower and each Guarantor, and “**Loan Party**” means any one of the Loan Parties.

“**London Banking Day**” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“**Master Agreement**” has the meaning specified in the definition of “**Swap Contract**”.

“**Material Adverse Effect**” means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) of Parent and its Subsidiaries, taken as a whole, or Borrower and its Subsidiaries, taken as a whole; (b) a material adverse effect on the rights and remedies of Administrative Agent or any Lender under any Loan Documents, or of the ability of Borrower and the Loan Parties, taken as a whole, to perform their obligations under the Loan Documents; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“**Material Contract**” means, with respect to any Person, (a) each contract to which such Person is a party involving aggregate consideration payable to or by such Person of, (i) with respect to an Unencumbered Property, \$250,000 or more in any year, or (ii) with respect to any other Property, \$1,000,000

or more in any year, and (b) each Property management agreement to which such Person is a party pertaining to any Property owned by such Person.

“Material Environmental Event” means, with respect to any Property, (a) a violation of any Environmental Law with respect to such Property, or (b) the presence of any Hazardous Materials on, about, or under such Property that, under or pursuant to any Environmental Law, would require remediation, if in the case of either **clause (a)** or **(b)**, such event or circumstance could reasonably be expected to result in a Material Adverse Effect or in a Material Property Event.

“Material Property Event” means, with respect to any Property, the occurrence of any event or circumstance occurring or arising after the date of this Agreement that could reasonably be expected to result in a material adverse effect with respect to the financial condition or the operations of such Property.

“Material Title Defects” means, with respect to any Property, defects, Liens (other than Permitted Liens), and other encumbrances in the nature of easements, servitudes, restrictions, and rights-of-way that would customarily be deemed unacceptable title exceptions for a prudent mortgage lender (i.e., a prudent mortgage lender would reasonably determine that such exceptions, individually or in the aggregate, materially impair the value or operations of such Property, would prevent such Property from being used in the manner in which it is currently being used, or could reasonably be expected to result in a violation of any Law which could result in a Material Property Event).

“Maturity Date” means (a) with respect to the Revolving Credit Facility, (i) if the Initial Revolving Maturity Date is not extended to the First Extended Revolving Maturity Date pursuant to **Section 2.14**, then the Initial Revolving Maturity Date, (ii) if the Initial Revolving Maturity Date is extended to the First Extended Revolving Maturity Date pursuant to **Section 2.14** and the First Extended Revolving Maturity Date is not extended to the Second Extended Revolving Maturity Date pursuant to **Section 2.14**, then the First Extended Revolving Maturity Date, and (c) if the Initial Revolving Maturity Date is extended to the First Extended Revolving Maturity Date pursuant to **Section 2.14** and the First Extended Revolving Maturity Date is extended to the Second Extended Revolving Maturity Date pursuant to **Section 2.14**, then the Second Extended Revolving Maturity Date; and (b) with respect to the Term Facility, October 26, 2022; *provided, however*, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to one hundred and five percent (105%) of the Fronting Exposure of L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of **Sections 2.16(a)(i), 2.16(a)(ii)** or **2.16(a)(iii)**, an amount equal to one hundred and five percent (105%) of the Outstanding Amount of all LC Obligations, and (c) otherwise, an amount determined by Administrative Agent and L/C Issuer in their sole discretion.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means any employee benefit plan of the type described in *Section 4001(a)(3)* of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“**Multiple Employer Plan**” means a Plan which has two or more contributing sponsors (including any Loan Party or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in *Section 4064* of ERISA.

“**Negative Pledge**” means a provision of any agreement (other than this Agreement or any other Loan Document) that prohibits the creation of any Lien on any assets of a Person; *provided, however*, that an agreement that establishes a maximum ratio of unsecured debt to unencumbered assets, or of secured debt to total assets, or that otherwise 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*” for purposes of this Agreement.

“**Net Income**” means the net income (or loss) of the Consolidated Group for the subject period; *provided, however*, that Net Income shall exclude (a) extraordinary gains and extraordinary losses for such period, (b) the net income of any Subsidiary of Parent during such period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its organization documents or any agreement, instrument or law applicable to such Subsidiary during such period, except that Parent’s equity in any net loss of any such Subsidiary for such period shall be included in determining Net Income, and (c) any income (or loss) for such period of any Person if such Person is not a Subsidiary of Parent, except that Parent’s equity in the net income of any such Person for such period shall be included in Net Income up to the aggregate amount of cash actually distributed by such Person during such period to Parent or a Subsidiary thereof as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary of Parent, such Subsidiary is not precluded from further distributing such amount to Parent as described in *clause (b)* of this proviso).

“**Net Operating Income**” means, for any Property and for any period, an amount equal to (a) the aggregate gross revenues from the operations of such Property during such period (excluding all revenues from tenants that are not in occupancy or paying rent (unless any such tenant is in a one-time free rent period not exceeding three (3) months), *provided* that revenues from tenants that are not in occupancy, but are paying rent on leases with more than twelve (12) months remaining may be included in the sole discretion of Administrative Agent), *minus* (b) the sum of (i) all expenses and other proper charges incurred in connection with the operation of such Property during such period (including accruals for real estate taxes and insurance, but excluding debt service charges, income taxes, depreciation, amortization and other non-cash expenses), which expenses and accruals shall be calculated in accordance with GAAP, and (ii) an amount equal to the greater of (x) three percent (3%) of rents and (y) actual management fees paid in cash.

“**Non-Consenting Lender**” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of *Section 11.01* and (b) has been approved by Required Lenders.

“**Non-Defaulting Lender**” means, at any time, each Lender that is not a Defaulting Lender at such time.

“**Non-Recourse Debt**” means, for any Person, any Indebtedness of such Person in which the holder of such Indebtedness may not look to such Person personally for repayment, other than to the extent of any security therefor or pursuant to Customary Recourse Exceptions. For purposes hereof, “**Non-Recourse Debt**” shall include Indebtedness of a Subsidiary of Parent or Borrower (other than a Subsidiary Guarantor) in which the holder of such Indebtedness may look to such Subsidiary personally for repayment (but not to any

constituent owner of such Person other than for Customary Recourse Exceptions) and such Subsidiary is a special purpose entity owning only Properties that secure such Indebtedness.

“Non-Recourse Subsidiaries” means one (1) or more Subsidiaries of Borrower (other than any Subsidiary Guarantor) that have Non-Recourse Debt under which a default exists, but such default does not result in an Event of Default under **Section 9.01(e)**, and **“Non-Recourse Subsidiary”** means any one of the Non-Recourse Subsidiaries.

“Note” means a Term Note or a Revolving Credit Note, as the context may require.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; *provided* that all references to **“Obligations”** in the Guaranties, and any other Guarantees, security agreement, or pledge agreements delivered to Administrative Agent to Guarantee, or create or evidence Liens securing, the Obligations shall, in addition to the foregoing, include all present and future indebtedness, liabilities, and obligations now or hereafter owed to Administrative Agent, any Lender, any Affiliate of Administrative Agent or any Lender arising from, by virtue of, or pursuant to any Swap Contract that relates solely to the Obligations, or any Person who was a Lender or an Affiliate of a Lender at the time such Swap Contract was entered into.

“Occupancy Rate” means, for any Property, the percentage of the rentable area of such Property leased by tenants pursuant to bona fide tenant Leases, which tenants are in occupancy and current on all rent or other payments due under such Leases and paying cash rent or that are in a one-time free rent period not exceeding three (3) months.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Credit Agreement” has the meaning specified in the recitals.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to **Section 3.06**).

“Outstanding Amount” means (a) with respect to Revolving Credit Loans, Term Loans and Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Credit Loans, Term Loans and Swing Line Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by Borrower of Unreimbursed Amounts.

“Parent” has the meaning specified in the introductory paragraph hereto.

“Participant” has the meaning specified in **Section 11.06(d)**.

“Participant Register” has the meaning specified in **Section 11.06(d)**.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, *Section 412* of the Code and *Section 302* of ERISA, each as in effect prior to the Pension Act and, thereafter, *Section 412, 430, 431, 432 and 436* of the Code and *Sections 302, 303, 304 and 305* of ERISA.

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by any Loan Party or any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under *Section 412* of the Code.

“Permitted Liens” means Liens permitted by **Section 8.01**.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee benefit plan within the meaning of *Section 3(3)* of ERISA (including a Pension Plan), maintained for employees of any Loan Party or any ERISA Affiliate or any such Plan to which any Loan Party or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“Plan Assets” means the assets of an “*employee benefit plan*,” as defined in *Section 3(3)* of ERISA that is covered by Title I of ERISA or any “*plan*” defined in *Section 4975(e)* of the Code, as described in the Plan Assets Regulation, 29 C.F.R. *Section 2550.401c-1*, pursuant to the principles set forth in *John Hancock Mutual Life Insurance Company v. Harris Trust & Savings Bank*, 114 S.Ct. 517 (1993), or otherwise.

“**Plan Assets Regulation**” means 29 C.F.R. Section 2510.3-101, et seq., as modified by Section 3(42) of ERISA.

“**Platform**” has the meaning specified in Section 7.02.

“**Properties**” means real estate properties owned by any member of the Consolidated Group, and “**Property**” means any one of the Properties.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Public Lender**” has the meaning specified in Section 7.02.

“**Recipient**” means Administrative Agent, any Lender, L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“**Recourse Debt**” means, for any Person, Indebtedness of such Person that is not Non-Recourse Debt.

“**Register**” has the meaning specified in Section 11.06(c).

“**REIT**” means a “real estate investment trust” in accordance with Sections 856 through 860 of the Code.

“**Related Parties**” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“**Reportable Event**” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the thirty (30) day notice period has been waived.

“**Request for Credit Extension**” means (a) with respect to a Borrowing, conversion or continuation of Revolving Credit Loans or Term Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“**Required Lenders**” means, at any time, Lenders having Total Credit Exposures representing at least fifty-one percent (51%) of the Total Credit Exposures of all Lenders (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition). The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; *provided* that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is Swing Line Lender or L/C Issuer, as the case may be, in making such determination.

“**Required Revolving Lenders**” means, at any time, Revolving Credit Lenders having aggregate Revolving Credit Exposures representing at least fifty-one percent (51%) of the total Revolving Credit Exposures of all Revolving Credit Lenders (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held”

by such Revolving Credit Lender for purposes of this definition). The Revolving Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Lenders at any time; *provided* that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is Swing Line Lender or L/C Issuer, as the case may be, in making such determination.

“Required Term Lenders” means, as of any date of determination, Term Lenders holding at least fifty-one percent (51%) of the Term Facility on such date. The portion of the Term Facility held by any Defaulting Lender shall be disregarded in determining Required Term Lenders at any time.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party and solely for purposes of the delivery of incumbency certificates pursuant to **Section 5.01**, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to **Article II**, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to Borrower’s stockholders, partners or members (or the equivalent Person thereof).

“Revolving Credit Borrowing” means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to **Section 2.01(b)**.

“Revolving Credit Commitment” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to Borrower pursuant to **Section 2.01(b)**, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on **Schedule 2.01** under the caption **“Revolving Credit Commitment”** or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Revolving Credit Exposure” means, as to any Revolving Credit Lender, the sum of such Revolving Credit Lender’s Applicable Revolving Credit Percentage of (a) the unused portion of the Revolving Credit Facility at such time and (b) the Total Revolving Credit Outstandings at such time.

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“Revolving Credit Lender” means (a) at any time prior to the last day of the Availability Period in respect of the Revolving Credit Facility, any Lender that has a Revolving Credit Commitment at such time and (b) at any time thereafter, any Lender that holds Revolving Credit Loans and/or has an obligation to purchase participations in L/C Obligations or Swing Line Loans at such time.

“Revolving Credit Loan” has the meaning specified in **Section 2.01(b)**.

“Revolving Credit Note” means a promissory note made by Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans or Swing Line Loans, as the case may be, made by such Revolving Credit Lender, substantially in the form of **Exhibit B-2**.

“Revolving Unused Fee” has the meaning specified in **Section 2.09(a)**.

“Revolving Unused Rate” means, with respect to the Revolving Unused Fee to be paid on any date (a) on which there exist any Revolving Credit Commitments and (b) that the Applicable Rate is determined pursuant to **clause (a)** of the definition of Applicable Rate, (x) a percentage per annum equal to twenty-five basis points (0.25%) if on such date the Total Revolving Credit Outstandings are less than fifty percent (50%) of the Revolving Credit Facility and (y) a percentage per annum equal to fifteen basis points (0.15%) if on such date the Total Revolving Credit Outstandings are greater than or equal to fifty percent (50.0%) of the Revolving Credit Facility.

“S&P” means S&P Global Ratings, a subsidiary of S&P Global, Inc., and any successor thereto.

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

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Second Extended Revolving Maturity Date” means October 26, 2022.

“Secured Indebtedness” means, for any Person as of any date, Indebtedness of such Person that is secured by a Lien.

“Secured Recourse Debt” means, for any Person as of any date, Recourse Debt of such Person that is secured by a Lien.

“Significant Acquisition” means the acquisition of one or more real property assets or portfolios of such assets or operating businesses in a single transaction for a purchase price of not less than ten percent (10%) of Total Asset Value.

“Solvent” means, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“**Subsidiary**” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “**Subsidiary**” or to “**Subsidiaries**” shall refer to a Subsidiary or Subsidiaries of Borrower.

“**Subsidiary Guarantors**” means, as of any date, all Subsidiaries of Borrower that have executed the Subsidiary Guaranty (or an addendum thereto in the form attached to the Subsidiary Guaranty), but excluding all Subsidiaries of Borrower that have been released from the Subsidiary Guaranty, and “**Subsidiary Guarantor**” means any one of the Subsidiary Guarantors.

“**Subsidiary Guaranty**” means the Amended and Restated Guaranty Agreement executed by each Subsidiary Guarantor in favor of Administrative Agent, for the benefit of the Lenders, in form and substance acceptable to Administrative Agent.

“**Swap Contract**” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “**Master Agreement**”), including any such obligations or liabilities under any Master Agreement.

“**Swap Termination Value**” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in **clause (a)**, the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“**Swing Line Borrowing**” means a borrowing of a Swing Line Loan pursuant to **Section 2.04**.

“**Swing Line Lender**” means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“**Swing Line Loan**” has the meaning specified in **Section 2.04(a)**.

“**Swing Line Loan Notice**” means a notice of a Swing Line Borrowing pursuant to **Section 2.04(b)**, which, if in writing, shall be substantially in the form of **Exhibit A-2** or such other form as approved by Administrative Agent (including any form on an electronic platform or electronic transmission system as

shall be approved by Administrative Agent), appropriately completed and signed by a Responsible Officer of Borrower.

“**Swing Line Sublimit**” means an amount equal to the lesser of (a) \$20,000,000 and (b) the Revolving Credit Facility. The Swing Line Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“**Synthetic Lease Obligation**” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“**Tangible Net Worth**” means, for the Consolidated Group as of any date, (a) total equity on a consolidated basis determined in accordance with GAAP, *minus* (b) all intangible assets on a consolidated basis determined in accordance with GAAP *plus* (c) all depreciation determined 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.

“**Term Borrowing**” means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to **Section 2.01(a)**.

“**Term Commitment**” means, as to each Term Lender, its obligation to make Term Loans to Borrower pursuant to **Section 2.01(a)** in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender’s name on **Schedule 2.01** under the caption “**Term Commitment**” or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate Term Commitments of all Term Lenders as of the Closing Date shall be \$150,000,000.

“**Term Facility**” means (a) at any time prior to the last day of the Availability Period in respect of such Facility, the aggregate amount of the Term Commitments at such time and (b) at any time thereafter, the Outstanding Amount of the Term Loans of all Term Lenders outstanding at such time.

“**Term Lender**” means (a) at any time prior to the last day of the Availability Period in respect of the Term Facility, any Lender that has a Term Commitment at such time and (b) at any time thereafter, any Lender that holds Term Loans at such time.

“**Term Loan**” means an advance made by any Term Lender under the Term Facility.

“**Term Note**” means a promissory note made by Borrower in favor of a Term Lender evidencing Term Loans made by such Term Lender, substantially in the form of **Exhibit B-2**.

“**Threshold Amount**” means \$15,000,000.

“**Total Asset Value**” means, at any time for the Consolidated Group, without duplication, the sum of the following: (a) an amount equal to (i)(A) Net Operating Income from all Properties owned or leased (as ground lessee) by the Consolidated Group for the then most recently ended Calculation Period, *minus*

Net Operating Income attributable to all Properties that were sold or otherwise disposed of during the then most recently ended Calculation Period *minus* (B) the Annual Capital Expenditure Adjustment with respect to such Properties, *divided by* (ii) the Capitalization Rate; *plus* (b) the aggregate acquisition costs, including all direct out-of-pocket costs and expenses in connection with each such acquisition, of all real property assets owned or leased (as a ground lease) as of such date by the Consolidated Group for less than four (4) full fiscal quarters; *plus* (c) the aggregate book value of all unimproved land holdings, mortgage or mezzanine loans, notes receivable and/or construction in progress owned by the Consolidated Group; *plus* (d) without duplication of the amounts included in **clauses (a), (b) and (c)** above with respect to Unconsolidated Affiliates, the amounts described in **clauses (a), (b) and (c)** above of each Unconsolidated Affiliate of the Consolidated Group multiplied by the respective Unconsolidated Affiliate Interest of each member of the Consolidated Group in such Unconsolidated Affiliate; *plus* (e) all Unrestricted Cash.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments and Total Outstandings of such Lender at such time.

“Total Indebtedness” means, as of any date, the sum of (a) all Indebtedness of the Consolidated Group, on a consolidated basis, as of such date, *plus* (b) without duplication of the amount included in **clause (a)** above with respect to Unconsolidated Affiliates, the amount described in **clause (a)** above of each Unconsolidated Affiliate of the Consolidated Group multiplied by the respective Unconsolidated Affiliate Interest of each member of the Consolidated Group in such Unconsolidated Affiliate. For purposes of this definition, Indebtedness shall not include surety bonds issued in the ordinary course of Borrower’s business so long as no demand for payment thereunder has been made on any member of the Consolidated Group. For the avoidance of doubt, any unsecured Guarantee by any member of the Consolidated Group of Secured Indebtedness of any other Person shall be treated as Total Indebtedness for the purpose of calculating the Total Leverage Ratio.

“Total Leverage Ratio” means, as of any date, the ratio of (a) Total Indebtedness as of such date to (b) Total Asset Value.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Total Revolving Credit Outstandings” means the aggregate Outstanding Amount of all Revolving Credit Loans, Swing Line Loans and L/C Obligations.

“Total Unsecured Indebtedness” means, as of any date, (a) all Unsecured Indebtedness of the Consolidated Group determined on a consolidated basis *plus* (b) without duplication of the amounts included in **clause (a)** above with respect to Unconsolidated Affiliates, the amounts described in **clause (a)** above of each Unconsolidated Affiliate of the Consolidated Group multiplied by the respective Unconsolidated Affiliate Interest of each member of the Consolidated Group in such Unconsolidated Affiliate.

“Total Unsecured Leverage Ratio” means, as of any date, the ratio of (a) Total Unsecured Indebtedness as of such date to (b) Unencumbered Asset Value.

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

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“Unconsolidated Affiliate” means an affiliate of Parent whose financial statements are not required to be consolidated with the financial statements of Parent in accordance with GAAP.

“Unconsolidated Affiliate Interest” means, with respect to any Unconsolidated Affiliate, the aggregate ownership percentage of such member of the Consolidated Group in such Unconsolidated Affiliate, which shall be calculated as the greater of (a) such member of the Consolidated Group’s direct or indirect nominal capital ownership interest in such Unconsolidated Affiliate as set forth in such Unconsolidated Affiliate’s Organization Documents, and (b) such member of the Consolidated Group’s direct or indirect economic ownership interest in such Unconsolidated Affiliate reflecting such member of the Consolidated Group’s current allocable share of income and expenses of such Unconsolidated Affiliate.

“Unencumbered Asset Value” means, with respect to the Unencumbered Properties, as of any date, the sum of the following: (a) an amount equal to (i)(A) Net Operating Income for the most recently ended Calculation Period from all Unencumbered Properties owned or leased (as ground lessee) as of such date by the Consolidated Group for at least four (4) fiscal quarters, *minus* (B) the Annual Capital Expenditure Adjustment with respect to such Unencumbered Properties, *divided by* (ii) the Capitalization Rate; *plus* (b) the aggregate acquisition costs of all Unencumbered Properties owned or leased (as a ground lease) as of such date by the Consolidated Group for less than four (4) full fiscal quarters; *provided that* the amount of the Unencumbered Asset Value attributable to (x) any individual Unencumbered Property shall not exceed thirty percent (30%) of the total Unencumbered Asset Value and (y) Subsidiaries of Borrower that are not Wholly-Owned Subsidiaries shall not exceed twenty percent (20%) of the total Unencumbered Asset Value.

“Unencumbered Interest Coverage Ratio” means, as of any date, the ratio of (a) Unencumbered NOI to (b) Unencumbered Interest Expense.

“Unencumbered Interest Expense” means, as of any date, Interest Expense on the Total Unsecured Indebtedness for the most recently ended Calculation Period.

“Unencumbered NOI” means, for the Unencumbered Properties, (a) in the case of any Unencumbered Property that is owned or leased (as ground lessee) for at least four (4) fiscal quarters, the Net Operating Income from such Unencumbered Property for the then most recently ended Calculation Period *minus* the Annual Capital Expenditure Adjustment with respect to such Unencumbered Property, *plus* (b) in the case of any Unencumbered Property that is owned or leased (as ground lessee) for less than four (4) fiscal quarters, the Net Operating Income from such Unencumbered Property for the then most recently ended fiscal quarter multiplied by four (4) *minus* the Annual Capital Expenditure Adjustment with respect to such Unencumbered Property. For the avoidance of doubt, (i) the Net Operating Income of an Unencumbered Property that is owned or leased (as ground lessee) for less than one (1) fiscal quarter will be included in calculating Unencumbered NOI as if such Unencumbered Property was owned or leased (as ground lessee) for the then most recently ended fiscal quarter, (ii) the Net Operating Income of an Unencumbered Property that is sold within the fiscal quarter will be excluded in calculating Unencumbered NOI, and (iii) income from tenants in bankruptcy will be excluded in calculating Unencumbered NOI.

“Unencumbered Properties” means, as of any date, each Eligible Unencumbered Property identified by Borrower in the most recent Compliance Certificate delivered to Administrative Agent. **“Unencumbered Property”** means any one of the Unencumbered Properties.

“United States” and **“U.S.”** mean the United States of America.

“Unreimbursed Amount” has the meaning specified in **Section 2.03(c)(i)**.

“Unrestricted Cash” means, as of any date, an amount equal to all cash and cash equivalents of the Consolidated Group that are not subject to a Lien, control agreement (excluding statutory liens in favor of any depository bank where such cash is maintained) or Negative Pledge (other than under the Loan Documents).

“Unsecured Indebtedness” means, for any Person as of any date, Indebtedness of such Person that is not Secured Indebtedness. For purposes hereof, any unsecured Guarantee by any member of the Consolidated Group of Secured Indebtedness of any other Person shall be treated as Unsecured Indebtedness only to the extent that the amount of the Secured Indebtedness guaranteed by any member of the Consolidated Group exceeds the aggregate market value of all property securing such Secured Indebtedness.

“U.S. Person” means any Person that is a “United States Person” as defined in *Section 7701(a)(30)* of the Code.

“U.S. Tax Compliance Certificate” has the meaning specified in *Section 3.01(e)(ii)(B)(3)*.

“Wholly-Owned” means, with respect to the ownership by any Person of any Property, that one hundred percent (100%) of the title to such Property is held directly or indirectly by, or one hundred percent (100%) of such Property is leased pursuant to an Acceptable Ground Lease directly or indirectly by, such Person.

“Wholly-Owned Subsidiary” means, with respect to any Person on any date, any corporation, partnership, limited liability company or other entity of which one hundred percent (100%) of the Equity Interests and one hundred percent (100%) of the ordinary voting power are, as of such date, owned and Controlled by 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.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending,

replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “*asset*” and “*property*” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “*from*” means “*from and including*,” the words “*to*” and “*until*” each mean “*to but excluding*,” and the word “*through*” means “*to and including*.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms.

(a) **Generally.** All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, *except* as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Consolidated Group shall be deemed to be carried at one hundred percent (100%) of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) **Changes in GAAP.** If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either Borrower or Required Lenders shall so request, Administrative Agent, the Lenders and 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 Required Lenders); *provided 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) Borrower shall provide to Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

1.04 **Rounding.** Any financial ratios required to be maintained by Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 **Times of Day; Rates.** Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable). Administrative Agent does not warrant, nor accept responsibility, nor shall Administrative Agent have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “***Eurodollar Rate***” or with respect to any comparable or successor rate thereto.

1.06 **Letter of Credit Amounts.** Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; *provided, however*, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

Article II. The Commitments and Credit Extensions

2.01 The Loans.

(a) **The Term Loan.** Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a Term Borrowing to Borrower on the Closing Date in an amount not to exceed such Term Lender's Applicable Percentage of the Term Facility. Amounts borrowed under this **Section 2.01(a)** and repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

(b) **The Revolving Credit Borrowings.** Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "**Revolving Credit Loan**") to Borrower from time to time, on any Business Day during the Availability Period in respect to the Revolving Credit Facility, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; *provided, however*, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility; and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Revolving Credit Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, Borrower may borrow under this **Section 2.01(b)**, prepay under **Section 2.05**, and reborrow under this **Section 2.01(b)**. Revolving Credit Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Revolving Credit Borrowing, each Term Borrowing, each conversion of Revolving Credit Loans or Term Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon Borrower's irrevocable notice to Administrative Agent, which may be given by (x) telephone or (y) a Committed Loan Notice; *provided that* any telephonic notice must be confirmed immediately by delivery to Administrative Agent of a Committed Loan Notice. Each such Committed Loan Notice must be received by Administrative Agent not later than 11:00 a.m. (i) three (3) Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Except as provided in **Sections 2.03(c)** and **2.04(c)**, each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice shall specify (i) whether Borrower is requesting a Revolving Credit Borrowing, a Term Borrowing, a conversion of Revolving Credit Loans or Term Loans from one Type to the other, or

a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Revolving Credit Loans or Term Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If Borrower fails to specify a Type of Loan in a Committed Loan Notice or if Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Revolving Credit Loans or Term Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month.

(b) Following receipt of a Committed Loan Notice, Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Revolving Credit Loans or Term Loans, and if no timely notice of a conversion or continuation is provided by Borrower, Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Revolving Credit Borrowing or a Term Borrowing, each Appropriate Lender shall make the amount of its Loan available to Administrative Agent in immediately available funds at Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in **Section 5.02** (and, if such Borrowing is the initial Credit Extension, **Section 5.01**), Administrative Agent shall make all funds so received available to Borrower in like funds as received by Administrative Agent either by (i) crediting the account of Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) Administrative Agent by Borrower; *provided, however*, that if, on the date the Committed Loan Notice with respect to a Revolving Credit Borrowing is given by Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, *first*, shall be applied to the payment in full of any such L/C Borrowings, and *second*, shall be made available to Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of Required Lenders.

(d) Administrative Agent shall promptly notify Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, Administrative Agent shall notify Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to (i) all Term Borrowings, all conversions of Term Loans from one Type to the other, and all continuations of Term Loans as the same Type and (ii) all Revolving Credit Borrowings, all conversions of Revolving Credit Loans from one Type to the other, and all continuations of Revolving Credit Loans as the same Type, there shall not be more than five (5) Interest Periods in effect with respect to the Term Facility and the Revolving Credit Facility.

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this **Section 2.03**, (1) from time to time on any Business Day during the period from the Closing Date until the date that is thirty (30) days prior to the Maturity Date then in effect for the Revolving Credit Facility, to issue Letters of Credit for the account of Borrower or its Subsidiaries, and to amend Letters of Credit previously issued by it, in accordance with **subsection (b)** below, and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of Borrower or its Subsidiaries and any drawings thereunder; *provided that* after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Credit Commitment and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) L/C Issuer shall not issue any Letter of Credit, if:

(A) the expiry date of the requested Letter of Credit would occur more than twelve (12) months after the date of issuance, unless Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all Revolving Credit Lenders have approved such expiry date.

(iii) L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain L/C Issuer from issuing the Letter of Credit, or any Law applicable to L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over L/C Issuer shall prohibit, or request that L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon L/C Issuer any

unreimbursed loss, cost or expense which was not applicable on the Closing Date and which L/C Issuer in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by Administrative Agent and L/C Issuer, the Letter of Credit is in an initial stated amount less than \$200,000;

(D) the Letter of Credit is to be denominated in a currency other than Dollars; or

(E) any Revolving Credit Lender is at that time a Defaulting Lender, unless L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to L/C Issuer (in its sole discretion) with Borrower or such Revolving Credit Lender to eliminate L/C Issuer's actual or potential Fronting Exposure (after giving effect to **Section 2.17(a)(iv)**) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) L/C Issuer shall not amend any Letter of Credit if L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and L/C Issuer shall have all of the benefits and immunities (A) provided to Administrative Agent in **Article X** with respect to any acts taken or omissions suffered by L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "**Administrative Agent**" as used in **Article X** included L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of Borrower delivered to L/C Issuer (with a copy to Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by L/C Issuer, by personal delivery or by any other means acceptable to L/C Issuer. Such Letter of Credit Application must be received by L/C Issuer and Administrative Agent not later than 11:00 a.m. at least two (2) Business Days (or such later date and time as Administrative Agent and L/C Issuer may agree in a particular instance in their sole

discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as L/C Issuer may require. Additionally, Borrower shall furnish to L/C Issuer and Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as L/C Issuer or Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, L/C Issuer will confirm with Administrative Agent (by telephone or in writing) that Administrative Agent has received a copy of such Letter of Credit Application from Borrower and, if not, L/C Issuer will provide Administrative Agent with a copy thereof. Unless L/C Issuer has received written notice from any Revolving Credit Lender, Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in **Article V** shall not then be satisfied, then, subject to the terms and conditions hereof, L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of Borrower or the applicable Subsidiary or enter into the applicable amendment, as the case may be, in each case in accordance with L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Percentage *times* the amount of such Letter of Credit.

(iii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, L/C Issuer will also deliver to Borrower and Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, L/C Issuer shall notify Borrower and Administrative Agent thereof. Not later than 11:00 a.m. on the date of any payment by L/C Issuer under a Letter of Credit (each such date, an "**Honor Date**"), Borrower shall reimburse L/C Issuer through Administrative Agent in an amount equal to the amount of such drawing. If Borrower fails to so reimburse L/C Issuer by such time, Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (the "**Unreimbursed Amount**"), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, Borrower shall be deemed

to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in **Section 2.02** for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in **Section 5.02** (other than the delivery of a Committed Loan Notice). Any notice given by L/C Issuer or Administrative Agent pursuant to this **Section 2.03(c)(i)** may be given by telephone if immediately confirmed in writing; *provided that* the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to **Section 2.03(c)(i)** make funds available (and Administrative Agent may apply Cash Collateral provided for this purpose) for the account of L/C Issuer at Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by Administrative Agent, whereupon, subject to the provisions of **Section 2.03(c)(iii)**, each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to Borrower in such amount. Administrative Agent shall remit the funds so received to L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in **Section 5.02** cannot be satisfied or for any other reason, Borrower shall be deemed to have incurred from L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to Administrative Agent for the account of L/C Issuer pursuant to **Section 2.03(c)(ii)** shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Revolving Credit Lender in satisfaction of its participation obligation under this **Section 2.03**.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this **Section 2.03(c)** to reimburse L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Revolving Credit Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this **Section 2.03(c)**, shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Revolving Credit Lender may have against L/C Issuer, Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however*, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this **Section 2.03(c)** is subject to the conditions set forth in **Section 5.02** (other than delivery by Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of Borrower to reimburse L/C Issuer for the amount of any payment made by L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to Administrative Agent for the account of L/C Issuer any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this **Section 2.03(c)** by the time specified in **Section 2.03(c)(ii)**, then, without limiting the other provisions of this Agreement, L/C Issuer shall be entitled to recover from such Revolving Credit Lender (acting through Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by L/C Issuer in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Credit Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of L/C Issuer submitted to any Revolving Credit Lender (through Administrative Agent) with respect to any amounts owing under this **clause (vi)** shall be conclusive absent manifest error.

(d) **Repayment of Participations.**

(i) At any time after L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Revolving Credit Lender's L/C Advance in respect of such payment in accordance with **Section 2.03(c)**, if Administrative Agent receives for the account of L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from Borrower or otherwise, including proceeds of Cash Collateral applied thereto by Administrative Agent), Administrative Agent will distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by Administrative Agent.

(ii) If any payment received by Administrative Agent for the account of L/C Issuer pursuant to **Section 2.03(c)(i)** is required to be returned under any of the circumstances described in **Section 11.05** (including pursuant to any settlement entered into by L/C Issuer in its discretion), each Revolving Credit Lender shall pay to Administrative Agent for the account of L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Revolving Credit Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Revolving Credit Lenders under this **clause** shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) **Obligations Absolute.** The obligation of Borrower to reimburse L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that Borrower or any Subsidiary thereof may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by L/C Issuer of any requirement that exists for L/C Issuer's protection and not the protection of Borrower or any waiver by L/C Issuer which does not in fact materially prejudice Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, Borrower or any Subsidiary thereof.

Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with Borrower's instructions or other irregularity, Borrower will promptly notify L/C Issuer. Borrower shall be conclusively deemed to have waived any such claim against L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) **Role of L/C Issuer.** Each Revolving Credit Lender and Borrower agree that, in paying any drawing under a Letter of Credit, L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of L/C Issuer, Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of L/C Issuer shall be liable to any Revolving Credit Lender for (i) any action taken or omitted in connection

herewith at the request or with the approval of the Revolving Credit Lenders or Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided, however*, that this assumption is not intended to, and shall not, preclude Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of L/C Issuer, Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of L/C Issuer shall be liable or responsible for any of the matters described in **clauses (i) through (viii) of Section 2.03(e)**; *provided, however*, that anything in such clauses to the contrary notwithstanding, Borrower may have a claim against L/C Issuer, and L/C Issuer may be liable to Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by Borrower which Borrower proves were caused by L/C Issuer's willful misconduct or gross negligence or L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) **Applicability of ISP and UCP; Limitation of Liability.** Unless otherwise expressly agreed by L/C Issuer and Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), the rules of the ISP shall apply to each standby Letter of Credit. Notwithstanding the foregoing, L/C Issuer shall not be responsible to Borrower for, and L/C Issuer's rights and remedies against Borrower shall not be impaired by, any action or inaction of L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) **Letter of Credit Fees.** Borrower shall pay to Administrative Agent for the account of each Revolving Credit Lender in accordance, subject to **Section 2.17**, with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "**Letter of Credit Fee**") for each standby Letter of Credit equal to the Applicable Rate for Letters of Credit *times* the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with **Section 1.06**. Letter of Credit Fees shall be (i) due and payable on the first (1st) Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date then in effect for the Revolving Credit Facility, on the Letter of Credit Expiration Date and thereafter on

demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) **Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer.** Borrower shall pay directly to L/C Issuer for its own account a fronting fee with respect to each issued and outstanding Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth (10th) Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date then in effect for the Revolving Credit Facility, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with **Section 1.06**. In addition, Borrower shall pay directly to L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) **Conflict with Issuer Documents.** In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) **Letters of Credit Issued for Subsidiaries.** Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, Borrower shall be obligated to reimburse L/C Issuer hereunder for any and all drawings under such Letter of Credit. Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of Borrower, and that Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

2.04 Swing Line Loans.

(a) **The Swing Line.** Subject to the terms and conditions set forth herein, Swing Line Lender, in reliance upon the agreements of the other Revolving Credit Lenders set forth in this **Section 2.04**, shall make loans (each such loan, a "**Swing Line Loan**") to Borrower from time to time on any Business Day during the Availability Period in respect of the Revolving Credit Facility in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Revolving Credit Percentage of the Outstanding Amount of Revolving Credit Loans and L/C Obligations of the Revolving Credit Lender acting as Swing Line Lender, may exceed the amount of such Revolving Credit Lender's Revolving Credit Commitment; *provided, however*, that (x) after giving effect to any Swing Line Loan, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, and (ii) the Revolving Credit Exposure of a Revolving Credit Lender at such time shall not exceed such Revolving Credit Lender's Revolving Credit Commitment, (y) Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan, and (z) Swing Line Lender shall not be under any obligation to make any Swing Line

Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, Borrower may borrow under this **Section 2.04**, prepay under **Section 2.05**, and reborrow under this **Section 2.04**. Each Swing Line Loan shall be a Base Rate Loan. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swing Line Loan.

(b) **Borrowing Procedures.** Each Swing Line Borrowing shall be made upon Borrower's irrevocable notice to Swing Line Lender and Administrative Agent, which may be given by (A) telephone or (B) a Swing Line Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to Swing Line Lender and Administrative Agent of a Swing Line Loan Notice. Each Swing Line Loan Notice must be received by Swing Line Lender and Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$500,000, and (ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by Swing Line Lender of any Swing Line Loan Notice, Swing Line Lender will confirm with Administrative Agent (by telephone or in writing) that Administrative Agent has also received such Swing Line Loan Notice and, if not, Swing Line Lender will notify Administrative Agent (by telephone or in writing) of the contents thereof. Unless Swing Line Lender has received notice (by telephone or in writing) from Administrative Agent (including at the request of any Revolving Credit Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of **Section 2.04(a)**, or (B) that one or more of the applicable conditions specified in **Article V** is not then satisfied, then, subject to the terms and conditions hereof, Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to Borrower.

(c) **Refinancing of Swing Line Loans.**

(i) Swing Line Lender at any time in its sole discretion may request, on behalf of Borrower (which hereby irrevocably authorizes Swing Line Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Revolving Credit Lender's Applicable Revolving Credit Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of **Section 2.02**, without regard to the minimum specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Revolving Credit Commitments and the conditions set forth in **Section 5.02** (other than the delivery of a Committed Loan Notice). Swing Line Lender shall furnish Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Applicable Revolving Credit Percentage of the amount specified in such Committed Loan Notice available to Administrative Agent in immediately available funds (and Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of Swing Line Lender at Administrative Agent's Office not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon,

subject to **Section 2.04(c)(ii)**, each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to Borrower in such amount. Administrative Agent shall remit the funds so received to Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with **Section 2.04(c)(i)**, the request for Base Rate Loans submitted by Swing Line Lender as set forth herein shall be deemed to be a request by Swing Line Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to Administrative Agent for the account of Swing Line Lender pursuant to **Section 2.04(c)(i)** shall be deemed payment in respect of such participation.

(iii) If any Revolving Credit Lender fails to make available to Administrative Agent for the account of Swing Line Lender any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this **Section 2.04(c)** by the time specified in **Section 2.04(c)(i)**, Swing Line Lender shall be entitled to recover from such Revolving Credit Lender (acting through Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by Swing Line Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by Swing Line Lender in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Credit Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of Swing Line Lender submitted to any Revolving Credit Lender (through Administrative Agent) with respect to any amounts owing under this **clause (iii)** shall be conclusive absent manifest error.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this **Section 2.04(c)** shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Revolving Credit Lender may have against Swing Line Lender, Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however*, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this **Section 2.04(c)** is subject to the conditions set forth in **Section 5.02** (other than the delivery of a Committed Loan Notice). No such funding of risk participations shall relieve or otherwise impair the obligation of Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if Swing Line Lender receives any payment on account of such Swing Line Loan, Swing Line Lender will distribute to such Revolving

Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by Swing Line Lender.

(ii) If any payment received by Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by Swing Line Lender under any of the circumstances described in **Section 11.05** (including pursuant to any settlement entered into by Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to Swing Line Lender its Applicable Revolving Credit Percentage thereof on demand of Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. Administrative Agent will make such demand upon the request of Swing Line Lender. The obligations of the Revolving Credit Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) **Interest for Account of Swing Line Lender.** Swing Line Lender shall be responsible for invoicing Borrower for interest on the Swing Line Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this **Section 2.04** to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swing Line Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of Swing Line Lender.

(f) **Payments Directly to Swing Line Lender.** Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to Swing Line Lender.

2.05 Prepayments.

(a) Borrower may, upon notice to Administrative Agent, at any time or from time to time voluntarily prepay Revolving Credit Loans and Term Loans in whole or in part without premium or penalty; *provided that* (i) such notice must be received by Administrative Agent not later than 11:00 a.m. (A) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by Borrower, Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to **Section 3.05**. Subject to **Section 2.17**, each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(b) Borrower may, upon notice to Swing Line Lender (with a copy to Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; *provided that* (i) such notice must be received by Swing Line Lender

and Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$100,000 or, if less, the entire principal amount of Swing Line Loans then outstanding. Each such notice shall specify the date and amount of such prepayment. If such notice is given by Borrower, Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(c) If for any reason the Total Revolving Credit Outstandings at any time exceed the Revolving Credit Facility at such time, then Borrower shall immediately prepay the Revolving Credit Loans, the Swing Line Loans and the L/C Borrowings, and/or Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount equal to such excess; *provided, however*, that Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this **Section 2.05(c)** unless after the prepayment in full of the Revolving Credit Loans and Swing Line Loans, the Total Revolving Credit Outstandings exceed the Revolving Credit Facility at such time.

2.06 Termination or Reduction of Commitments.

(a) **Optional.** Borrower may, upon notice to Administrative Agent, terminate the Revolving Credit Facility, the Swing Line Sublimit or the Letter of Credit Sublimit, or from time to time permanently reduce the Revolving Credit Facility, the Swing Line Sublimit or the Letter of Credit Sublimit; *provided* that (i) any such notice shall be received by Administrative Agent not later than 11:00 a.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof and (iii) Borrower shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit or (C) the Swing Line Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swing Line Loans would exceed the Swing Line Sublimit.

(b) **Mandatory.** If, after giving effect to any reduction of the Revolving Credit Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Revolving Credit Facility, such Sublimit shall be automatically reduced by the amount of such excess.

(c) **Application of Commitment Reductions; Payment of Fees.** Administrative Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit, the Swing Line Sublimit or the Revolving Credit Commitments under this **Section 2.06**. Upon any reduction of the Revolving Credit Facility, the Revolving Credit Commitment of each Revolving Credit Lender shall be reduced by such Revolving Credit Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees in respect of the Revolving Credit Facility accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination.

2.07 Repayment of Loans.

(a) **Term Loans.** Borrower shall repay to the Term Lenders on the Maturity Date with respect to the Term Facility the aggregate principal amount of all Term Loans outstanding on such date.

(b) **Revolving Credit Loans.** Borrower shall repay to the Revolving Credit Lenders on the Maturity Date with respect to the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(c) **Swing Line Loans.** Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten (10) Business Days after such Loan is made and (ii) the Maturity Date with respect to the Revolving Credit Facility.

2.08 Interest.

(a) Subject to the provisions of **subsection (b)** below, (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period *plus* the Applicable Rate for such Facility; (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate *plus* the Applicable Rate for such Facility; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate *plus* the Applicable Rate for the Revolving Credit Facility.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(i) If any amount (other than principal of any Loan) payable by Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Upon the request of Required Lenders, while any Event of Default exists (other than as set forth in **clauses (b) (i)** and **(b)(ii)** above), Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees. In addition to certain fees described in **subsections (h)** and **(i)** of **Section 2.03**:

(a) **Unused Fee.** Borrower shall, for each day during the term of this Agreement (i) on which there exist any Revolving Credit Commitments and (ii) that the Applicable Rate is determined pursuant to **clause (a)** of the definition of Applicable Rate, pay to Administrative Agent for the account of each Revolving Credit Lender holding a Revolving Credit Commitment (in accordance

with such Lender's Applicable Revolving Credit Percentage thereof), an unused fee (the "**Revolving Unused Fee**") equal to the Revolving Unused Rate *times* the actual daily amount by which the Revolving Credit Facility exceeds the Outstanding Amount of Revolving Credit Loans as of such date, subject to adjustment as provided in **Section 2.17**. For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Revolving Credit Commitments for purposes of determining the Revolving Unused Fee. The Revolving Unused Fee shall accrue at all times during the term of this Agreement at which there exist any Revolving Credit Commitments, including at any time during which one or more of the conditions in **Article V** is not met. The Revolving Unused Fee shall be calculated for each calendar quarter in arrears, based on the applicable daily Revolving Unused Rate during each day of such calendar quarter or portion thereof and shall be due and payable on the fifth day of each January, April, July and October (or the next succeeding Business Day if such day is not a Business Day), commencing on January 5, 2018 (with such initial payment to include such fees commencing from the Closing Date), and on the Maturity Date with respect to the Revolving Credit Facility.

(b) **Facility Fee.** Borrower shall, for each day during the term of this Agreement (i) on which there exists any Revolving Credit Exposure and (ii) that the Applicable Rate is determined pursuant to **clause (b)** of the definition of Applicable Rate, pay to Administrative Agent for the account of each Revolving Credit Lender holding a Revolving Credit Commitment (in accordance with such Lender's Applicable Revolving Credit Percentage thereof), a facility fee equal to the Applicable Rate *times* the actual daily amount of the Revolving Credit Facility (or, if the Revolving Credit Facility terminated, on the actual daily Outstanding Amount of all Revolving Credit Loans, Swing Line Loans and L/C Obligations), regardless of usage, subject to adjustment as provided in **Section 2.17**. The facility fee shall accrue at all times during the Availability Period in respect of the Revolving Credit Facility (and thereafter so long as any Revolving Credit Loans, Swing Line Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in **Article V** is not met, and shall be due and payable quarterly in arrears on the fifth day of each January, April, July and October (or the next succeeding Business Day if such day is not a Business Day), and on the last day of the Availability Period in respect of the Revolving Credit Facility (and, if applicable, thereafter on demand). The facility fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(c) **Other Fees.**

(i) Borrower shall pay to Arrangers and Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall

be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, *provided that* any Loan that is repaid on the same day on which it is made shall, subject to **Section 2.12(a)**, bear interest for one day. Each determination by Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of Borrower or for any other reason, Borrower or the Lenders determine that (i) the Total Leverage Ratio as calculated by Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Total Leverage Ratio would have resulted in higher pricing for such period, Borrower shall immediately and retroactively be obligated to pay to Administrative Agent for the account of the applicable Lenders or L/C Issuer, as the case may be, promptly on demand by Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to Borrower under the Bankruptcy Code of the United States, automatically and without further action by Administrative Agent, any Lender or L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of Administrative Agent, any Lender or L/C Issuer, as the case may be, under **Section 2.03(c)(iii)** or **2.03(i)** or under **Article IX**. Borrower's obligations under this paragraph shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder.

2.11 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by Administrative Agent in the ordinary course of business. The accounts or records maintained by Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of Administrative Agent in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through Administrative Agent, Borrower shall execute and deliver to such Lender (through Administrative Agent) one or more Notes, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Notes and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in **subsection (a)** above, each Lender and Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error.

2.12 Payments Generally; Administrative Agent's Clawback.

(a) **General.** All payments to be made by Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by Borrower hereunder shall be made to Administrative Agent, for the account of the respective Lenders to which such payment is owed, at Administrative Agent's Office in Dollars and in immediately available funds not later than 2:30 p.m. on the date specified herein. Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office; *provided that* any such payment shall, to the extent distributed after the Business Day following Administrative Agent's receipt thereof, be accompanied by interest on such payment amount (payable by Administrative Agent) calculated at the Federal Funds Rate commencing as of the date which is two (2) days following the Business Day following Administrative Agent's receipt of such payment through the date on which Administrative Agent makes such payment to the applicable Lender(s). All payments received by Administrative Agent after 2:30 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) **Clawback.**

(i) **Funding by Lenders; Presumption by Administrative Agent.** Unless Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to Administrative Agent such Lender's share of such Borrowing, Administrative Agent may assume that such Lender has made such share available on such date in accordance with **Section 2.02** (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by **Section 2.02**) and may, in reliance upon such assumption, make available to Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to Administrative Agent, then the applicable Lender and Borrower severally agree to pay to Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to Borrower to but excluding the date of payment to Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by Borrower, the interest rate applicable to Base Rate Loans. If Borrower and such Lender shall pay such interest to Administrative Agent for the same or an overlapping period, Administrative Agent shall promptly remit to Borrower the amount of such interest paid by Borrower for such period. If such Lender pays its share of the applicable Borrowing to Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by Borrower shall be without prejudice to any claim Borrower may have against a Lender that shall have failed to make such payment to Administrative Agent.

(i) **Payments by Borrower; Presumptions by Administrative Agent.** Unless Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due to Administrative Agent for the account of the Lenders or L/C Issuer hereunder that Borrower will not make such payment, Administrative Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or L/C Issuer, as the case may be, the amount due. In such event, if Borrower has not in fact made such payment, then each of the Appropriate Lenders or L/C Issuer, as the case may be, severally agrees to repay to Administrative Agent forthwith on demand the amount so distributed to such Lender or L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation.

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

(c) **Failure to Satisfy Conditions Precedent.** If any Lender makes available to Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this **Article II**, and such funds are not made available to Borrower by Administrative Agent because the conditions to the applicable Credit Extension set forth in **Article V** are not satisfied or waived in accordance with the terms hereof, Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) **Obligations of Lenders Several.** The obligations of the Lenders hereunder to make Revolving Credit Loans and Term Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to **Section 11.04(c)** are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under **Section 11.04(c)** on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under **Section 11.04(c)**.

(e) **Funding Source.** Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

2.13 **Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations

in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time,, then the Lender receiving such greater proportion shall (x) notify Administrative Agent of such fact, and (y) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, *provided that*:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this **Section 2.13** shall not be construed to apply to (x) any payment made by or on behalf of Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in **Section 2.16**, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to Borrower or any Affiliate thereof (as to which the provisions of this **Section 2.13** shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Extension of Maturity Date.

(a) **Requests for Extension.** Borrower may, by written notice to Administrative Agent (who shall promptly notify the Revolving Credit Lenders) not earlier than sixty (60) days and not later than thirty (30) days prior to the Initial Revolving Maturity Date, request that the Initial Revolving Maturity Date be extended to the First Extended Revolving Maturity Date. If the Initial Revolving Maturity Date is extended to the First Extended Revolving Maturity Date, then Borrower may, by written notice to Administrative Agent (who shall promptly notify the Revolving Credit Lenders) not earlier than sixty (60) days and not later than thirty (30) days prior to the First Extended Revolving Maturity Date, request that the First Extended Revolving Maturity Date be extended to the Second Extended Revolving Maturity Date.

(b) **Conditions Precedent.** As a condition precedent to the extension of the Initial Revolving Maturity Date to the First Extended Revolving Maturity Date and, if applicable, the First Extended Revolving Maturity Date to the Second Extended Revolving Maturity Date pursuant to this **Section 2.14**:

(i) on the date of the notice described in **Section 2.14(a)** and the date of such extension and after giving effect thereto, (A) the representations and warranties contained in **Article VI** and the other Loan Documents are true and correct on and as of the Initial Revolving Maturity Date or the First Extended Revolving Maturity Date, as applicable,

except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this **Section 2.14**, the representations and warranties contained in **Sections 6.05(a) and 6.05(b)** shall be deemed to refer to the most recent statements furnished pursuant to **Sections 7.01(a) and 7.01(b)**, respectively, and (B) no Default exists;

(ii) Borrower shall deliver to Administrative Agent a certificate of each Loan Party (in sufficient copies for each Revolving Credit Lender) signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such extension and (B) in the case of Borrower, certifying that the conditions set forth in **Section 2.14(b)(i)** have been satisfied; and

(iii) on the Initial Revolving Maturity Date or the First Extended Revolving Maturity Date, as applicable, Borrower shall pay to Administrative Agent, for the pro rata account of each Revolving Credit Lender in accordance with their respective Applicable Percentages, an extension fee equal to seven and one-half basis points (0.075%) of the Aggregate Commitments as of such date, which fee shall, when paid, be fully earned and non-refundable under any circumstances.

(c) **Conflicting Provisions.** This **Section 2.14** shall supersede any provisions in **Section 11.01** to the contrary.

2.15 Increase in Commitments.

(a) **Request for Increase.** Provided there exists no Default, upon notice to Administrative Agent (which shall promptly notify the Lenders), Borrower may from time to time, request an increase in the Total Credit Exposure of all Lenders (which increase may take the form of additional Revolving Credit Commitments under the Revolving Credit Facility, an increase to the Term Facility, or one or more additional term loan tranches) by an amount (for all such requests) not exceeding \$150,000,000; *provided that* (i) any such request for an increase shall be in a minimum amount of \$5,000,000, (ii) Borrower may make a maximum of three such requests, and (iii) after giving effect to each such request, the Total Credit Exposure of all Lenders shall not exceed \$450,000,000 (less the amount of any termination of the Total Revolving Credit Commitments pursuant to **Section 2.05** or prepayments of Term Loans pursuant to **Section 2.05**). At the time of sending such notice, Borrower (in consultation with Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders).

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

(c) **Notification by Administrative Agent; Additional Lenders.** Administrative Agent shall notify Borrower and each Lender of the Lenders' responses to each request made hereunder. To achieve the full amount of a requested increase and subject to the approval of Administrative Agent, Swing Line Lender and L/C Issuer (which approvals shall not be unreasonably withheld), Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance satisfactory to Administrative Agent and its counsel.

(d) **Effective Date and Allocations.** If the Total Credit Exposure of any Lender is increased in accordance with this **Section 2.15**, Administrative Agent and Borrower shall determine the effective date (the “**Increase Effective Date**”) and the final allocation of such increase. Administrative Agent shall promptly notify Borrower and the Lenders of the final allocation of such increase and the Increase Effective Date.

(e) **Conditions to Effectiveness of Increase.** As a condition precedent to such increase, (i) before and after giving effect to such increase, (A) the representations and warranties contained in **Article VI** and the other Loan Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this **Section 2.15**, the representations and warranties contained in **subsections (a) and (b) of Section 6.05** shall be deemed to refer to the most recent statements furnished pursuant to **subsections (a) and (b)**, respectively, of **Section 7.01**, and (B) no Default exists; and (ii) Borrower shall deliver to Administrative Agent a certificate of each Loan Party dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of such Loan Party (x) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (y) in the case of Borrower, certifying that the conditions set forth in **Section 2.15(e)(i)** have been satisfied. To the extent that the increase of the Commitments shall take the form of a new term loan tranche, this Agreement shall be amended, in form and substance satisfactory to Administrative Agent and Borrower, to include such terms as are customary for a term loan commitment. Borrower shall prepay any Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to **Section 3.05**) to the extent necessary to keep the outstanding Loans ratable with any revised Applicable Percentages arising from any nonratable increase in the Total Credit Exposure of any Lender under this **Section**, and each Loan Party shall execute and deliver such documents or instruments as Administrative Agent may require to evidence such increase in the Total Credit Exposure of any Lender and to ratify each such Loan Party’s continuing obligations hereunder and under the other Loan Documents.

(f) **Conflicting Provisions.** This **Section 2.15** shall supersede any provisions in **Section 2.13** or **11.01** to the contrary.

2.16 Cash Collateral.

(a) **Certain Credit Support Events.** If (i) L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the date that is thirty (30) days prior to the Maturity Date then in effect for the Revolving Credit Facility, any L/C Obligation for any reason remains outstanding, (iii) Borrower shall be required to provide Cash Collateral pursuant to **Section 9.02**, or (iv) there shall exist a Defaulting Lender, Borrower shall immediately (in the case of **clause (iii)** above) or within one Business Day (in all other cases) following any request by Administrative Agent or L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to **clause (iv)** above, after giving effect to **Section 2.17(a)(iv)** and any Cash Collateral provided by the Defaulting Lender).

(b) **Grant of Security Interest.** Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) Administrative Agent, for the benefit of Administrative Agent, L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all

other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to **Section 2.16(c)**. If at any time Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than Administrative Agent or L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, Borrower will, promptly upon demand by Administrative Agent, pay or provide to Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) **Application.** Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this **Section 2.16** or **Sections 2.03, 2.04, 2.05, 2.17** or **9.02** in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) **Release.** Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with **Section 11.06(b)(vi)**)) or (ii) the determination by Administrative Agent and L/C Issuer that there exists excess Cash Collateral; *provided, however*, (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (y) the Person providing Cash Collateral and L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.17 Defaulting Lenders.

(a) **Adjustments.** Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) **Waivers and Amendments.** Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "**Required Lenders**" and **Section 11.01**.

(ii) **Defaulting Lender Waterfall.** Any payment of principal, interest, fees or other amounts received by Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to **Article IX** or otherwise) or received by Administrative Agent from a Defaulting Lender pursuant to **Section 11.08**, shall be applied at such time or times as may be determined by Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts

owing by such Defaulting Lender to L/C Issuer or Swing Line Lender hereunder; *third*, to Cash Collateralize L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with **Section 2.16**; *fourth*, as Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Administrative Agent; *fifth*, if so determined by Administrative Agent and Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with **Section 2.16**; *sixth*, to the payment of any amounts owing to the Lenders, Swing Line Lender or L/C Issuer as a result of any judgment of a court of competent jurisdiction obtained by any Lender, Swing Line Lender or L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided that* if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in **Section 5.02** were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to **Section 2.17(a)(iv)**. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this **Section 2.17(a)(ii)** shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) **Certain Fees.**

(A) No Defaulting Lender shall be entitled to receive any fee payable under (x) **Section 2.09(a)** for any period during which that Lender is a Defaulting Lender (and Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) or (y) **Section 2.09(b)** for any period during which that Lender is a Defaulting Lender except to extent allocable to the sum of (1) the outstanding principal amount of the Revolving Credit Loans funded by it, and (2) its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to this **Section 2.17**.

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Revolving Credit Percentage of the stated amount

of Letters of Credit for which it has provided Cash Collateral pursuant to **Section 2.16**.

(C) With respect to any fee payable under **Section 2.09(a)** and **(b)** or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to **clause (A)** or **(B)** above, Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to **clause (iv)** below, (2) pay to L/C Issuer and Swing Line Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swing Line Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iv) **Reallocation of Applicable Percentages to Reduce Fronting Exposure.** All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Revolving Credit Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that (A) the conditions set forth in **Section 5.02** are satisfied at the time of such reallocation (and, unless Borrower shall have otherwise notified Administrative Agent at such time, Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (B) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. Subject to **Section 11.20**, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) **Cash Collateral, Repayment of Swing Line Loans.** If the reallocation described in **Section 2.17(a)(iv)** above cannot, or can only partially, be effected, Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (A) *first*, prepay Swing Line Loans in an amount equal to Swing Line Lender's Fronting Exposure and (B) *second*, Cash Collateralize L/C Issuer's Fronting Exposure in accordance with the procedures set forth in **Section 2.16**.

(b) **Defaulting Lender Cure.** If Borrower, Administrative Agent, Swing Line Lender and L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Revolving Credit Percentages (without giving effect to **Section 2.17(a)(iv)**), whereupon such Lender will cease to be a Defaulting Lender; *provided that* no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected

parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Article III.
Taxes, Yield Protection and Illegality

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of Administrative Agent) require the deduction or withholding of any Tax from any such payment by Administrative Agent or a Loan Party, then Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to **subsection (e)** below.

(ii) If any Loan Party or Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) Administrative Agent shall withhold or make such deductions as are determined by Administrative Agent to be required based upon the information and documentation it has received pursuant to **subsection (e)** below, (B) Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this **Section 3.01**) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to **subsection (e)** below, (B) such Loan Party or Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this **Section 3.01**) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by Borrower. Without limiting the provisions of **subsection (a)** above, the Loan Parties shall timely pay to the relevant Governmental Authority in

accordance with law, or at the option of Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) **Tax Indemnifications.**

(i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section 3.01**) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by a Lender or L/C Issuer (with a copy to Administrative Agent), or by Administrative Agent on its own behalf or on behalf of a Lender or L/C Issuer, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for any amount which a Lender or L/C Issuer for any reason fails to pay indefeasibly to Administrative Agent as required pursuant to **Section 3.01(c)(ii)** below.

(ii) Each Lender and L/C Issuer shall, and do hereby, severally indemnify, and shall make payment in respect thereof within ten (10) days after demand therefor, (A) Administrative Agent against any Indemnified Taxes attributable to such Lender or L/C Issuer (but only to the extent that any Loan Party has not already indemnified Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (B) Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of **Section 11.06(d)** relating to the maintenance of a Participant Register and (C) Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or L/C Issuer, in each case, that are payable or paid by Administrative Agent or the Loan Parties 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 Administrative Agent shall be conclusive absent manifest error. Each Lender and L/C Issuer hereby authorizes Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to Administrative Agent under this **Section 3.01(c)(ii)**.

(d) **Evidence of Payments.** Upon request by Borrower or Administrative Agent, as the case may be, after any payment of Taxes by Borrower or by Administrative Agent to a Governmental Authority as provided in this **Section 3.01**, Borrower shall deliver to Administrative Agent or Administrative Agent shall deliver to Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to Borrower or Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to Borrower and Administrative Agent, at the time or times reasonably requested by Borrower or Administrative Agent, such properly completed and executed documentation reasonably requested by Borrower or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by Borrower or Administrative Agent as will enable Borrower or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in **Sections 3.01(e)(ii)(A), 3.01(e)(ii)(B) and 3.01(e)(ii)(D)** below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that Borrower is a U.S. Person:

(A) any Lender that is a U.S. Person shall deliver to Borrower and Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative Agent), executed originals 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 Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI,

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under *Section 881(c)* of the Code, (x) a

certificate substantially in the form of **Exhibit E-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 Borrower within the meaning of *Section 881(c)(3)(B)* of the Code, or a “controlled foreign corporation” described in *Section 881(c)(3)(C)* of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) executed originals of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of **Exhibit E-2** or **Exhibit E-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 E-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 Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative 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 Borrower or Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in *Section 1471(b)* or *1472(b)* of the Code, as applicable), such Lender shall deliver to Borrower and Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or Administrative Agent such documentation prescribed by applicable Law (including as prescribed by *Section 1471(b)(3)(C)(i)* of the Code) and such additional documentation reasonably requested by Borrower or Administrative Agent as may be necessary for Borrower and Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this **Section 3.01(e)(ii)(D)**, “**FATCA**” shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this **Section 3.01** expires or becomes obsolete or inaccurate in any respect, it

shall update such form or certification or promptly notify Borrower and Administrative Agent in writing of its legal inability to do so.

(iv) In addition, Administrative Agent shall deliver to Borrower, at the time or times requested by Borrower, with respect to any payments received by Administrative Agent on its own behalf, such documentation as a Lender would be required to deliver hereunder.

(f) **FATCA.** For purposes of determining withholding Taxes imposed under FATCA from and after the date hereof, Loan Parties and Administrative Agent will treat (and the Lenders hereby authorize Administrative Agent to treat) the Obligations under this Agreement and the Loan Documents as not qualifying as a “*grandfathered obligation*” within the meaning of Treasury Regulation *Section 1.1471-2(b)(2)(i)*.

(g) **Treatment of Certain Refunds.** Unless required by applicable Laws, at no time shall Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or L/C Issuer, or have any obligation to pay to any Lender or L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this **Section 3.01**, it shall pay to the Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this **Section 3.01** with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided that* the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this **Section 3.01(f)** the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This **Section 3.01(f)** shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(h) **Survival.** Each party’s obligations under this **Section 3.01** shall survive the resignation or replacement of Administrative Agent or any assignment of rights by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 **Illegality.** If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to Borrower through Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making

or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies Administrative Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) Borrower shall, upon demand from such Lender (with a copy to Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates. If in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof (a) Administrative Agent determines that (i) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, or (ii) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan (in each case with respect to **clause (a)(i)** above, “**Impacted Loans**”), or (b) Administrative Agent or Required Lenders determine that for any reason the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurodollar Rate Loan, Administrative Agent will promptly so notify Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended (to the extent of the affected Eurodollar Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until Administrative Agent (upon the instruction of Required Lenders) revokes such notice. Upon receipt of such notice, Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

Notwithstanding the foregoing, if Administrative Agent has made the determination described in **clause (a)(i)** of this **Section**, Administrative Agent, in consultation with Borrower and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) Administrative Agent revokes the notice delivered with respect to the Impacted Loans under **clause (a)** of the first sentence of this **Section**, (2) Administrative Agent or the Required Lenders notify Administrative Agent and Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of

such Lender to do any of the foregoing and provides Administrative Agent and Borrower written notice thereof.

3.04 **Increased Costs; Reserves on Eurodollar Rate Loans.**

(a) **Increased Costs Generally.** If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by **Section 3.04(e)**) or L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in **clauses (b)** through **(d)** of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or L/C Issuer or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or L/C Issuer, Borrower will pay to such Lender or L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or L/C Issuer, as the case may be, for such additional costs actually incurred or reduction actually suffered.

(b) **Capital Requirements.** If any Lender or L/C Issuer determines that any Change in Law affecting such Lender or L/C Issuer or any Lending Office of such Lender or such Lender's or L/C Issuer's holding company, if any, regarding capital or liquidity ratios or requirements has or would have the effect of reducing the rate of return on such Lender's or L/C Issuer's capital or on the capital of such Lender's or L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Line Loans held by, such Lender, or the Letters of Credit issued by L/C Issuer, to a level below that which such Lender or L/C Issuer or such Lender's or L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or L/C Issuer's policies and the policies of such Lender's or L/C Issuer's holding company with respect to capital adequacy), then from time to time Borrower will pay to such Lender or L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or L/C Issuer or such Lender's or L/C Issuer's holding company for any such reduction suffered.

(c) **Certificates for Reimbursement.** A certificate of a Lender or L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or L/C Issuer or its holding company, as the case may be, as specified in **subsection (a)** or **(b)** of this **Section** and delivered to Borrower shall be conclusive absent manifest error. Borrower shall pay such Lender or L/C Issuer,

as the case may be, the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) **Delay in Requests.** Failure or delay on the part of any Lender or L/C Issuer to demand compensation pursuant to the foregoing provisions of this **Section 3.04** shall not constitute a waiver of such Lender's or L/C Issuer's right to demand such compensation, *provided that* Borrower shall not be required to compensate a Lender or L/C Issuer pursuant to the foregoing provisions of this **Section** for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or L/C Issuer, as the case may be, notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) **Reserves on Eurodollar Rate Loans.** Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "**Eurocurrency liabilities**"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, *provided* Borrower shall have received at least thirty (30) days' prior notice (with a copy to Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice thirty (30) days prior to the relevant Interest Payment Date, such additional interest shall be due and payable thirty (30) days from receipt of such notice.

3.05 Compensation for Losses. Upon demand of any Lender (with a copy to Administrative Agent) from time to time, Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by Borrower pursuant to **Section 11.13**;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by Borrower to the Lenders under this **Section 3.05**, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) **Designation of a Different Lending Office.** If any Lender requests compensation under **Section 3.04**, or requires Borrower to pay any Indemnified Taxes or additional amounts to any Lender, L/C Issuer, or any Governmental Authority for the account of any Lender or L/C Issuer pursuant to **Section 3.01**, or if any Lender gives a notice pursuant to **Section 3.02**, then at the request of Borrower such Lender or L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to **Section 3.01** or **3.04**, as the case may be, in the future, or eliminate the need for the notice pursuant to **Section 3.02**, as applicable, and (ii) in each case, would not subject such Lender or L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or L/C Issuer, as the case may be. Borrower hereby agrees to pay all reasonable out-of-pocket costs and expenses incurred by any Lender or L/C Issuer in connection with any such designation or assignment.

(b) **Replacement of Lenders.** If any Lender requests compensation under **Section 3.04**, or if Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to **Section 3.01** and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with **Section 3.06(a)**, Borrower may replace such Lender in accordance with **Section 11.13**.

3.07 **Survival.** All of Borrower's obligations under this **Article III** shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of Administrative Agent.

Article IV. Parent Guaranty

4.01 **The Guaranty.** Parent hereby guarantees to Administrative Agent and each of the holders of the Obligations, as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations (the "**Guaranteed Obligations**") in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. Parent hereby further agrees that if any of the Guaranteed Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateral or otherwise), Parent will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

4.02 **Obligations Unconditional.** The obligations of Parent under **Section 4.01** are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents or other documents relating to the Obligations, or any substitution, compromise, release, impairment or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable Laws, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this **Section 4.02** that the obligations of Parent hereunder shall be absolute and unconditional under

any and all circumstances. Parent agrees that Parent shall have no right of subrogation, indemnity, reimbursement or contribution against Borrower or any other Guarantor for amounts paid under this **Article IV** until such time as the Obligations have been irrevocably paid in full and the commitments relating thereto have expired or been terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by applicable Laws, the occurrence of any one or more of the following shall not alter or impair the liability of Parent hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to Parent, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Loan Documents, or other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to therein shall be done or omitted;

(c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents or other documents relating to the Guaranteed Obligations, or any other agreement or instrument referred to therein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, Administrative Agent or any of the holders of the Guaranteed Obligations as security for any of the Guaranteed Obligations shall fail to attach or be perfected; or

(e) any of the Guaranteed Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of Parent) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of Parent).

With respect to its obligations hereunder, Parent hereby expressly waives diligence, presentment, demand of payment, protest notice of acceptance of the guaranty given hereby and of Credit Extensions that may constitute obligations guaranteed hereby, notices of amendments, waivers and supplements to the Loan Documents and other documents relating to the Guaranteed Obligations, or the compromise, release or exchange of collateral or security, and all notices whatsoever, and any requirement that Administrative Agent or any holder of the Guaranteed Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents or any other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to

4.03 Reinstatement. Neither Parent's obligations hereunder nor any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by an impairment, modification, change, release or limitation of the liability of Borrower, by reason of Borrower's bankruptcy or insolvency or by reason of the invalidity or unenforceability of all or any portion of the Guaranteed Obligations. The obligations of Parent under this **Article IV** shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings pursuant to any Debtor Relief Law or otherwise, and Parent agrees that it will indemnify Administrative Agent and each holder of Guaranteed Obligations on demand for all reasonable out-of-pocket costs and expenses (including all reasonable fees, expenses and disbursements of any law firm or other

outside counsel incurred by Administrative Agent) incurred by Administrative Agent or such holder of Guaranteed Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

4.04 **Certain Waivers.** Parent acknowledges and agrees that (a) the guaranty given hereby may be enforced without the necessity of resorting to or otherwise exhausting remedies in respect of any other security or collateral interests, and without the necessity at any time of having to take recourse against Borrower hereunder or against any collateral securing the Guaranteed Obligations or otherwise, (b) it will not assert any right to require the action first be taken against Borrower or any other Person (including any co guarantor) or pursuit of any other remedy or enforcement any other right and (c) nothing contained herein shall prevent or limit action being taken against Borrower hereunder, under the other Loan Documents or the other documents and agreements relating to the Guaranteed Obligations or from foreclosing on any security or collateral interests relating hereto or thereto, or from exercising any other rights or remedies available in respect thereof, if neither Borrower nor Guarantors shall timely perform their obligations, and the exercise of any such rights and completion of any such foreclosure proceedings shall not constitute a discharge of Parent's obligations hereunder unless as a result thereof, the Guaranteed Obligations shall have been paid in full and the commitments relating thereto shall have expired or been terminated, it being the purpose and intent that Parent's obligations hereunder be absolute, irrevocable, independent and unconditional under all circumstances.

4.05 **Remedies.** Parent agrees that, to the fullest extent permitted by applicable Laws, as between Guarantors, on the one hand, and Administrative Agent and the holders of the Guaranteed Obligations, on the other hand, the Guaranteed Obligations may be declared to be forthwith due and payable as provided in **Section 9.02** (and shall be deemed to have become automatically due and payable in the circumstances provided in **Section 9.02**) for purposes of **Section 4.01**, notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Guaranteed Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Guaranteed Obligations being deemed to have become automatically due and payable), the Guaranteed Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by Parent for purposes of **Section 4.01**.

4.06 **Rights of Contribution.** Parent hereby agrees that, in connection with payments made hereunder, Parent shall have a right of contribution from each other Guarantor in accordance with applicable Laws. Such contribution rights shall be subordinate and subject in right of payment to the Guaranteed Obligations until such time as the Guaranteed Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated, and Parent shall not exercise any such contribution rights until the Guaranteed Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated.

4.07 **Guaranty of Payment; Continuing Guaranty.** The guaranty in this **Article IV** is a guaranty of payment and performance, and not merely of collection, and is a continuing guaranty, and shall apply to all Guaranteed Obligations whenever arising.

Article V.
Conditions Precedent to Credit Extensions

5.01 **Conditions of Initial Credit Extension.** The obligation of L/C Issuer and each Lender to make its respective initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) or electronic copies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement and the Subsidiary Guaranty, in each case sufficient in number for distribution to Administrative Agent, each Lender, Parent, and Borrower;

(ii) a Note executed by Borrower in favor of each Lender requesting a Note;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such documents and certifications as Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(v) a favorable opinion of Morrison & Foerster LLP, counsel to the Loan Parties, addressed to Administrative Agent and each Lender, as to the matters concerning the Loan Parties and the Loan Documents as Required Lenders may reasonably request;

(vi) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(vii) a certificate signed by a Responsible Officer of Parent, for itself and on behalf of Borrower, certifying (A) that the conditions specified in **Sections 5.02(a)** and **(b)** have been satisfied; (B) that except for any changes arising from Parent's issuance of 6,900,000 shares of its common stock in May 2017, there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect; and (C) no action, suit, investigation or proceeding is pending or, the knowledge of any Loan Party, threatened in any court or before any arbitrator or governmental authority related to

the transactions contemplated by this Agreement or that could reasonably be expected to have a Material Adverse Effect;

(viii) a duly completed Compliance Certificate certifying compliance with all financial covenants set forth in **Section 8.15**, in each case prepared as of June 30, 2017, on a pro forma basis, and signed by a Responsible Officer of Borrower and Parent;

(ix) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect; and

(x) such other assurances, certificates, documents, consents or opinions as Administrative Agent, L/C Issuer, Swing Line Lender or Required Lenders may reasonably require.

(b) Any fees required to be paid on or before the Closing Date shall have been paid.

(c) Unless waived by Administrative Agent, Borrower shall have paid all fees, charges and disbursements of counsel to Administrative Agent (directly to such counsel if requested by Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (*provided that* such estimate shall not thereafter preclude a final settling of accounts between Borrower and Administrative Agent).

Without limiting the generality of the provisions of the last paragraph of **Section 10.03**, for purposes of determining compliance with the conditions specified in this **Section 5.01**, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

5.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of Borrower and each other Loan Party contained in **Article VI** or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this **Section 5.02**, the representations and warranties contained in **subsections (a) and (b) of Section 6.05** shall be deemed to refer to the most recent statements furnished pursuant to **clauses (a) and (b)**, respectively, of **Section 7.01**.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) Administrative Agent and, if applicable, L/C Issuer or Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) If such proposed Credit Extension is under the Revolving Credit Facility, then after giving effect to such proposed Credit Extension, the Total Revolving Credit Outstandings do not exceed the Revolving Credit Facility.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by Borrower shall be deemed to be a representation and warranty that the conditions specified in **Sections 5.02(a)** and **(b)** have been satisfied on and as of the date of the applicable Credit Extension.

Article VI. Representations and Warranties

Each of Parent and Borrower represents and warrants to Administrative Agent and the Lenders that:

6.01 Existence, Qualification and Power; Compliance with Laws. Each member of the Consolidated Group (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in **clause (b)(i)** or **(c)** to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

6.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

6.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms.

6.05 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Consolidated Group as of the date thereof

and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Consolidated Group as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The unaudited consolidated and consolidating balance sheet of the Consolidated Group dated June 30, 2017 and the related consolidated and consolidating statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Consolidated Group as of the date thereof and their results of operations for the period covered thereby, subject, in the case of **clauses (i) and (ii)**, to the absence of footnotes and to normal year-end audit adjustments.

(c) Except for any changes arising from Parent's issuance of 6,900,000 shares of its common stock in May 2017, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect since the date of the Audited Financial Statements.

6.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any member of the Consolidated Group or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) except as specifically disclosed in **Schedule 6.06**, either individually or in the aggregate, if determined adversely, could reasonably be expected to have a Material Adverse Effect, and there has been no adverse change in the status, or financial effect on any member of the Consolidated Group, of the matters described on **Schedule 6.06**.

6.07 No Default. No member of the Consolidated Group is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

6.08 Ownership of Property; Liens. Each member of the Consolidated Group has good record and marketable title in fee simple to, or valid leasehold interests in, all Properties necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each applicable Loan Party has good record and marketable fee simple title (or, in the case of Acceptable Ground Leases, a valid leasehold) to the Unencumbered Property owned by such Loan Party, subject only to Liens permitted by **Section 8.01**.

6.09 Environmental Compliance. The members of the Consolidated Group have conducted in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and to Parent's and Borrower's knowledge, the Properties are in compliance with all Environmental Laws, except as specifically disclosed on **Schedule 6.09** and except such non-compliance that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.10 Insurance. The properties of the Consolidated Group are insured with financially sound and reputable insurance companies not Affiliates of any member of the Consolidated Group, in such amounts,

with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the members of the Consolidated Group operate.

6.11 **Taxes.** The members of the Consolidated Group have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against any member of the Consolidated Group that would, if made, have a Material Adverse Effect. No member of the Consolidated Group is party to any tax sharing agreement.

6.12 **ERISA Compliance.**

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Plan that is intended to be a qualified plan under *Section 401(a)* of the Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under *Section 401(a)* of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under *Section 501(a)* of the Code, or an application for such a letter is currently being processed by the IRS. To the best knowledge of Parent and Borrower, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the best knowledge of each Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred, and no Loan Party nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in *Section 430(d)(2)* of the Code) is sixty percent (60%) or higher and no Loan Party nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below sixty (60%) as of the most recent valuation date; (iv) no Loan Party nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) no Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to *Section 4069* or *Section 4212(c)* of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) The underlying assets of each member of the Consolidated Group do not constitute Plan Assets and no member of the Consolidated Group will be using Plan Assets in connection with the Loans, the Letters of Credit or the Commitments;

6.13 **Subsidiaries; Equity Interests.** Parent has no Subsidiaries other than those specifically disclosed in Part (a) of **Schedule 6.13**, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the applicable member of the Consolidated Group in the amounts specified on Part (a) of **Schedule 6.13** free and clear of all Liens. Parent has no direct or indirect equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of **Schedule 6.13**.

6.14 **Margin Regulations; Investment Company Act.**

(a) Neither Parent nor Borrower is engaged and will not engage, principally or as one of their important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of Parent, Borrower, any Person Controlling Borrower, or any other member of the Consolidated Group is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

6.15 **Disclosure.** Parent and Borrower have disclosed to Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which any member of the Consolidated Group is subject, and all other matters known to them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any member of the Consolidated Group to Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided that*, with respect to projected financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

6.16 **Compliance with Laws.** Each member of the Consolidated Group is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.17 **Taxpayer Identification Number.** Each Loan Party’s true and correct U.S. taxpayer identification number is set forth on **Schedule 11.02**.

6.18 **Unencumbered Properties.** Each Property identified by Borrower as an Unencumbered Property in the most-recent Compliance Certificate delivered to Administrative Agent hereunder is an Eligible Unencumbered Property as of the date of such Compliance Certificate.

6.19 **Solvency.** Each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent.

6.20 **REIT Status.** Parent is qualified and taxed as a REIT.

6.21 **OFAC.** Neither Parent, nor any of its Subsidiaries, nor, to the knowledge of Parent and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (a) currently the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (c) located, organized or resident in a Designated Jurisdiction.

6.22 **Anti-Corruption Laws.** Parent and its Subsidiaries have conducted their businesses in compliance with applicable anti-corruption laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

6.23 **Eligible Contract Participant.** Each Loan Party qualifies as an "eligible contract participant" under the Commodity Exchange Act.

6.24 **EEA Financial Institution.** No Loan Party is an EEA Financial Institution.

Article VII. Affirmative Covenants

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding:

7.01 **Financial Statements.** Each of Parent and Borrower shall deliver to Administrative Agent and each Lender, in form and detail reasonably satisfactory to Administrative Agent and Required Lenders:

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of Parent (or, if earlier, fifteen (15) days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) (commencing with the fiscal year ended December 31, 2017), a consolidated and consolidating balance sheet of Parent as at the end of such fiscal year (including consolidating financial information with respect to Borrower), and the related consolidated and consolidating statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit, and such consolidating statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of Parent to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements of Parent;

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of Parent (or, if earlier, five (5) days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) (commencing with the fiscal quarter ended September 30, 2017), a consolidated and consolidating balance sheet of Parent as at the end of such fiscal quarter (including consolidating financial information with respect to Borrower), the related consolidated and consolidating statements of income or operations for such fiscal quarter and for the portion of Parent's fiscal year then ended, and the related consolidated and consolidating statements of changes in shareholders'

equity, and cash flows for the portion of Parent's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of Parent as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Consolidated Group in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes and such consolidating statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of Parent to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements of Parent;

(c) as soon as available, but in any event at least fifteen (15) days before the end of each fiscal year of Parent, forecasts prepared by management of Parent, in form reasonably satisfactory to Administrative Agent and Required Lenders, of consolidated balance sheets and statements of income or operations and cash flows of the Consolidated Group on a quarterly basis for the immediately following fiscal year (including the fiscal year in which the Maturity Date occurs); and

(d) as soon as reasonably practicable, but in any event within sixty (60) days after the end of each fiscal year of Borrower, (i) a statement of all income and expenses in connection with each Unencumbered Property, and (ii) a current leasing status report (including tenants' names, occupied tenant space, lease terms, rents, vacant space, delinquencies, lease defaults and proposed rents), each certified in writing as true and correct by Responsible Officer of Borrower.

As to any information contained in materials furnished pursuant to **Section 7.02(c)**, Parent and Borrower shall not be separately required to furnish such information under **clause (a)** or **(b)** above, but the foregoing shall not be in derogation of the obligation of Parent and Borrower to furnish the information and materials described in **clauses (a)** and **(b)** above at the times specified therein.

7.02 Certificates; Other Information. Each of Parent and Borrower shall deliver to Administrative Agent and each Lender, in form and detail reasonably satisfactory to Administrative Agent and Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in **Sections 7.01(a)** and **(b)**, a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of Parent (which delivery may, unless Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

(b) promptly after any reasonable request by Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of Parent by independent accountants in connection with the accounts or books of any member of the Consolidated Group, or any audit of any of them;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of Parent, and copies of all annual, regular, periodic and special reports and registration statements which Borrower may file

or be required to file with the SEC under *Section 13* or *15(d)* of the Securities Exchange Act of 1934, and not otherwise required to be delivered to Administrative Agent pursuant hereto;

(d) promptly upon reasonable request by Administrative Agent at each time a Property is to be added as an Unencumbered Property and at any other time, but no more often than once per annum when such request is not in connection with the addition of an Unencumbered Property, rent rolls, operating statements and similar information concerning the Unencumbered Properties;

(e) promptly, notice of any change in any Debt Rating; and

(f) promptly, such additional information regarding the business, financial or corporate affairs of the Consolidated Group, or compliance with the terms of the Loan Documents, as Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to *Section 7.01(a)* and *(b)* or *Section 7.02(c)* (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which Parent posts such documents, or provides a link thereto on Parent's website on the Internet at the website address listed on *Schedule 11.02*; or (ii) on which such documents are posted on Parent's behalf on an Internet or intranet website, if any, to which each Lender and Administrative Agent have access (whether a commercial, third-party website or whether sponsored by Administrative Agent); *provided that*: (i) Parent or Borrower shall deliver paper copies of such documents to Administrative Agent or any Lender upon its request to Parent or Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by Administrative Agent or such Lender and (ii) Borrower shall notify Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents. Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Borrower hereby acknowledges that (a) Administrative Agent and/or Arrangers may, but shall not be obligated to, make available to the Lenders and L/C Issuer materials and/or information provided by or on behalf of Borrower hereunder (collectively, "**Borrower Materials**") by posting Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "**Platform**") and (b) certain of the Lenders (each, a "**Public Lender**") may have personnel who do not wish to receive material non-public information with respect to Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," Borrower shall be deemed to have authorized Administrative Agent, Arrangers, L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Borrower or its securities for purposes of United States Federal and state securities laws (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in *Section 11.07*); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) Administrative Agent and Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

7.03 **Notices.** Each of Parent and Borrower shall promptly notify Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of any member of the Consolidated Group; (ii) any dispute, litigation, investigation, proceeding or suspension between any member of the Consolidated Group and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any member of the Consolidated Group, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event;

(d) any material litigation, arbitration or governmental investigation or proceeding instituted or threatened against an Unencumbered Property, and any material development therein;

(e) any actual or threatened Condemnation of any portion of an Unencumbered Property, any negotiations with respect to any such taking, or any Casualty or other loss of or substantial damage to any Unencumbered Property;

(f) of any material change in accounting policies or financial reporting practices by Parent;

(g) of any Environmental Liability or the discovery of any Hazardous Material on any Unencumbered Property that has resulted or could reasonably be expected to result in a Material Adverse Effect including a full description of the nature and extent of the Environmental Liability and/or Hazardous Material;

(h) of any event or circumstance that results in a Property previously qualifying as an Unencumbered Property ceasing to qualify as such together with a Compliance Certificate duly completed and delivered by a Responsible Officer calculating all relevant financial covenants as of the most-recent fiscal quarter calculated on a pro forma basis assuming that such Property is no longer an Unencumbered Property; and

(i) any labor controversy pending or threatened against any member of the Consolidated Group or any contractor performing work on an Unencumbered Property, and any material development in any labor controversy.

Each notice pursuant to this **Section 7.03** shall be accompanied by a statement of a Responsible Officer of Borrower setting forth details of the occurrence referred to therein and stating what action Borrower has taken and proposes to take with respect thereto. Each notice pursuant to **Section 7.03(a)** shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

7.04 **Payment of Obligations.** Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to, pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon a member of the Consolidated Group or its properties or assets; and (b) all lawful claims which, if

unpaid, would by law become a Lien upon its property, unless, in all instances, the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by such member of the Consolidated Group.

7.05 Preservation of Existence, Etc. Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to: (a) preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by **Section 8.04** or **8.05**; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

7.06 Maintenance of Properties. Each of Parent and Borrower shall, and shall cause each other Loan Party to, keep the Unencumbered Properties in good order, repair, operating condition, and appearance, causing all necessary repairs, renewals, replacements, additions, and improvements to be promptly made, and not allow any of the Unencumbered Properties to be misused, abused or wasted or to deteriorate (ordinary wear and tear excepted).

7.07 Maintenance of Insurance. Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to, maintain with financially sound and reputable insurance companies not Affiliates of any member of the Consolidated Group, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

7.08 Compliance with Laws. Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to, comply in all material respects with the requirements of all Laws (including Environmental Laws) and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

7.09 Books and Records. Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to, maintain: (a) proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of Borrower or such member of the Consolidated Group, as the case may be; and (b) such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over Borrower or such Subsidiary, as the case may be.

7.10 Inspection Rights. Each of Parent and Borrower shall, and shall cause each other Loan Party to, permit representatives and independent contractors of Administrative Agent and each Lender to visit and inspect and photograph any Unencumbered Property, to examine its corporate, financial and operating records, and all recorded data of any kind or nature, regardless of the medium of recording including all software, writings, plans, specifications and schematics, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to Parent, Borrower or

such other Loan Party, as applicable; *provided, however*, that when an Event of Default exists Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the reasonable expense of Borrower at any time during normal business hours and without advance notice and, *provided further*, that any visit to or inspection of any Unencumbered Property shall be subject to the rights of tenants under Leases at such Unencumbered Property.

7.11 **Use of Proceeds.** Borrower shall use the proceeds of the Credit Extensions for general corporate and working capital purposes not in contravention of any Law or of any Loan Document.

7.12 **Loan Documents.** Each of Parent and Borrower shall, and shall cause each other Loan Party to comply with all covenants and requirements set forth in the Loan Documents.

7.13 **Acceptable Ground Leases.** Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to:

(a) pay or cause to be paid all rents, additional rents, and other sums required to be paid by the applicable member of the Consolidated Group, as tenant under and pursuant to the provisions of each Acceptable Ground Lease;

(b) diligently perform and observe all of the material terms, covenants, and conditions of each Acceptable Ground Lease as tenant under such Acceptable Ground Lease; and

(c) promptly notify Administrative Agent of (i) the giving to any member of the Consolidated Group of any notice of any default by such member of the Consolidated Group under any Acceptable Ground Lease and deliver to Administrative Agent a true copy of each such notice, and (ii) any bankruptcy, reorganization, or insolvency of the landlord under any Acceptable Ground Lease or of any notice thereof, and deliver to Administrative Agent a true copy of such notice.

7.14 **Guaranties.** Each of Parent and Borrower shall notify Administrative Agent at the time that any Person becomes a Subsidiary of Borrower (other than an Excluded Subsidiary), and promptly thereafter (and in any event within thirty (30) days or such longer period as Administrative Agent may agree in writing), cause such Person to (a) become a Subsidiary Guarantor by executing and delivering to Administrative Agent the Subsidiary Guaranty (or an addendum thereto in the form attached to the Subsidiary Guaranty), and (b) deliver to Administrative Agent documents of the types referred to in **Sections 5.01(a)(iii), 5.01(a)(iv) and 5.01(a)(vi)**, together with a favorable opinion of counsel of such Person, all such documentation and opinion to be in form, content and scope reasonably satisfactory to Administrative Agent.

7.15 **REIT Status.** Parent shall take all action necessary to ensure that Parent is organized and operated in a manner so as to qualify to be taxed as a REIT under the Code.

7.16 **Further Assurances.** Each of Parent, Borrower and each Loan Party shall, promptly upon request by Administrative Agent, or any Lender through Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as Administrative Agent, or any Lender through Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, and (ii) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto Administrative Agent or any Lender the rights granted or now or hereafter intended to be granted to Administrative Agent or any Lender under any Loan

Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

7.17 **Material Contracts.** Each of Parent and Borrower shall, and shall cause each other member of the Consolidated Group to, perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time reasonably requested by Administrative Agent and, upon the reasonable request of Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so.

7.18 **Eligible Contract Participants.** Each of Parent and Borrower shall, and shall cause each other Loan Party to, qualify as an “eligible contract participant” under the Commodity Exchange Act.

Article VIII. Negative Covenants

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding:

8.01 **Liens.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, directly or indirectly create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens existing on the date hereof and listed on **Schedule 8.01** and any renewals, modifications or extensions thereof, *provided that* (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by **Section 8.03(b)**, (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by **Section 8.03(b)**;

(b) Liens for taxes not yet delinquent or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(c) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than thirty (30) days or (i) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person, or (ii) for which the applicable member of the Consolidated Group is insured against such Liens by title insurance, bonds, or other similar arrangements satisfactory to Administrative Agent;

(d) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(e) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(f) easements, rights-of-way, restrictions, restrictive covenants, encroachments, protrusions, and other similar encumbrances affecting any Property which do not in any case materially detract from the value of such Property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(g) Liens of any member of the Consolidated Group (other than a Subsidiary Guarantor) that is engaged in construction projects for the purpose of securing surety bonds, performance bonds, or similar instruments (other than Indebtedness);

(h) Liens securing judgments for the payment of money not constituting an Event of Default under **Section 9.01(h)**;

(i) Liens on Properties (other than Unencumbered Properties) securing Indebtedness permitted under **Sections 8.03(e)** and **(f)**; *provided that* (i) such Liens do not at any time encumber any Property or assets other than the Property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the Property being acquired on the date of acquisition; and

(j) Liens on Properties (other than Unencumbered Properties) securing Indebtedness that has been paid or otherwise satisfied, but which Liens have not been released of record; *provided that* Borrower is exercising commercially reasonable efforts to obtain the release thereof.

8.02 Investments. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, make any Investments, except:

(a) Investments held by a member of the Consolidated Group in the form of cash equivalents;

(b) advances to officers, directors and employees of a member of the Consolidated Group in an aggregate amount not to exceed \$5,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) Investments of Borrower in any Subsidiary and Investments of any Subsidiary in Borrower or in another Subsidiary;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by **Section 8.03**;

(f) Investments in income producing Properties and assets incidental thereto;

(g) Investments in unimproved land holdings in an aggregate amount not exceeding five percent (5%) of Total Asset Value;

(h) Investments in construction in progress in an aggregate amount not exceeding twenty-five percent (25%) of Total Asset Value;

(i) Investments in Unconsolidated Affiliates in an aggregate amount not exceeding ten percent (10%) of Total Asset Value; and

(j) Investments consisting of mortgages, mezzanine loans and notes receivable in an aggregate amount not exceeding fifteen percent (15%) of Total Asset Value.

provided that any determination as to whether an Investment shall be permitted hereunder will be made after giving effect to such Investment; *provided, further,* that Investments under **Sections 8.02(g)** through **(j)** above shall not exceed thirty percent (30%) of Total Asset Value.

8.03 Indebtedness. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, create, incur, assume, or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on **Schedule 8.03** and any refinancings, refundings, renewals or extensions thereof; *provided that* (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except (x) by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder or (y) to the extent such increase in Indebtedness is otherwise permitted under this **Section 8.03**; and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Consolidated Group or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(c) Guarantees by Borrower or any Subsidiary in respect of (i) Indebtedness of any member of the Consolidated Group otherwise permitted hereunder, and (ii) Secured Indebtedness of any Person (other than a member of the Consolidated Group) not to exceed \$100,000,000 in the aggregate at any time outstanding;

(d) obligations (contingent or otherwise) of any member of the Consolidated Group existing or arising under any Swap Contract, *provided that* (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a “market view;” and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Non-Recourse Debt so long as Parent and Borrower are in compliance with **Section 8.15(d)**; and

(f) Secured Recourse Debt so long as Parent and Borrower are in compliance with **Sections 8.15(d)** and **(e)**.

8.04 Fundamental Changes. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) Borrower, *provided that* Borrower shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries, *provided that* when any Subsidiary Guarantor is merging with another Subsidiary, the Subsidiary Guarantor shall be the continuing or surviving Person; and

(b) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to Borrower or to another Subsidiary; *provided that* if the transferor in such a transaction is a Subsidiary Guarantor, then the transferee must either be Borrower or a Subsidiary Guarantor.

8.05 Dispositions. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property by any Subsidiary to Borrower or to a Wholly-Owned Subsidiary; *provided that* if the transferor of such property is a Subsidiary Guarantor, the transferee thereof must either be Borrower or a Subsidiary Guarantor;

(e) Dispositions of Properties so long as no Default exists or would result therefrom; and

(f) Dispositions permitted by **Section 8.04**.

8.06 Restricted Payments. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that, so long as no Default shall have occurred and be continuing at the time of any action described below or would result therefrom:

(a) each Subsidiary may make Restricted Payments to Borrower and any other Person that owns an Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) each member of the Consolidated Group may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) each member of the Consolidated Group may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests;

(d) Parent may make Restricted Payments, for any twelve (12) month period, not to exceed an amount equal to the greater of (i) ninety-five percent (95%) of Adjusted Funds From Operations for such period; and (ii) the aggregate amount of Restricted Payments required to be made by Parent in order for it to (A) maintain its REIT status and (B) avoid the payment of federal or state income or excise tax; *provided that* to the extent a Default is then-existing or would result from the making of such Restricted Payment (other than a Default specified in **Sections 9.01(f)** or **9.01(g)** or a Default that has resulted in Administrative Agent exercising its remedies under **Section 9.02(b)**, in which case no Restricted Payments otherwise permitted under this **clause (d)** may be made), Parent may make Restricted Payments in the minimum amount required in order for Parent to maintain its REIT status;

(e) Parent may purchase Equity Interests issued by it for a purchase price not to exceed \$15,000,000 in the aggregate for all such purchases during the term of this Agreement; and

(f) Borrower may purchase Equity Interests issued by it for a purchase price not to exceed \$15,000,000 in the aggregate for all such purchases during the term of this Agreement.

8.07 Change in Nature of Business. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, engage in any material line of business substantially different from those lines of business conducted by the Consolidated Group on the date hereof or any business substantially related or incidental thereto.

8.08 Transactions with Affiliates. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, enter into any transaction of any kind with any Affiliate of a member of the Consolidated Group, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to such member of the Consolidated Group as would be obtainable by such member of the Consolidated Group at the time in a comparable arm's length transaction with a Person other than an Affiliate.

8.09 Burdensome Agreements. Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, enter into or permit to exist any Contractual Obligation (other than the Loan Documents) that (a) constitutes a Negative Pledge with respect to any Unencumbered Property or the Equity Interests in any member of the Consolidated Group (other than Borrower) that owns or leases an Unencumbered Property, or (b) limits the ability of any member of the Consolidated Group to transfer ownership of any Unencumbered Property or the Equity Interests in any member of the Consolidated Group (other than Borrower) that owns or leases an Unencumbered Property.

8.10 Use of Proceeds. Each of Parent and Borrower shall not use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to (a) finance or refinance any (i) commercial paper issued by any Loan Party or (ii) any other Indebtedness, except (A) for Indebtedness that such Loan Party incurred for development activities or other general corporate or working capital purposes, or (B) to refinance Indebtedness on Properties that will become Unencumbered

Properties, (b) purchase or carry margin stock (within the meaning of Regulation U of the FRB) or (c) extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

8.11 **Acceptable Ground Leases.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to:

(a) without the prior written consent of Administrative Agent, surrender the leasehold estate created by any Acceptable Ground Lease or terminate or cancel any Acceptable Ground Lease or materially modify, change, supplement, alter, or amend any Acceptable Ground Lease, either orally or in writing; or

(b) without the prior written consent of Administrative Agent, sublet (other than space leases in the ordinary course of business) any portion of any Unencumbered Property held pursuant to an Acceptable Ground Lease.

8.12 **Amendments of Organization Documents.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, amend any of its Organization Documents in any manner that would adversely affect any Loan Party's ability to pay its Obligations hereunder or materially and adversely impairs any rights or remedies of Administrative Agent or any Lender under the Loan Documents or applicable Laws.

8.13 **Accounting Changes.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, make any change in (a) accounting policies or reporting practices, except as required by or otherwise in accordance with GAAP, or (b) fiscal year.

8.14 **Sanctions.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, directly or indirectly, use the proceeds of any Credit Extension or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swing Line Lender or otherwise) of Sanctions.

8.15 **Financial Covenants.** Each of Parent and Borrower shall not:

(a) **Maximum Leverage Ratio.** Permit the Total Leverage Ratio, as of the last day of any fiscal quarter of Parent to exceed sixty percent (60%); *provided* that as of the last day of the fiscal quarter in which any Significant Acquisition occurs and the last day of the two (2) immediately following quarters thereafter (but only for up to two (2) times during the term of this Agreement), the Total Leverage Ratio may exceed sixty percent (60%) so long as it does not exceed sixty-five percent (65%).

(b) **Minimum Fixed Charge Coverage Ratio.** Permit the ratio of (i) Adjusted EBITDA to (ii) Fixed Charges, as of the last day of any fiscal quarter of Parent, to be less than 1.50 to 1.0.

(c) **Minimum Tangible Net Worth.** Permit Tangible Net Worth, at any time, to be less than the sum of (i) an amount equal to \$424,688,000, and (ii) an amount equal to seventy-five percent (75%) of the net equity proceeds received by the Consolidated Group after June 30, 2017.

(d) **Maximum Secured Indebtedness.** Permit the Secured Indebtedness of the Consolidated Group to be greater than forty percent (40%) of Total Asset Value.

(e) **Maximum Secured Recourse Debt.** Permit the Secured Recourse Debt of the Consolidated Group to be greater than twenty percent (20%) of Total Asset Value.

(f) **Maximum Unsecured Leverage Ratio.** Permit the Total Unsecured Leverage Ratio, as of the last day of any fiscal quarter of Parent to exceed sixty percent (60%); *provided* that as of the last day of the fiscal quarter in which any Significant Acquisition occurs and the last day of the two (2) consecutive quarters thereafter (but only for up to two (2) times during the term of this Agreement), the Total Unsecured Leverage Ratio may exceed sixty percent (60%) so long as it does not exceed sixty-five percent (65%).

(g) **Minimum Unencumbered Interest Coverage Ratio.** Permit the Unencumbered Interest Coverage Ratio, as of the last day of any fiscal quarter of Parent, to be less than 1.75 to 1.0.

(h) **Minimum Unencumbered Debt Yield.** Permit the ratio of (i) Unencumbered NOI to (ii) Total Unsecured Indebtedness, as of the last day of any fiscal quarter of Parent, to be less than twelve percent (12%).

8.16 **Unencumbered Property Covenants.** Each of Parent and Borrower shall not:

(a) **Unencumbered Asset Value.** Permit the Unencumbered Asset Value for all Unencumbered Properties to be less than \$300,000,000;

(b) **Minimum Unencumbered Properties.** Permit there to be less than fifteen (15) Unencumbered Properties at any time;

(c) **Occupancy Rate.** Permit the Occupancy Rate to be less than eighty percent (80%) for all Unencumbered Properties in the aggregate; and

(d) **Tenant Concentration.** Permit aggregate rental revenues of any one tenant with respect to Leases of Unencumbered Properties to constitute more than thirty percent (30%) of rental revenues with respect to all Leases of Unencumbered Properties.

8.17 **ERISA Compliance.** Each Loan Party shall not, and shall not permit any other member of the Consolidated Group to, take any action that would cause its underlying assets to constitute Plan Assets.

8.18 **Environmental Matters.** Each of Parent and Borrower shall not, and shall not permit any other member of the Consolidated Group to, (a) cause, commit, permit, or allow to continue any violation of any Environmental Law which could reasonably be expected to have a Material Adverse Effect, or (b) place, install, dispose of, or release, or cause, permit, or allow the placing, installation, disposal, spilling, leaking, dumping, or release of, any Hazardous Material on any Property (other than routine office, cleaning, janitorial and other materials and supplies necessary to operate, maintain, repair, improve and lease such Property, in each case in commercially reasonable quantities and used and stored in compliance with all

Environmental Laws) or storage tank (or similar vessel) on any Property, in each case which could reasonably be expected to have a Material Adverse Effect.

8.19 **Anti-Corruption Laws.** Directly or indirectly use the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, or other similar legislation in other jurisdictions.

Article IX.
Events of Default and Remedies

9.01 **Events of Default.** Any of the following shall constitute an Event of Default (each, an “*Event of Default*”):

(a) **Non-Payment.** Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within three (3) days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five (5) days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) **Specific Covenants.** Any member of the Consolidated Group fails to perform or observe any term, covenant or agreement contained in any of **Section 7.01, 7.02, 7.03, 7.05, 7.10, 7.11 or 7.14** or **Article VIII**, or any Guarantor fails to perform or observe any term, covenant, or agreement contained in the Guaranties; or

(c) **Other Defaults.** Any Loan Party fails to perform or observe any other covenant or agreement (not specified in **subsection (a) or (b)** above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days, or if such failure is capable of cure but not within thirty (30) days, such longer period (but in no event to exceed an additional sixty (60) days) as may be reasonably necessary to cure such failure so long as such Loan Party commences such cure within the initial thirty (30) days and diligently pursues achieving such cure; or

(d) **Representations and Warranties.** Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or

(e) **Cross-Default.** (i) any member of the Consolidated Group (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of (x) the Threshold Amount or more, either individually or in the aggregate, with respect to Recourse Debt or (y) \$40,000,000 or more, either individually or in the aggregate, with respect to Non-Recourse Debt, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such

Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which any member of the Consolidated Group is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as defined in such Swap Contract) under such Swap Contract as to which any member of the Consolidated Group is an Affected Party (as defined in such Swap Contract) and, in either event, the Swap Termination Value owed by such member of the Consolidated Group as a result thereof is greater than the Threshold Amount; or

(f) **Insolvency Proceedings, Etc.** Any member of the Consolidated Group (other than a Non-Recourse Subsidiary) institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) **Inability to Pay Debts; Attachment.** (i) Any member of the Consolidated Group (other than a Non-Recourse Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(h) **Judgments.** There is entered against any member of the Consolidated Group (other than a Non-Recourse Subsidiary) (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of ten (10) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) **ERISA.** (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Consolidated Group or any member of the Consolidated Group under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under *Section 4201* of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) **Invalidity of Loan Documents.** Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any

Loan Party or any other Person contests in any manner the validity or enforceability of any provision of Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of Loan Document; or

- (k) **Change of Control.** There occurs any Change of Control.
- (l) **REIT Status.** Parent ceases to be treated as a REIT in any taxable year.
- (m) **Stock Exchange Listing.** Parent's common Equity Interests shall cease to be traded on the New York Stock Exchange.

9.02 **Remedies Upon Event of Default.** If any Event of Default occurs and is continuing, Administrative Agent shall, at the request of, or may, with the consent of, Required Lenders, take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans and any obligation of L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Borrower;
- (c) require that Borrower Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and
- (d) exercise on behalf of itself, the Lenders and L/C Issuer all rights and remedies available to it, the Lenders and L/C Issuer under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of Administrative Agent or any Lender.

9.03 **Application of Funds.** After the exercise of remedies provided for in **Section 9.02** (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to **Section 9.02**), any amounts received on account of the Obligations shall, subject to the provisions of **Sections 2.16** and **2.17**, be applied by Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to Administrative Agent and amounts payable under **Article III**) payable to Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and L/C Issuer and amounts payable under **Article III**), ratably among them in proportion to the respective amounts described in this **clause Second** payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and L/C Issuer in proportion to the respective amounts described in this **clause Third** payable to them;

Fourth, to payment of that portion of the Obligations constituting (i) unpaid principal of the Loans and L/C Borrowings and (ii) breakage, termination or other payments due under any Swap Contract (that relates solely to the Obligations) between any Loan Party and Administrative Agent, any Lender or any Affiliate of Administrative Agent or a Lender, ratably among the Lenders, the applicable Affiliates (with respect to **clause (ii)**) and L/C Issuer in proportion to the respective amounts described in this **clause Fourth** held by them;

Fifth, to Administrative Agent for the account of L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by Borrower pursuant to **Sections 2.03 and 2.16**; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to Borrower or as otherwise required by Law.

Subject to **Sections 2.03(c) and 2.16**, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to **clause Fifth** above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Article X. Administrative Agent

10.01 Appointment and Authority. Each of the Lenders and L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as Administrative Agent hereunder and under the other Loan Documents and authorizes Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this **Article** are solely for the benefit of Administrative Agent, the Lenders and L/C Issuer, and neither Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to Administrative 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.

10.02 Rights as a Lender. The Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Administrative Agent and the term “**Lender**” or “**Lenders**” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money

to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Borrower or any Subsidiary thereof or other Affiliate thereof as if such Person were not Administrative Agent hereunder and without any duty to account therefor to the Lenders.

10.03 Exculpatory Provisions. Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that Administrative Agent is required to exercise as directed in writing by Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided that* Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity.

Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Sections 11.01** and **9.02**) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and nonappealable judgment. Administrative Agent shall not be deemed to have knowledge of any Default, except with respect to those Defaults specified in **Section 9.01(a)**, unless and until notice describing such Default is given in writing to Administrative Agent by Borrower, a Lender or L/C Issuer.

Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in **Article V** or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Administrative Agent.

10.04 Reliance by Administrative Agent. Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated

by the proper Person. Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or L/C Issuer, Administrative Agent may presume that such condition is satisfactory to such Lender or L/C Issuer unless Administrative Agent shall have received notice to the contrary from such Lender or L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. Administrative Agent may consult with legal counsel (who may be counsel for Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

10.05 Delegation of Duties. Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by Administrative Agent. Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this **Article** shall apply to any such sub-agent and to the Related Parties of Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

10.06 Resignation of Administrative Agent.

(a) Administrative Agent may at any time give notice of its resignation to the Lenders, L/C Issuer and Borrower. Upon receipt of any such notice of resignation, Required Lenders shall have the right, in consultation with Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by Required Lenders) (the "**Resignation Effective Date**"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to **clause (d)** of the definition thereof, Required Lenders may, to the extent permitted by applicable Law, by notice in writing to Borrower and such Person remove such Person as Administrative Agent and, in consultation with Borrower, appoint a successor. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by Required Lenders) (the "**Removal Effective Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments,

communications and determinations provided to be made by, to or through Administrative Agent shall instead be made by or to each Lender and L/C Issuer directly, until such time, if any, as Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in **Section 3.01(h)** and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this **Section 10.06**). The fees payable by Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this **Article X** and **Section 11.04** shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

(d) Any resignation by Bank of America as Administrative Agent pursuant to this **Section 10.06** shall also constitute its resignation as L/C Issuer and Swing Line Lender. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to **Section 2.03(c)**. If Bank of America resigns as Swing Line Lender, it shall retain all rights of Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to **Section 2.04(c)**. Upon the appointment by Borrower of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable, (ii) the retiring L/C Issuer or Swing Line Lender, as applicable, shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

10.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and L/C Issuer acknowledges that it has, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and L/C Issuer also acknowledges that it will, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

10.08 **No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers or Syndication Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as Administrative Agent, a Lender or L/C Issuer hereunder.

10.09 **Administrative Agent May File Proofs of Claim.** In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Administrative Agent shall have made any demand on Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, L/C Issuer and Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, L/C Issuer and Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, L/C Issuer and Administrative Agent under **Sections 2.03(i)** and **(j), 2.09** and **11.04**) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and L/C Issuer to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to the Lenders and L/C Issuer, to pay to Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Administrative Agent and its agents and counsel, and any other amounts due Administrative Agent under **Sections 2.09** and **11.04**.

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

10.10 **Guaranty Matters.** The Lenders and L/C Issuer irrevocably authorize Administrative Agent, at its option and in its discretion, to release any Subsidiary Guarantor from its obligations under any Subsidiary Guaranty if (a) such Subsidiary Guarantor no longer owns or leases an Unencumbered Property (or owns any of the Equity Interest in any Subsidiary of Borrower that owns or leases an Unencumbered Property); (b) no Default exists before and after giving effect thereto; (c) all representations and warranties of Borrower and each other Loan Party contained in **Article VI** or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such requested release after giving effect thereto, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date; and (d) the Loan Parties, immediately following such removal, are in covenant compliance with all relevant financial covenants as of the most-recent fiscal quarter calculated on a pro forma basis assuming that such Property is no longer an Unencumbered Property, as evidenced by a Compliance Certificate duly completed and delivered by a Responsible Officer. Upon Borrower's request

and satisfaction of the conditions set forth above, Administrative Agent agrees to execute and deliver to Borrower, within ten (10) Business Days of Administrative Agent's receipt of Borrower's request, a release of the applicable Subsidiary Guarantor from the Subsidiary Guaranty. Upon request by Administrative Agent at any time, Required Lenders will confirm in writing Administrative Agent's authority to release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty executed by such Subsidiary Guarantor pursuant to this **Section 10.10**.

10.11 Lender ERISA Representations.

(a) Each Lender represents and warrants, as of the date such Person became a Lender party hereto, to, and 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, Administrative Agent, Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of 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 in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

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

(b) In addition, unless **Section 10.11(a)(i)** is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as **Section 10.11(a)(iv)**, 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, Administrative Agent, Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of Borrower or any other Loan Party, that:

(i) none of Administrative Agent, any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Letters of Credit, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to Administrative Agent, any Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Letters of Credit, the Commitments or this Agreement.

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

Article XI. Miscellaneous

11.01 **Amendments, Etc.** No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by Borrower or any other Loan Party therefrom,

shall be effective unless in writing signed by Required Lenders and Borrower or the applicable Loan Party, as the case may be, and acknowledged by Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however*, that no such amendment, waiver or consent shall:

(a) waive any condition set forth in **Section 5.01** (other than **Section 5.01(c)**) without the written consent of each Lender;

(b) without limiting the generality of **clause (a)** above, waive any condition set forth in **Section 5.02** as to any Credit Extension under a particular Facility without the written consent of the Required Revolving Lenders or the Required Term Lenders, as the case may be;

(c) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to **Section 9.02**) without the written consent of such Lender;

(d) postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(e) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Loan Document, or change the manner of computation of any financial ratio (including any change in any applicable defined term) used in determining the Applicable Rate that would result in a reduction of any interest rate on any Loan or any fee payable hereunder without the written consent of each Lender directly affected thereby; *provided, however*, that only the consent of Required Lenders shall be necessary to amend the definition of “**Default Rate**” or to waive any obligation of Borrower to pay interest or Letter of Credit Fees at the Default Rate;

(f) change (i) **Section 9.03** in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender; or (ii) the order of application of any reduction in the Commitments or any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of **Section 2.06(c)** in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (A) if such Facility is the Term Facility, the Required Term Lenders and (B) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(g) change (i) any provision of this **Section 11.01** or the definition of “**Required Lenders**” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in **clause (ii)** of this **Section 11.01(g)**), without the written consent of each Lender; or (ii) the definition of “**Required Revolving Lenders**” or “**Required Term Lenders**” without the written consent of each Lender under the applicable Facility;

(h) release all or substantially all of the value of the Guaranties without the written consent of each Lender, except to the extent the release of any Subsidiary Guarantor is permitted pursuant to **Sections 10.10** (in which case such release may be made by Administrative Agent acting alone); or

(i) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

and, *provided further*, that (i) no amendment, waiver or consent shall, unless in writing and signed by L/C Issuer in addition to the Lenders required above, affect the rights or duties of L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by Swing Line Lender in addition to the Lenders required above, affect the rights or duties of Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by Administrative Agent in addition to the Lenders required above, affect the rights or duties of Administrative Agent under this Agreement or any other Loan Document; and (iii) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary, this Agreement may be amended with the written consent of Administrative Agent, Parent and Borrower (i) to add one or more additional term loan facilities to this Agreement subject to the limitations in **Section 2.15** and to permit the extensions of credit and all related obligations and liabilities arising in connection therewith from time to time outstanding to share ratably (or on a basis subordinated to the existing Facilities hereunder) in the benefits of this Agreement and the other Loan Documents with the obligations and liabilities from time to time outstanding in respect of the existing Facilities hereunder, and (ii) in connection with the foregoing, to permit, as deemed appropriate by Administrative Agent, the Lenders providing such additional credit facilities to participate in any required vote or action required to be approved by the Required Lenders or by any other number, percentage or class of Lenders hereunder.

11.02 Notices; Effectiveness; Electronic Communication.

(a) **Notices Generally.** Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in **subsection (b)** below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Borrower, Administrative Agent, L/C Issuer or Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on **Schedule 11.02**; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its

Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in **subsection (b)** below, shall be effective as provided in such **subsection (b)**.

(b) **Electronic Communications.** Notices and other communications to the Lenders and L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging and Internet or intranet websites) pursuant to procedures approved by Administrative Agent, *provided that* the foregoing shall not apply to notices to any Lender or L/C Issuer pursuant to **Article II** if such Lender or L/C Issuer, as applicable, has notified Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Administrative Agent, L/C Issuer, Swing Line Lender or Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided that* approval of such procedures may be limited to particular notices or communications.

Unless Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing **clause (i)** of notification that such notice or communication is available and identifying the website address therefore; *provided that*, for both **clauses (i)** and **(ii)**, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) **The Platform.** THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to Borrower, any Lender, L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of Borrower's or Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided that* in no event shall any Agent Party have any liability to any Loan Party, any Lender, any L/C Issuer

or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages)..

(d) **Change of Address, Etc.** Each of Borrower, Administrative Agent, Swing Line Lender and L/C Issuer may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to Borrower, Administrative Agent, Swing Line Lender and L/C Issuer. In addition, each Lender agrees to notify Administrative Agent from time to time to ensure that Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to Borrower or its securities for purposes of United States Federal or state securities laws.

(e) **Reliance by Administrative Agent, L/C Issuer and Lenders.** Administrative Agent, L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Committed Loan Notices, Letter of Credit Applications and Swing Line Loan Notices purportedly given by or on behalf of Borrower) even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Borrower shall indemnify Administrative Agent, L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of Borrower. All telephonic notices to and other telephonic communications with Administrative Agent may be recorded by Administrative Agent, and each of the parties hereto hereby consents to such recording.

11.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, L/C Issuer or Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Administrative Agent in accordance with **Section 9.02** for the benefit of all the Lenders and L/C Issuer; *provided, however*, that the foregoing shall not prohibit (a) Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) L/C Issuer or Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under

the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with **Section 11.08** (subject to the terms of **Section 2.13**), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) Required Lenders shall have the rights otherwise ascribed to Administrative Agent pursuant to **Section 9.02** and (ii) in addition to the matters set forth in **clauses (b), (c) and (d)** of the preceding proviso and subject to **Section 2.13**, any Lender may, with the consent of Required Lenders, enforce any rights and remedies available to it and as authorized by Required Lenders.

11.04 Expenses; Indemnity; Damage Waiver.

(a) **Costs and Expenses.** Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by Administrative Agent, any Lender or L/C Issuer (including the fees, charges and disbursements of any counsel for Administrative Agent, any Lender or L/C Issuer), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this **Section**, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) **Indemnification by Borrower.** Borrower shall indemnify Administrative Agent (and any sub-agent thereof), each Lender and L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in **Section 3.01**), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by Borrower or any of its Subsidiaries, or any Environmental Claim or Environmental Liability related in any way to any member of the Consolidated Group, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any member of the Consolidated Group, and regardless of whether any Indemnitee is a party thereto, **IN ALL CASES, WHETHER OR NOT CAUSED BY**

OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE; *provided that* such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if Borrower or such other Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of **Section 3.01(c)**, this **Section 11.04(b)** shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) **Reimbursement by Lenders.** To the extent that Borrower for any reason fails to indefeasibly pay any amount required under **subsection (a)** or **(b)** of this **Section** to be paid by it to Administrative Agent (or any sub-agent thereof), L/C Issuer, Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to Administrative Agent (or any such sub-agent), L/C Issuer, Swing Line Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), *provided further* that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Administrative Agent (or any such sub-agent), L/C Issuer or Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for Administrative Agent (or any such sub-agent), L/C Issuer or Swing Line Lender in connection with such capacity. The obligations of the Lenders under this **subsection (c)** are subject to the provisions of **Section 2.12(d)**.

(d) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by applicable Law, Borrower shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in **subsection (b)** above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) **Payments.** All amounts due under this **Section** shall be payable not later than ten (10) Business Days after demand therefor.

(f) **Survival.** The agreements in this **Section 11.04** and the indemnity provisions of **Section 11.02(e)** shall survive the resignation of Administrative Agent, L/C Issuer and Swing Line

Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

11.05 **Payments Set Aside.** To the extent that any payment by or on behalf of Borrower is made to Administrative Agent, L/C Issuer or any Lender, or Administrative Agent, L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Administrative Agent, L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and L/C Issuer severally agrees to pay to Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and L/C Issuer under **clause (b)** of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 **Successors and Assigns.**

(a) **Successors and Assigns Generally.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of **subsection (b)** of this **Section**, (ii) by way of participation in accordance with the provisions of **subsection (d)** of this **Section**, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **subsection (e)** of this **Section** (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in **subsection (d)** of this **Section** and, to the extent expressly contemplated hereby, the Related Parties of each of Administrative Agent, L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) **Assignments by Lenders.** Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this **subsection (b)**, participations in L/C Obligations and in Swing Line 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 Commitment and the Loans at the time owing to it or contemporaneous assignments to related Approved Funds that equal at least the amount specified in **Section 11.06(b)(i)(B)** in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in **Section 11.06(b)(i)(A)**, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, 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 Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of Administrative Agent and, so long as no Event of Default has occurred and is continuing, Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) **Proportionate Amounts.** Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this **clause (ii)** shall not (A) apply to Swing Line Lender’s rights and obligations in respect of Swing Line Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations under separate Facilities on a non-pro-rata basis;

(iii) **Required Consents.** No consent shall be required for any assignment except to the extent required by **subsection (b)(i)(B)** of this **Section 11.06** and, in addition:

(A) the consent of Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; *provided that* Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of L/C Issuer and Swing Line Lender shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) **Assignment and Assumption.** The parties to each assignment shall execute and deliver to Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; *provided, however,* that Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to Administrative Agent an Administrative Questionnaire.

(v) **No Assignment to Certain Persons.** No such assignment shall be made (A) to Borrower or any member of the Consolidated Group, or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would

constitute any of the foregoing Persons described in this **clause (B)**, or (C) to a natural person.

(vi) **Certain Additional Payments.** In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of Borrower and Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to Administrative Agent, L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by Administrative Agent pursuant to **subsection (c)** of this **Section**, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of **Sections 3.01, 3.04, 3.05, and 11.04** with respect to facts and circumstances occurring prior to the effective date of such assignment; *provided that* except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this **subsection** shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **subsection (d)** of this **Section**.

(c) **Register.** Administrative Agent, acting solely for this purpose as an agent of Borrower (and such agency being solely for tax purposes), shall maintain at Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and Borrower, Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for

inspection by 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, Borrower or Administrative Agent, sell participations to any Person (other than a natural person, a Defaulting Lender or Borrower or any of Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line 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) Borrower, Administrative Agent, the Lenders and L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under **Section 11.04(c)** without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided that* such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to **Section 11.01** that affects such Participant. Subject to **subsection (b)** of this **Section**, Borrower agrees that each Participant shall be entitled to the benefits of **Sections 3.01, 3.04 and 3.05** to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **subsection (b)** of this **Section**

(it being understood that the documentation required under **Section 3.01(e)** shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **paragraph (b)** of this **Section**; *provided that* such Participant (A) agrees to be subject to the provisions of **Sections 3.06 and 11.13** as if it were an assignee under **paragraph (b)** of this **Section** and (B) shall not be entitled to receive any greater payment under **Sections 3.01 or 3.04**, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at Borrower's request and expense, to use reasonable efforts to cooperate with Borrower to effectuate the provisions of **Section 3.06** with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of **Section 11.08** as though it were a Lender; *provided that* such Participant agrees to be subject to **Section 2.13** as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); *provided that* no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under **Section 5f.103-1(c)** of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) **Certain Pledges.** Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment 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.

(f) **Resignation as L/C Issuer or Swing Line Lender after Assignment.** Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to **subsection (b)** above, Bank of America may, upon thirty (30) days' notice to Borrower and the Lenders, resign as L/C Issuer and/or upon thirty (30) days' notice to Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; *provided, however*, that no failure by Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to **Section 2.03(c)**). If Bank of America resigns as Swing Line Lender, it shall retain all the rights, powers, privileges and duties of Swing Line Lender hereunder with respect to all Swing Line Loans made by it and outstanding as of the effective date of such resignation (including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to **Section 2.04(c)**). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (ii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

11.07 **Treatment of Certain Information; Confidentiality.** Each of Administrative Agent, the Lenders and L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this **Section**, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to **Section 2.15(c)** or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating Borrower or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the

consent of Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this **Section** or (y) becomes available to Administrative Agent, any Lender, L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than Borrower. For purposes of this **Section**, “**Information**” means all information received from Borrower or any Subsidiary relating to Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to Administrative Agent, any Lender or L/C Issuer on a nonconfidential basis prior to disclosure by Borrower or any Subsidiary, *provided that*, in the case of information received from Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this **Section** shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of Administrative Agent, the Lenders and L/C Issuer acknowledges that (a) the Information may include material non-public information concerning Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

11.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, L/C Issuer or any such Affiliate to or for the credit or the account of Borrower or any other Loan Party against any and all of the obligations of Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; *provided that* in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to Administrative Agent for further application in accordance with the provisions of **Section 2.17** and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of Administrative Agent, L/C Issuer and the Lenders, and (y) the Defaulting Lender shall provide promptly to Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, L/C Issuer and their respective Affiliates under this **Section** are in addition to other rights and remedies (including other rights of setoff) that such Lender, L/C Issuer or their respective Affiliates may have. Each Lender and L/C Issuer agrees to notify Borrower and Administrative Agent promptly after any such setoff and application, *provided that* the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “**Maximum Rate**”). If Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to Borrower. In determining whether the interest contracted for, charged, or received by Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize

any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to Administrative Agent or L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in **Section 5.01**, this Agreement shall become effective when it shall have been executed by Administrative Agent and when Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

11.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by Administrative Agent and each Lender, regardless of any investigation made by Administrative Agent or any Lender or on their behalf and notwithstanding that Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

11.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this **Section 11.12**, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by Administrative Agent, L/C Issuer or Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders. If Borrower is entitled to replace a Lender pursuant to the provisions of **Section 3.06**, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then Borrower may, at its sole expense and effort, upon notice to such Lender and Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, **Section 11.06**), all of its interests, rights (other than its exiting rights to payments pursuant to **Sections 3.01** and **3.04**) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), *provided that*:

- (a) Borrower shall have paid to Administrative Agent the assignment fee specified in **Section 11.06(b)**;

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under **Section 3.05**) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under **Section 3.04** or payments required to be made pursuant to **Section 3.01**, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply.

11.14 **Governing Law; Jurisdiction; Etc.**

(a) **GOVERNING LAW.** THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) **SUBMISSION TO JURISDICTION.** BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST ADMINISTRATIVE AGENT, ANY LENDER, L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ADMINISTRATIVE AGENT, ANY LENDER OR L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR

PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) **WAIVER OF VENUE.** BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN **PARAGRAPH (b)** OF THIS **SECTION**. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) **SERVICE OF PROCESS.** EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN **SECTION 11.02**. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 **Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **SECTION**.

11.16 **No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), Borrower and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i)(A) the arranging and other services regarding this Agreement provided by Administrative Agent and Arrangers, and the Lenders are arm's-length commercial transactions between Borrower, each other Loan Party and their respective Affiliates, on the one hand, and Administrative Agent and Arrangers, and the Lenders, on the other hand, (B) each of Borrower and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii)(A) Administrative Agent, each Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrower, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither Administrative Agent, any Arranger nor any Lender has any obligation to Borrower, any other Loan Party or any of their respective Affiliates with respect to the

transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) Administrative Agent, Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Borrower, the other Loan Parties and their respective Affiliates, and neither Administrative Agent, any Arranger nor any Lender has any obligation to disclose any of such interests to Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of Borrower and the other Loan Parties hereby waives and releases any claims that it may have against Administrative Agent and Arrangers or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.17 **Electronic Execution of Assignments and Certain Other Documents.** The words “execute,” “execution,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other modifications, Committed Loan Notices, Swing Line Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by Administrative Agent, 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 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* notwithstanding anything contained herein to the contrary Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by Administrative Agent pursuant to procedures approved by it.

11.18 **USA PATRIOT Act.** Each Lender that is subject to the Act (as hereinafter defined) and Administrative Agent (for itself and not on behalf of any Lender) hereby notifies Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “**Act**”), it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Loan Parties and other information that will allow such Lender or Administrative Agent, as applicable, to identify the Loan Parties in accordance with the Act. Borrower shall, and shall cause all other Loan Parties to, promptly following a request by Administrative Agent or any Lender, provide all documentation and other information that Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

11.19 **Time of the Essence.** Time is of the essence of the Loan Documents.

11.20 **Acknowledgement and Consent to Bail-In of EEA Financial Institution.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of 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 Lender 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 undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

11.21 ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

11.22 Restatement of Original Credit Agreement. The parties hereto agree that as of the Closing Date: (a) the Obligations hereunder represent the amendment, restatement, extension, and consolidation of the “*Obligations*” under (and as defined in) the Original Credit Agreement; (b) this Agreement amends, restates, supersedes, and replaces the Original Credit Agreement in its entirety; and (c) the Guaranties executed pursuant to this Agreement amend, restate, supersede, and replace the “*Guaranties*” executed pursuant to (and as defined in) the Original Credit Agreement. On the Closing Date, (i) the commitment of any “*Lender*” under the Original Credit Agreement that is not continuing as a Lender hereunder shall terminate and (ii) Administrative Agent shall reallocate the Commitments hereunder to reflect the terms hereof, such reallocation being hereby deemed effective simultaneous with the effectiveness of this Agreement.

[Remainder of page intentionally blank. Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

ARMADA HOFFLER, L.P., a Virginia limited partnership

By: ARMADA HOFFLER PROPERTIES, INC. a Maryland corporation, its general partner

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: President & CEO

PARENT:

ARMADA HOFFLER PROPERTIES, INC., a Maryland corporation

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: President & CEO

Signature Page to
Amended and Restated Credit Agreement

ADMINISTRATIVE AGENT:

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

By: /s/ Henry Pennell

Name: Henry Pennell

Title: Vice President

Signature Page to
Amended and Restated Credit Agreement

LENDERS:

BANK OF AMERICA, N.A., as L/C Issuer, Swing Line Lender and a Lender

By: /s/ Laura B. de Graaf

Name: Laura B. de Graaf

Title: Senior Vice President

Signature Page to
Amended and Restated Credit Agreement

REGIONS BANK, as a Lender

By: /s/ Ghi S. Gavin

Name: Ghi S. Gavin

Title: Senior Vice President

Signature Page to
Amended and Restated Credit Agreement

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ William R. Lynch III

Name: William R. Lynch III

Title: Senior Vice President

Signature Page to
Amended and Restated Credit Agreement

CITIZENS BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ David R. Jablonowski

Name: David R. Jablonowski

Title: Senior Vice President

Signature Page to
Amended and Restated Credit Agreement

SYNOVUS BANK, as a Lender

By: /s/ David W. Bowman

Name: David W. Bowman

Title: Director

Signature Page to
Amended and Restated Credit Agreement

TD BANK, N.A., as a Lender

By: /s/ Ajamu Stoner

Name: Ajamu Stoner

Title: Vice President

Signature Page to
Amended and Restated Credit Agreement

EXISTING LETTERS OF CREDIT

Applicant	L/C No.	Beneficiary	Amount	Current
Armada Hoffler, L.P.	68051623	Fidelity & Deposit Company of Maryland	\$2,000,000	\$2,000,000
Armada Hoffler, L.P.	68129081	M&T Trust Company	\$2,100,000	\$2,100,000

Schedule 1.01

COMMITMENTS AND APPLICABLE PERCENTAGES

Lender	Revolving Credit Commitment	Applicable Revolving Credit Percentage	Term Commitment	Applicable Term Loan Percentage	Total
Bank of America, N.A.	\$52,500,000.00	35.000000000%	\$52,500,000.00	35.000000000%	\$105,000,000.00
Regions Bank	\$30,000,000.00	20.000000000%	\$30,000,000.00	35.000000000%	\$60,000,000.00
PNC Bank, National Association	\$30,000,000.00	20.000000000%	\$30,000,000.00	20.000000000%	\$60,000,000.00
Citizens Bank, N.A.	\$15,000,000.00	10.000000000%	\$15,000,000.00	10.000000000%	\$30,000,000.00
TD Bank, N.A.	\$12,500,000.00	8.333333333%	\$12,500,000.00	8.333333333%	\$25,000,000.00
Synovus Bank	\$10,000,000.00	6.666666667%	\$10,000,000.00	6.666666667%	\$20,000,000.00
Total	\$150,000,000.00	100.000000000%	\$150,000,000.00	100.000000000%	\$300,000,000.00

LITIGATION

None.

Schedule 6.06

ENVIRONMENTAL MATTERS

None.

Schedule 6.09

SUBSIDIARIES; OTHER EQUITY INVESTMENTS; EQUITY INTERESTS IN BORROWER

<u>Subsidiary</u>	<u>Ownership</u>
Armada Hoffler, L.P.	Armada Hoffler Properties, Inc. – 71.99%
AHP Holding, Inc.	Armada Hoffler, L.P. - 100%
AHP Asset Services, LLC	Armada Hoffler, L.P. – 100%
AHP Construction, LLC	AHP Holding, Inc. – 100%
AHP Development, LLC	AHP Holding, Inc. – 100%
AHP Acquisitions, LLC	Armada Hoffler, L.P. – 100%
AHP Tenant Services, LLC	AHP Holding, Inc. – 100%
New Armada Hoffler Properties I, LLC	Armada Hoffler, L.P. – 100%
New Armada Hoffler Properties II, LLC	Armada Hoffler, L.P. – 100%
Bermuda Shopping Center, L.L.C.	Armada Hoffler, L.P. – 52.975%
	New Armada Hoffler Properties I, LLC – 47.025%
BSE/AH Blacksburg Apartments, L.L.C.	Armada Hoffler, L.P. – 60%
	New Armada Hoffler Properties I, LLC – 40%
Broad Creek PH. I, L.L.C.	Armada Hoffler, L.P. – 0.9%
	New Armada Hoffler Properties I, LLC – 99.1%
Broad Creek PH. II, L.L.C.	Armada Hoffler, L.P. – 100%
Broad Creek PH. III, L.L.C.	New Armada Hoffler Properties I, LLC – 100%
Columbus Tower, L.L.C.	Armada Hoffler, L.P. – 20%
	New Armada Hoffler Properties I, LLC – 80%
AH Columbus II, L.L.C.	Armada Hoffler, L.P. – 20%
	New Armada Hoffler Properties I, LLC – 80%
Courthouse Marketplace Outparcels, L.L.C.	New Armada Hoffler Properties II, LLC – 100%
Courthouse Office Building, LLC	Armada Hoffler, L.P. – 100%
Dimmock Square Marketplace, LLC	Armada Hoffler, L.P. – 100%
Armada/Hoffler Charleston Associates, L.P.	Armada Hoffler, L.P. – 4.35%
	New Armada Hoffler Properties I, LLC – 94.64%
	Gateway Centre, L.L.C. – 1.01%
HT Tyre Neck, L.L.C.	New Armada Hoffler Properties I, LLC – 100%
Hanbury Village II, L.L.C.	Armada Hoffler, L.P. – 0.01%
	New Armada Hoffler Properties I, LLC – 99.99%
Hoffler and Associates EAT, LLC	New Armada Hoffler Properties I, LLC – 100%
A/H Harrisonburg Regal L.L.C.	Armada Hoffler, L.P. – 100%
North Pointe PH. 1 Limited Partnership	Armada Hoffler, L.P. – 36.5817%
	New Armada Hoffler Properties I, LLC – 62.4183%
	A/H North Pointe, Inc. – 1.0%
North Pointe-CGL, LLC	Armada Hoffler, L.P. – 35.8974%
	New Armada Hoffler Properties I, LLC – 64.1026%

North Pointe Development Associates, L.P.	Armada Hoffler, L.P. – 34.67%
	New Armada Hoffler Properties I, LLC – 64.33%
	North Pointe Development Associates, L.L.C – 1.0%
North Pointe Outparcels, L.L.C.	Armada Hoffler, L.P. – 35.5817%
	New Armada Hoffler Properties I, LLC – 63.4183%
	FBJ Investors, Inc. – 1%
North Pointe VW4, L.L.C.	Armada Hoffler, L.P. – 36.5817%
	New Armada Hoffler Properties I, LLC – 63.4183%
Ferrell Parkway Associates, L.L.C.	Armada Hoffler, L.P. – 3.75%
	New Armada Hoffler Properties I, LLC – 96.25%
TCA Block 4 Retail, L.L.C.	Armada Hoffler, L.P. – 100%
Armada Hoffler Tower 4, L.L.C.	Armada Hoffler, L.P. – 20%
	New Armada Hoffler Properties I, LLC – 79%
	Tower Manager, LLC – 1.0%
TCA Block 6, L.L.C.	Armada Hoffler, L.P. – 100%
Town Center Associates 6, L.L.C.	Armada Hoffler, L.P. – 100%
Town Center Associates 7, L.L.C.	Armada Hoffler, L.P. – 20%
	New Armada Hoffler Properties I, LLC – 80%
Town Center Associates 12, L.L.C.	Armada Hoffler, L.P. – 20%
	New Armada Hoffler Properties I, LLC – 80%
AH Sandbridge, LLC	New Armada Hoffler Properties I, LLC – 85%
	Armada Hoffler, L.P. – 15%
Greenbrier Technology Center II Associates, L.L.C.	Armada Hoffler, L.P. – 100%
Armada/Hoffler Block 8 Associates, L.L.C.	Armada Hoffler, L.P. – 100%
AH Richmond Tower I, LLC	New Armada Hoffler Properties II, LLC – 100%
Town Center Associates 11, L.L.C.	Armada Hoffler, L.P. – 100%
AH Durham Apartments, LLC	Armada Hoffler, L.P. – 100%
AH Southeast Commerce Center, L.L.C.	New Armada Hoffler Properties II, LLC – 100%
AH Greentree, LLC	New Armada Hoffler Properties II, LLC – 100%
FBJ Investors, Inc.	AHP Holding, Inc. – 100%
Gateway Centre, L.L.C.	Armada Hoffler, L.P. – 100%
A/H North Pointe, Inc.	AHP Holding, Inc. – 100%
North Pointe Development Associates, L.L.C.	Armada Hoffler, L.P. – 100%
Town Center Block 10 Apartments, L.P.	Armada Hoffler, L.P. – 99.0%
	TCA10GP, LLC – 1.0%
TCA 10 GP, LLC	Armada Hoffler, L.P. – 100%
Armada Hoffler Manager, LLC	Armada Hoffler, L.P. – 100%
Oyster Point Office Building, LLC	Armada Hoffler, L.P. – 100%
Tower Manager, LLC	Armada Hoffler, L.P. – 100%
TCA Block 11 Office, LLC	Town Center Associates 11, LLC – 99.95%
	Block 11 Manager, LLC – 0.5%
TCA Block 11 Apartments, LLC	Town Center Associates , LLC – 99.95%
	Block 11 Manager, LLC – 0.5%

Greenbrier Ocean Partners, LLC	Armada Hoffler, L.P. – 100%
Greenbrier Ocean Partners II, LLC	Armada Hoffler, L.P. – 100%
Lightfoot Marketplace Shopping Center, LLC	Armada Hoffler, L.P. – 70%
Washington Avenue Apartments, L.L.C.	Williamsburg Retail Investor, LLC – 30%
Town Center Associates 9, LLC	Armada Hoffler, L.P. – 100%
TCA 9 Plaza, LLC	Armada Hoffler, L.P. – 100%
Southgate Square Virginia, LLC	AHP Holding, Inc. – 100%
Waynesboro Commons Virginia, LLC	Armada Hoffler, L.P. – 100%
Block 11 Manager, LLC	Armada Hoffler, L.P. – 100%
Perry Hall Maryland LLC	Armada Hoffler, L.P. – 100%
Providence Plaza Charlotte, LLC	Armada Hoffler, L.P. – 100%
Stone House Maryland LLC	AH Durham Apartments, LLC – 100%
Williamsburg Medical Building, LLC	Williamsburg Medical Building, LLC – 100%
South Square Durham, LLC	Armada Hoffler, L.P. – 100%
Paterson Place Durham, LLC	AH Richmond Tower I, LLC – 100%
Wendover Village Greensboro, LLC	AH Richmond Tower I, LLC – 100%
Alexander Pointe Salisbury, LLC	AH Richmond Tower I, LLC – 100%
Harper Hill North Carolina, LLC	AH Richmond Tower I, LLC – 100%
North Hampton Market South Carolina, LLC	Greenbrier Ocean Partners, LLC – 100%
Columbus Town Center II, LLC	Greenbrier Ocean Partners, LLC – 100%
Renaissance Charlotte, LLC	Armada Hoffler Properties, Inc. – 100%
Oakland Marketplace Tennessee, LLC	Oyster Point Office Building, LLC – 100%
Broadmoor Plaza Indiana, LLC	Armada Hoffler, L.P. – 100%
Southshore Pointe, LLC	Armada Hoffler, L.P. – 100%
Wendover Village Greensboro II, LLC	Armada Hoffler, L.P. – 100%
	Courthouse Office Building, LLC – 50%
	Greenbrier Ocean Partners II, LLC – 50%

EXISTING LIENS

None.

Schedule 8.01

EXISTING INDEBTEDNESS

1. Promissory Note dated May 27, 2015 in the original principal amount of \$21,573,000.00 – BSE/AH Blacksburg Apartments, L.L.C., Borrower; Berkadia Commercial Mortgage, LLC, Lender, as amended.
2. Promissory Note dated August 9, 2017 in the original principal amount of \$19,650,000.00 – Hanbury Village II, L.L.C., Borrower; Fulton Bank, N.A., Lender.
3. Promissory Note dated January 8, 2009 in the original principal amount of \$11,000,000.00 – North Pointe PH. I Limited Partnership, Borrower; The Prudential Insurance Company of America, Lender, as amended, modified, supplemented or assigned.
4. Promissory Note dated August 20, 2001 in the original principal amount of \$3,500,000.00 – North Pointe-CGL, LLC, Borrower; Royal Indemnity Company, Original Lender, as assigned to ARROWOOD INDEMNITY COMPANY, as amended, modified, supplemented or assigned.
5. Promissory Note dated August 8, 2016 in the original principal amount of \$35,000,000.00 - Armada/Hoffler Block 8 Associates, L.L.C. and Greenbrier Technology Center II Associates, L.L.C and TCA Block 4 Retail, LLC., together, Borrower; Bank of America, N.A. Lender.
6. HUD Loan dated June 28, 2011 in the original principal amount of \$49,061,300 – Town Center Block 10 Apartments, L.P., Borrower; M&T Realty Capital Corporation, Lender, as amended, modified, supplemented or assigned.
7. Loan dated December 19, 2013 by and between AH Sandbridge, LLC and BB&T, Original Lender in the amount of \$10,000,000.00.
8. Loan dated November 14, 2014 by and between Lightfoot Marketplace Shopping Center, LLC and Regions Bank in the amount of \$15,000,000.00.
9. Loan dated June 7, 2012 by and between Washington Avenue Apartments, LLC and Virginia Housing Development Authority in the amount of \$20,900,000.00.
10. Loan dated August 30, 2016 by and between TCA Block 11 Apartments, LLC and TCA Block 11 Office, LLC, and New York Life Insurance Company, Lender. in the amount of \$57,000,000.00.
11. Assumption of two loan dated July 10, 2015 by and between Columbus Town Center, LLC and the Bank of Hampton Roads, by merger became Zenith Bank, Lender in the original amount of \$6,850,000.00 and \$2,360,000.00.
12. Loan dated July 30, 2015 by and between Hopkins Village, LLC and Bank of America, N.A., Lender in the original amount of \$50,000,000.00.

13. Loan dated February 24, 2017 by and between Harding Place Residential Partners, LLC and Citizens Bank, National Association, Lender, in the original amount of \$29,750,000.00. Still in development.
14. Loan assumption dated July 1, 2015 by Socastee Myrtle Beach, LLC in the original principal amount of \$5,200,000.00 with Wells Fargo Bank, N.A. in Trust for the Holder of Deutsche Mortgage & Asset Receiving Corporation c/o Midland Loan Servicer. Cantor Commercial Real Estate Lending, LP was the original Lender.
15. Loan assumption and increase dated April 29, 2016 by and between Southgate Square Virginia, LLC with Branch Banking & Trust Company, Lender in the original amount of \$21,150,000.00. \$15,100,443.00 was assumed and increased \$6,049,557.00.
16. Loan dated June 29, 2017 by and between Town Center Associates 9, LLC and TCA 9 Plaza, LLC with Bank of America, N.A., Lender in the original amount of \$27,933,400.00. Still in development.

**ADMINISTRATIVE AGENT’S OFFICE;
CERTAIN ADDRESSES FOR NOTICES**

LOAN PARTIES:

c/o Armada Hoffler Properties, Inc.
 222 Central Park Avenue, Suite 2100
 Virginia Beach, VA 23462
 Attn: Louis S. Haddad & Michael P. O’Hara
 Telephone Number: 757.366.6644 and 757.366.6684 (respectively)
 Fax Number: 757.424.2513
 Email Address: lhaddad@armadahoffler.com; mohara@armadahoffler.com

	Loan Party	Taxpayer Identification Number
1.	Armada Hoffler, L.P.	36-4745113
2.	Armada Hoffler Properties, Inc.	46-1214914
3.	AHP Holding, Inc.	46-2392923
4.	Armada Hoffler Tower 4, L.L.C.	42-1597095
5.	AH Richmond Tower I, LLC	26-2117056
6.	New Armada Hoffler Properties I, LLC	90-0941958
7.	New Armada Hoffler Properties II, LLC	90-0942000
8.	Armada Hoffler Manager, LLC	46-1838988
9.	Tower Manager, LLC	46-2591135
10.	AH Columbus II, L.L.C.	26-4032710
11.	Columbus Tower, L.L.C.	68-0548518
12.	Gateway Centre, L.L.C.	54-1798044
13.	North Pointe Development Associates, L.P.	54-1816303
14.	North Pointe Development Associates, L.L.C.	54-1816304
15.	Bermuda Shopping Center, L.L.C.	20-0447012
16.	Broad Creek PH I L.L.C.	54-2052958
17.	Broad Creek PH II L.L.C.	76-0720069
18.	Broad Creek Ph III, L.L.C.	20-4294623
19.	Hoffler and Associates EAT, LLC	47-4292937
20.	Town Center Associates 7, LLC	20-2737420
21.	Ferrell Parkway Associates, LLC	54-1868318
22.	Armada/Hoffler Charleston Associates, L.P.	54-1362597
23.	HT Tyre Neck, LLC	27-0747723
24.	Town Center Associates 12, LLC	20-0584495
25.	North Pointe Outparcels, LLC	20-1653783
26.	Dimmock Square Marketplace, LLC	47-1647800
27.	TCA Block 6, LLC	46-4053331
28.	FBJ Investors, Inc.	54-1753815
29.	AH Durham Apartments, LLC	38-3907700

30.	Perry Hall Maryland LLC	47-2727054
31.	Providence Plaza Charlotte, LLC	47-4303027
32.	Stone House Maryland LLC	47-2752873
33.	Williamsburg Medical Building, LLC	80-0894851
34.	South Square Durham, LLC	36-4821973
35.	Paterson Place Durham, LLC	38-3984788
36.	Wendover Village Greensboro, LLC	37-1795988
37.	Alexander Pointe Salisbury, LLC	32-0479771
38.	Harper Hill North Carolina, LLC	38-3984797
39.	North Hampton Market South Carolina, LLC	30-0889091
40.	Greenbrier Ocean Partners, LLC	46-4199636
41.	Columbus Town Center II, LLC	38-4010453
42.	Renaissance Charlotte, LLC	81-4174204
43.	Oyster Point Office Building, LLC	46-2535501
44.	Oakland Marketplace Tennessee, LLC	35-2545853
45.	Broadmoor Plaza Indiana, LLC	61-1775099
46.	Southshore Pointe, LLC	81-3212643
47.	North Pointe VW4, LLC	26-4201892
48.	Wendover Village Greensboro II, LLC	35-2600018
49.	Courthouse Marketplace Outparcels, L.L.C.	20-8453866
50.	Courthouse Office Building, LLC	46-5746497
51.	Greenbrier Ocean Partners II, LLC	46-4222006
52.	Waynesboro Commons Virginia, LLC	36-4822849

ADMINISTRATIVE AGENT:

Administrative Agent's Office

(for payments and Requests for Credit Extensions):

Bank of America, N.A.

100 N. Tryon Street

Mail Code: NC1-007-11-15

Charlotte, NC 28255

Attention: Jennifer M. Drummond

Telephone: 980-387-6821

Telecopier: 980-386-6434

Electronic Mail: jennifer.m.drummond@baml.com

Ref: Armada Hoffler

Other Notices as Administrative Agent:

Bank of America, N.A.

100 N. Tryon Street

Mail Code: NC1-007-11-15

Charlotte, NC 28255

Attention: Jennifer M. Drummond

Telephone: 980-387-6821

Telecopier: 980-386-6434
Electronic Mail: jennifer.m.drummond@baml.com

L/C ISSUER:

Bank of America, N.A.
100 N. Tryon Street
Mail Code: NC1-007-11-15
Charlotte, NC 28255
Attention: Jennifer M. Drummond
Telephone: 980-387-6821
Telecopier: 980-386-6434
Electronic Mail: jennifer.m.drummond@baml.com

FORM OF COMMITTED LOAN NOTICE

Date: _____, _____

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

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Agreement**;" the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("**Borrower**"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests (select one):

- A Borrowing of [Revolving Credit][Term] Committed Loans
- A conversion of [Revolving Credit][Term] Loans from one Type to the other
- A continuation of Eurodollar Rate Loans
1. On _____ (a Business Day).
 2. In the amount of \$_____.
 3. Comprised of [Base Rate Loans] [Eurodollar Rate Loans].
 4. For Eurodollar Rate Loans: with an Interest Period of [1] [2] [3] [6] months.

The Revolving Credit Borrowing, if any, requested herein complies with the proviso to the first sentence of *Section 2.01(b)* of the Agreement.

The Borrowing of any loan proceeds should be credited to Bank of America Account ending in 0118.

[SIGNATURE PAGE FOLLOWS]

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____

Name: _____

Title: _____

FORM OF SWING LINE LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Swing Line Lender
Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “**Agreement**,” the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership (“**Borrower**”), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests a Swing Line Loan:

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

The Swing Line Loan requested herein complies with the requirements of the proviso to the first sentence of *Section 2.04(a)* of the Agreement.

[SIGNATURE PAGE FOLLOWS]

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____

Name: _____

Title: _____

FORM OF REVOLVING CREDIT NOTE

FOR VALUE RECEIVED, the undersigned ("**Borrower**"), hereby promises to pay to [_____] or registered assigns ("**Lender**"), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Revolving Credit Loan from time to time made by Lender to Borrower under that certain Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Agreement**;" the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("**Borrower**"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

Borrower promises to pay interest on the unpaid principal amount of each Revolving Credit Loan from the date of such Revolving Credit Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. Except as otherwise provided in *Section 2.04(f)* of the Agreement with respect to Swing Line Loans, all payments of principal and interest shall be made to Administrative Agent for the account of Lender in Dollars in immediately available funds at Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Revolving Credit Note is one of the Revolving Credit Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. This Revolving Credit Note is also entitled to the benefits of the Guarantees of the Guarantors. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Revolving Credit Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Revolving Credit Loans made by Lender shall be evidenced by one or more loan accounts or records maintained by Lender in the ordinary course of business. Lender may also attach schedules to this Revolving Credit Note and endorse thereon the date, amount and maturity of its Revolving Credit Loans and payments with respect thereto.

Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Revolving Credit Note.

THIS REVOLVING CREDIT NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[SIGNATURE PAGE FOLLOWS]

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____

Name: _____

Title: _____

LOANS AND PAYMENTS WITH RESPECT THERETO

Date	Type of Loan Made	Amount of Loan Made	End of Interest Period	Amount of Principal or Interest Paid This Date	Outstanding Principal Balance This Date	Notation Made By
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FORM OF TERM NOTE

FOR VALUE RECEIVED, the undersigned (the "**Borrower**"), hereby promises to pay to _____ or registered assigns (the "**Lender**"), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Term Loan from time to time made by the Lender to the Borrower under that certain Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Agreement**;" the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("**Borrower**"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

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

This Term Note is one of the Term Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. This Term Note is also entitled to the benefits of the Guarantees of the Guarantors. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Term Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Each Term Loan made by Lender shall be evidenced by one or more loan accounts or records maintained by Lender in the ordinary course of business. Lender may also attach schedules to this Term Note and endorse thereon the date, amount and maturity of its Term Loans and payments with respect thereto.

Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term Note.

THIS TERM NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[SIGNATURE PAGE FOLLOWS]

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____

Name: _____

Title: _____

LOANS AND PAYMENTS WITH RESPECT THERETO

Date	Type of Loan Made	Amount of Loan Made	End of Interest Period	Amount of Principal or Interest Paid This Date	Outstanding Principal Balance This Date	Notation Made By
-------------	--------------------------	----------------------------	-------------------------------	---	--	-------------------------

FORM OF COMPLIANCE CERTIFICATE

[Financial Statement] Date: _____,

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

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “**Agreement**,” the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership (“**Borrower**”), Armada Hoffler Properties, Inc., a Maryland corporation (“**Parent**”), the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned Responsible Officer hereby certifies as of the date hereof that he/she is the [_____] of Parent, and that, as such, he/she is authorized to execute and deliver this Certificate to Administrative Agent on the behalf of Parent, for itself and as general partner of Borrower, and that:

[Use following paragraph 1 for fiscal year-end financial statements]

1. Parent has delivered the year-end audited financial statements required by **Section 7.01(a)** of the Agreement for the fiscal year of Parent, ended as of the above date, together with the reports and opinions of an independent certified public accountant required by such section.

[Use following paragraph 1 for fiscal quarter-end financial statements]

1. Parent has delivered the unaudited financial statements required by **Section 7.01(b)** of the Agreement for the fiscal quarter of Parent ended as of the above date. Such financial statements fairly present in all material respects the financial condition, results of operations and cash flows of the Consolidated Group in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Consolidated Group during the accounting period covered by such financial statements.

3. A review of the activities of the Consolidated Group during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period Borrower, Parent and each other Loan Party performed and observed all of their respective Obligations under the Loan Documents, and

[select one:]

[to the best knowledge of the undersigned, during such fiscal period Borrower, Parent and each other Loan Party performed and observed each covenant and condition of the Loan Documents applicable to it, and no Default has occurred and is continuing.]

--or--

[to the best knowledge of the undersigned, during such fiscal period the following covenants or conditions have not been performed or observed and the following is a list of each such Default and its nature and status:]

4. The representations and warranties of Parent and Borrower contained in **Article VI** of the Agreement, and any representations and warranties of any Loan Party that are contained in any document furnished at any time under or in connection with the Loan Documents, are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Compliance Certificate, the representations and warranties contained in **subsections (a) and (b) of Section 6.05** of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to **clauses (a) and (b)**, respectively, of **Section 7.01** of the Agreement, including the statements in connection with which this Compliance Certificate is delivered.

5. The financial covenant analyses and information set forth on **Schedule 1** attached hereto are true and accurate on and as of the date of this Certificate.

6. The amounts and information set forth on **Schedule 2** accurately reflect the current Unencumbered Properties. Any Unencumbered Properties that have been added or removed since delivery of the prior Compliance Certificate are noted on **Schedule 2**.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of

_____, ____.

[SIGNATURE PAGE FOLLOWS]

PARENT:

ARMADA HOFFLER PROPERTIES, INC.

By: _____
Name: _____
Title: _____

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____
Name: _____
Title: _____

For the Quarter/Year ended _____ (“**Statement Date**”)

SCHEDULE 1
to the Compliance Certificate
(\$ in 000’s)

I. Section 8.02 – Investments.

A. **Section 8.02(g)** – Investments in unimproved land holdings

- i. Total Investments in unimproved land holdings as of the Statement Date: \$__
- ii. Total Asset Value as of the Statement Date: \$__
- iii. Maximum permitted Investments in unimproved land holdings (Line I.A.ii *multiplied by 5%*) \$__

B. **Section 8.02(h)** – Investments in construction in progress

- i. Total Investments in construction in progress as of the Statement Date: \$__
- ii. Total Asset Value as of the Statement Date: \$__
- iii. Maximum permitted Investments in construction in progress (Line I.B.ii *multiplied by 25%*) \$__

C. **Section 8.02(i)** – Investments in Unconsolidated Affiliates

- i. Total Investments in Unconsolidated Affiliates as of the Statement Date: \$__
- ii. Total Asset Value as of the Statement Date: \$__
- iii. Maximum permitted Investments in Unconsolidated Affiliates (Line I.C.ii *multiplied by 10%*) \$__

D. **Section 8.02(j)** – Investments consisting of mortgages, mezzanine loans and notes receivable

- i. Total Investments consisting of mortgages, mezzanine loans and notes receivable as of the Statement Date: \$__
- ii. Total Asset Value as of the Statement Date: \$__
- iii. Maximum permitted Investments consisting of mortgages, mezzanine loans and notes receivable (Line I.D.ii *multiplied by 15%*) \$__

E. Total Investments in unimproved land holdings, construction in Progress, Unconsolidated Affiliates and mortgages, mezzanine loans and notes receivable

- i. Total Investments in unimproved land holdings, construction in progress and Unconsolidated Affiliates and mortgages, mezzanine loans and

notes receivable
(Line I.A.i plus Line I.B.i plus Line I.C.i plus Line I.D.i): \$__

- ii. Total Asset Value as of the Statement Date: \$__
- iii. Maximum permitted Investments in unimproved land holdings, construction in progress and Unconsolidated (Line I.E.ii multiplied by 30%) \$____

II. Section 8.15(a) – Maximum Leverage Ratio.

- A. Total Indebtedness as of the Statement Date: \$__
- B. Total Asset Value as of the Statement Date: \$__
- C. Total Leverage Ratio (Line II.A divided by Line II.B): _____ %
Maximum permitted: [60][65]%

III. Section 8.15(b) – Minimum Fixed Charge Coverage Ratio.

- A. Adjusted EBITDA for the four (4) fiscal quarters ending on the _____ Statement Date (the "**Calculation Period**"): \$__
- B. Fixed Charges for the Calculation Period: \$__
- C. Fixed Charge Coverage Ratio (Line III.A divided by Line III.B): _____ to 1.0
Minimum required: 1.50 to 1.0

IV. Section 8.15(c) – Minimum Tangible Net Worth.

- A. Base Tangible Net Worth: \$[_____]
- B. Net equity proceeds received by the Consolidated Group after June 30, 2017 multiplied by 75%: \$__
- C. Minimum Tangible Net Worth (Line IV.A plus Line IV.B): \$__
- D. Tangible Net Worth as of the Statement Date: \$__
- E. [Excess][Deficiency] for covenant compliance (Line IV.D minus Line IV.C): \$__

V. Section 8.15(d) – Maximum Secured Indebtedness.

- A. Secured Indebtedness as of the Statement Date: \$__
- B. Total Asset Value as of the Statement Date: \$__
- C. Maximum permitted Secured Indebtedness (Line V.B multiplied by 40%) \$__

VI. Section 8.15(e) – Maximum Secured Recourse Indebtedness.

- A. Secured Recourse Indebtedness as of the Statement Date: \$__
- B. Total Asset Value as of the Statement Date: \$__
- C. Maximum permitted Secured Recourse Indebtedness
(Line VI.B multiplied by 20%) \$__

VII. Section 8.15(f) – Maximum Unsecured Leverage Ratio.

- A. Total Unsecured Indebtedness as of the Statement Date: \$__
- B. Unencumbered Asset Value as of the Statement Date: \$__
- C. Total Unsecured Leverage Ratio (Line VII.A divided by Line VII.B): _____ %
Maximum permitted: [60][65]%

VIII. Section 8.15(g) – Minimum Unencumbered Interest Coverage Ratio.

- A. Unencumbered NOI: \$__
- B. Unencumbered Interest Expense: \$__
- C. Unencumbered Interest Coverage Ratio
(Line VIII.A divided by Line VIII.B): _____ to 1.0
Minimum required: 1.75 to 1.0

IX. Section 8.15(h) – Minimum Unencumbered Debt Yield.

- A. Unencumbered NOI: \$__
- B. Total Unsecured Indebtedness: \$__
- C. Unencumbered Debt Yield (Line IX.A divided by Line IX.B): _____ to 1.0
Minimum required: 12%

X. Section 8.16(a) – Unencumbered Asset Value.

- A. Unencumbered Asset Value for all Unencumbered Properties
(as set forth on Schedule 2): \$__
Minimum required: \$300,000,000

XI. Section 8.16(b) – Minimum Unencumbered Properties.

- A. Total Number of Unencumbered Properties
(as set forth on Schedule 2): __
Minimum required: 15

XII. Section 8.16(c) – Occupancy Rate.

A. Occupancy Rate for all Unencumbered Properties: %
Minimum required: 80%

For the Quarter/Year ended _____ (“*Statement Date*”)

SCHEDULE 2
to the Compliance Certificate
(\$ in 000’s)

Unencumbered Properties

	<u>Unencumbered Property</u>	<u>Unencumbered Asset Value</u>
1.		\$ _____
2.		\$ _____
3.		\$ _____
4.		\$ _____
5.		\$ _____
6.		\$ _____
7.		\$ _____
8.		\$ _____
9.		\$ _____
10.		\$ _____
11.		\$ _____
12.		\$ _____
13.		\$ _____
14.		\$ _____
15.		\$ _____
16.		\$ _____
17.		\$ _____
18.		\$ _____
19.		\$ _____
	Aggregate Unencumbered Asset Value of all Unencumbered Properties:	\$ _____

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this “**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 Amended and Restated Credit Agreement identified below (the “**Credit Agreement**”), receipt of a copy of which is hereby acknowledged by the 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 Administrative 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, the Letters of Credit and Swing Line Loans 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: Armada Hoffler, L.P., a Virginia limited partnership

4. Administrative Agent: Bank of America, N.A., as administrative agent under the Credit Agreement

5. Credit Agreement: Amended and Restated Credit Agreement, dated as of October 26, 2017, among Armada Hoffler, L.P., a Virginia limited partnership, Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender

6. Assigned Interest[s]:

Assignor[s]	Assignee[s]	Facility Assigned	Aggregate Amount of Commitment for all Lenders	Amount of Commitment Assigned	Percentage Assigned of Commitment	CUSIP Number
			\$ _____	\$ _____	_____ %	
			\$ _____	\$ _____	_____ %	
			\$ _____	\$ _____	_____ %	

[7. Trade Date: _____]

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE 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
[NAME OF ASSIGNOR]

By: _____
Title: _____

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title: _____

[Consented to and] Accepted:

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

By: __
Title: __

[Consented to:]

BORROWER:

ARMADA HOFFLER, L.P.

By: ARMADA HOFFLER PROPERTIES, INC., its general partner

By: _____
Name: _____
Title: _____

PARENT:

ARMADA HOFFLER PROPERTIES, INC.

By: _____
Name: _____
Title: _____

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. [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 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 Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [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 *Section 11.06(b)(iii)*, (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under *Section 11.06(b)(iii)* of the Credit Agreement), (iii) from and after the Effective Date, 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][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] 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 7.01(a)* or *Section 7.01(b)* thereof, 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 Administrative 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 hereto 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 upon Administrative 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, Administrative 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] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

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.

FORM OF Administrative Questionnaire



ADMINISTRATIVE DETAILS REPLY FORM – (US DOLLAR ONLY)

CONFIDENTIAL

1. Borrower or Deal Name: Armada Hoffler, L.P.

(i)E-mail this document with your commitment letter to: [_____]

E-mail address of recipient: [_____]

2. Legal Name of Lender of Record for Signature Page: _____

Markit Entity Identifier (MEI) # _____

Fund Manager Name (if applicable) _____

Legal Address from Tax Document of Lender of Record:

Country _____

Address _____

City _____ State/Province _____ Country _____

3. Domestic Funding Address: 4. Eurodollar Funding Address:

Street Address __ Street Address _____

Suite/ Mail Code __ Suite/ Mail Code _____

City State __ City State _____

Postal Code Country ____ Postal Code Country _____

5. Credit Contact Information:

Syndicate level information (which may contain material non-public information about the Borrower and its related parties or their respective securities will be made available to the Credit Contact(s). The Credit Contacts identified must be able to receive such information in accordance with his/her institution's compliance procedures and applicable laws, including Federal and State securities laws.

Primary Credit Contact:

First Name _____

Middle Name _____

Last Name _____

Title _____

Street Address _____

Suite/Mail Code _____

City _____

State _____

Postal Code _____

Country _____

Office Telephone # _____

Office Facsimile # _____

Work E-Mail Address _____

IntraLinks/SyndTrak
E-Mail Address _____

Secondary Credit Contact:

First Name _____

Middle Name _____

Last Name _____

Title _____
Street Address _____
Suite/Mail Code _____
City _____
State _____
Postal Code _____
Country _____
Office Telephone # _____
Office Facsimile # _____
Work E-Mail Address _____
IntraLinks/SyndTrak
E-Mail Address _____

Primary Operations Contact: **Secondary Operations Contact:**
First __ MI Last First __ MI Last _____
Title _____ Title _____
Street Address Street Address _____
Suite/ Mail Code Suite/ Mail Code _____
City State City State _____
Postal Code Country Postal Code Country _____
Telephone Facsimile Telephone Facsimile _____
E-Mail Address _____ E-Mail Address _____

IntraLinks/SyndTrak E-Mail IntraLinks/SyndTrak E-Mail

Address _____ Address _____

Does Secondary Operations Contact need copy of notices? ___ YES ___ NO

Letter of Credit Contact: Draft Documentation Contact or Legal Counsel:

First __ MI Last First __ MI Last _____

Title _____ Title _____

Street Address Street Address _____

Suite/ Mail Code Suite/ Mail Code _____

City State City State _____

Postal Code Country Postal Code Country _____

Telephone Facsimile Telephone Facsimile _____

E-Mail Address _____ E-Mail Address _____

6. Lender's Fed Wire Payment Instructions:

Pay to:

Bank Name _____

ABA # _____

City _____ State _____
Account # _____
Account Name _____
Attention _____

7. Lender's Standby Letter of Credit, Commercial Letter of Credit, and Bankers' Acceptance Fed Wire Payment Instructions (if applicable):

Pay to:
Bank Name _____
ABA # _____
City _____ State _____
Account # _____
Account Name _____

Attention _____

Can the Lender's Fed Wire Payment Instructions in Section 6 be used? YES NO

8. Lender's Organizational Structure and Tax Status

Please refer to the enclosed withholding tax instructions below and then complete this section accordingly:

Lender Taxpayer Identification Number (TIN): _____ - _____

Tax Withholding Form Delivered to Bank of America (check applicable one):

W-9 W-8BEN-E W-8ECI W-8EXP W-8IMY

Tax Contact:

First ___ MI Last _____

Title _____

Street Address _____

Suite/ Mail Code _____

City State _____

Postal Code Country _____

Telephone Facsimile _____

E-Mail Address _____

NON-U.S. LENDER INSTITUTIONS

1. Corporations:

If your institution is incorporated outside of the United States for U.S. federal income tax purposes, and is the beneficial owner of the interest and other income it receives, you must complete one of the following three tax forms, as applicable to your institution: a.) Form W-8BEN-E (Certificate of Foreign Status of Beneficial Owner), b.) Form W-8ECI (Income Effectively Connected to a U.S. Trade or Business), or c.) Form W-8EXP (Certificate of Foreign Government or Governmental Agency).

A U.S. taxpayer identification number is required for any institution submitting a Form W-8 ECI. It is also required on Form W-8BEN-E for certain institutions claiming the benefits of a tax treaty with the U.S. Please refer to the instructions when completing the form applicable to your institution. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **An original tax form must be submitted.**

2. Flow-Through Entities

If your institution is organized outside the U.S., and is classified for U.S. federal income tax purposes as either a Partnership, Trust, Qualified or Non-Qualified Intermediary, or other non-U.S. flow-through entity, an original Form

W-8IMY (Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. branches for United States Tax Withholding) must be completed by the intermediary together with a withholding statement. Flow-through entities other than Qualified Intermediaries are required to include tax forms for each of the underlying beneficial owners.

Please refer to the instructions when completing this form. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **Original tax form(s) must be submitted.**

U.S. LENDER INSTITUTIONS:

If your institution is incorporated or organized within the United States, you must complete and return Form W-9 (Request for Taxpayer Identification Number and Certification). **Please be advised that we require an original form W-9.**

Pursuant to the language contained in the tax section of the Credit Agreement, the applicable tax form for your institution must be completed and returned on or prior to the date on which your institution becomes a lender under this Credit Agreement. Failure to provide the proper tax form when requested will subject your institution to U.S. tax withholding.

*Additional guidance and instructions as to where to submit this documentation can be found at this link:



IMAGE HERE

9. Bank of America's Payment Instructions:

Pay to: Bank of America, N.A.
ABA # 026009593
New York, NY
Account # [_____]
Attn: Corporate Credit Services
Ref: Armada Hoffler, L.P.

FORM OF U.S. Tax Compliance Certificates

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

Reference is hereby made to the Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement;" the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("Borrower"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

Pursuant to the provisions of Section 3.01(e) 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 Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished Administrative Agent and Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform Borrower and Administrative Agent, and (2) the undersigned shall have at all times furnished Borrower and Administrative 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: _____, 20____

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 Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Credit Agreement**," the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("**Borrower**"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

Pursuant to the provisions of **Section 3.01(e)** 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 Borrower within the meaning of *Section 871(h)(3)(B)* of the Code, and (iv) it is not a controlled foreign corporation related to 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-E, as applicable. 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: _____, 20____

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 Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “**Credit Agreement**,” the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership (“**Borrower**”), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

Pursuant to the provisions of **Section 3.01(e)** 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 Borrower within the meaning of **Section 871(h)(3)(B)** of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to 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-E, as applicable or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E, as applicable, 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: _____, 20____

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 Amended and Restated Credit Agreement, dated as of October 26, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "**Credit Agreement**," the terms defined therein being used herein as therein defined), among Armada Hoffler, L.P., a Virginia limited partnership ("**Borrower**"), Armada Hoffler Properties, Inc., a Maryland corporation, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

Pursuant to the provisions of **Section 3.01(e)** 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 Borrower within the meaning of **Section 871(h)(3)(B)** of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to Borrower as described in **Section 881(c)(3)(C)** of the Code.

The undersigned has furnished Administrative Agent and 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-E, as applicable or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E, as applicable, 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 Borrower and Administrative Agent, and (2) the undersigned shall have at all times furnished Borrower and Administrative 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: _____, 20____

AMENDED AND RESTATED GUARANTY AGREEMENT

THIS AMENDED AND RESTATED GUARANTY AGREEMENT is executed as of October 26, 2017, by EACH OF THE SUBSIDIARIES OF ARMADA HOFFLER, L.P., a Virginia limited partnership ("**Borrower**"), LISTED ON **SCHEDULE 1** ATTACHED HERETO or which become a party hereto pursuant to **Section 20** below (each a "**Guarantor**" and collectively, "**Guarantors**"), for the benefit of the Credit Parties defined below.

RECITALS:

1. Borrower, Armada Hoffler Properties, Inc., a Maryland corporation ("**Parent**"), Bank of America, N.A., a national banking association ("**Administrative Agent**"), as Administrative Agent, the L/C Issuer defined therein, and the Lenders defined therein (Administrative Agent, the L/C Issuer, the Lenders, and any Person who is a provider of a Swap Contract guaranteed hereunder, together with their respective successors and assigns are herein called the "**Credit Parties**") previously entered into that certain Credit Agreement dated as of February 20, 2015 (herein referred to, together with all amendments, modifications, restatements, or supplements thereof, as the "**Existing Credit Agreement**"). In connection with the Existing Credit Agreement, Guarantors entered into that certain Unconditional Guaranty Agreement dated as of February 20, 2015, for the benefit of the Credit Parties (herein referred to, together with all amendments, modifications, restatements, or supplements thereof, as the "**Existing Guaranty Agreement**").

2. Borrower, Parent, Administrative Agent and Lenders are now entering into that certain Amended and Restated Credit Agreement dated as of the date hereof (the "**Credit Agreement**").

3. As a condition to entering into and performing their respective obligations under the Credit Agreement, Administrative Agent and Lenders have required that Guarantors execute and deliver this Amended and Restated Guaranty Agreement for the benefit of the Credit Parties, which shall amend and restate the Existing Guaranty in its entirety.

4. Capitalized terms used herein shall, unless otherwise indicated, have the respective meanings set forth in the Credit Agreement.

5. The Credit Parties are not willing to make loans under the Credit Agreement or otherwise extend credit to Borrower unless Guarantors unconditionally guarantee payment of all present and future indebtedness and obligations of Borrower to the Credit Parties under the Credit Agreement and the Loan Documents.

6. Each Guarantor will, directly or indirectly, benefit from the Credit Parties' extension of credit to Borrower.

NOW, THEREFORE, as an inducement to the Credit Parties to enter into the Credit Agreement and to make loans to Borrower thereunder, and to extend such credit to Borrower as the Credit Parties may from time to time agree to extend, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Guarantors hereby jointly and severally guarantee payment of the Guaranteed Obligations (hereinafter defined) as more specifically described below in **Section 1** and hereby agree as follows:

1. Guaranty. Each Guarantor hereby absolutely and unconditionally guarantees, jointly and severally, as a guarantee of payment and not merely as a guarantee of collection, prompt payment when due, whether

at stated maturity, upon acceleration or otherwise, and at all times thereafter, of (a) any and all existing and future indebtedness and liabilities of every kind, nature and character, direct or indirect, absolute or contingent, liquidated or unliquidated, voluntary or involuntary, of Borrower to the Credit Parties arising under the Credit Agreement and all instruments, agreements and other documents of every kind and nature now or hereafter executed in connection with the Credit Agreement (including all renewals, extensions and modifications thereof and all costs, attorneys' fees and expenses incurred by the Credit Parties in connection with the collection or enforcement thereof) and (b) any and all debts, liabilities, obligations, covenants and duties of Borrower arising under any Swap Contract that relates solely to the Obligations entered into with a Lender or any of its Affiliates at a time that such Lender is a party to the Credit Agreement (whether or not such Lender or Affiliate thereof ceases to be a party to the Credit Agreement) (collectively, the "**Guaranteed Obligations**"). Administrative Agent's books and records showing the amount of the Guaranteed Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon each Guarantor and conclusive for the purpose of establishing the amount of the Guaranteed Obligations. This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any instrument or agreement evidencing any Guaranteed Obligations, or by the existence, validity, enforceability, perfection, or extent of any collateral therefor, or by any fact or circumstance relating to the Guaranteed Obligations which might otherwise constitute a defense to the obligations of any Guarantor under this Guaranty. The obligations of each Guarantor hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code (Title 11, United States Code) or any comparable provisions of any applicable state law.

2. No Setoff or Deductions; Taxes. Each Guarantor represents and warrants that it is formed under the laws of the state of its formation and resident in the United States of America. All payments by any Guarantor hereunder shall be paid in full, without setoff or counterclaim or any deduction or withholding whatsoever, including, without limitation, for any and all present and future taxes. If any Guarantor must make a payment under this Guaranty, such Guarantor represents and warrants that it will make the payment from one of its U.S. resident offices to the Credit Parties so that no withholding tax is imposed on the payment. If notwithstanding the foregoing, any Guarantor makes a payment under this Guaranty to which withholding tax applies, or any taxes (other than taxes on net income (a) imposed by the country or any subdivision of the country in which any Credit Parties' principal office or actual lending office is located and (b) measured by the United States taxable income the Credit Parties would have received if all payments under or in respect of this Guaranty were exempt from taxes levied by such Guarantor's country) are at any time imposed on any payments under or in respect of this Guaranty including, but not limited to, payments made pursuant to this **Section 2**, such Guarantor shall pay all such taxes to the relevant authority in accordance with applicable law such that the Credit Parties receive the sum they would have received had no such deduction or withholding been made and shall also pay to the Credit Parties, on demand, all additional amounts which the Credit Parties specify as necessary to preserve the after-tax yield the Credit Parties would have received if such taxes had not been imposed. Guarantors shall promptly provide Administrative Agent with an original receipt or certified copy issued by the relevant authority evidencing the payment of any such amount required to be deducted or withheld.

3. No Termination. This Guaranty is a continuing and irrevocable guaranty of all Guaranteed Obligations now or hereafter existing and shall remain in full force and effect until all Guaranteed Obligations and any other amounts payable under this Guaranty are indefeasibly paid and performed in full and any commitments of the Credit Parties or facilities provided by the Credit Parties with respect to the Guaranteed Obligations are terminated. All payments under this Guaranty shall be made at Administrative Agent's Office in U.S. Dollars.

4. Waiver of Notices. Each Guarantor waives notice of the acceptance of this Guaranty and of the extension or continuation of the Guaranteed Obligations or any part thereof. Each Guarantor further waives presentment, protest, notice, dishonor or default, demand for payment and any other notices to which any Guarantor might otherwise be entitled.

5. Subrogation. No Guarantor shall exercise any right of subrogation, contribution or similar rights with respect to any payments it makes under this Guaranty until all of the Guaranteed Obligations and any amounts payable under this Guaranty are indefeasibly paid and performed in full and any commitments of the Credit Parties or facilities provided by the Credit Parties with respect to the Guaranteed Obligations are terminated. If any amounts are paid to any Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Credit Parties to reduce the amount of the Guaranteed Obligations, whether matured or unmatured.

6. Waiver of Suretyship Defenses. Each Guarantor agrees that Administrative Agent on behalf of the Lenders may, at any time and from time to time, and without notice to Guarantors, make any agreement with Borrower or with any other person or entity liable on any of the Guaranteed Obligations or providing collateral as security for the Guaranteed Obligations, for the extension, renewal, payment, compromise, discharge or release of the Guaranteed Obligations or any collateral (in whole or in part), or for any modification or amendment of the terms thereof or of any instrument or agreement evidencing the Guaranteed Obligations or the provision of collateral, all without in any way impairing, releasing, discharging or otherwise affecting the obligations of any Guarantor under this Guaranty. Each Guarantor waives any defense arising by reason of any disability or other defense of Borrower or any other guarantor, or the cessation from any cause whatsoever of the liability of Borrower, or any claim that any Guarantor's obligations exceed or are more burdensome than those of Borrower and waives the benefit of any statute of limitations affecting the liability of any Guarantor hereunder. Each Guarantor waives any right to enforce any remedy which such Guarantor now has or may hereafter have against Borrower and waives any benefit of and any right to participate in any security now or hereafter held by the Administrative Agent for the benefit of the Credit Parties. Further, each Guarantor consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of such Guarantor under this Guaranty or which, but for this provision, might operate as a discharge of such Guarantor.

7. Exhaustion of Other Remedies Not Required. The obligations of each Guarantor hereunder are those of primary obligor, and not merely as surety, and are independent of the Guaranteed Obligations. Each Guarantor waives diligence by the Credit Parties and action on delinquency in respect of the Guaranteed Obligations or any part thereof, including, without limitation any provisions of law requiring the Credit Parties to exhaust any right or remedy or to take any action against Borrower, any other guarantor or any other person, entity or property before enforcing this Guaranty against any Guarantor.

8. Reinstatement. Notwithstanding anything in this Guaranty to the contrary, this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any portion of the Guaranteed Obligations is revoked, terminated, rescinded or reduced or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of Borrower or any other person or entity or otherwise, as if such payment had not been made and whether or not Administrative Agent is in possession of or has released this Guaranty and regardless of any prior revocation, rescission, termination or reduction.

9. Subordination. Each Guarantor hereby subordinates the payment of all obligations and indebtedness of Borrower owing to such Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of Borrower to such Guarantor as subrogee of the Credit Parties or resulting from such Guarantor's performance under this Guaranty, to the indefeasible payment in full of all Guaranteed

Obligations. If Administrative Agent so requests, any such obligation or indebtedness of Borrower to any Guarantor shall be enforced and performance received by such Guarantor as trustee for the Credit Parties and the proceeds thereof shall be paid over to Administrative Agent on account of the Guaranteed Obligations, but without reducing or affecting in any manner the liability of any Guarantor under this Guaranty.

10. Information. Each Guarantor agrees to furnish promptly to Administrative Agent any and all financial or other information regarding such Guarantor or its property as Administrative Agent may reasonably request in writing.

11. Stay of Acceleration. In the event that acceleration of the time for payment of any of the Guaranteed Obligations is stayed, upon the insolvency, bankruptcy or reorganization of Borrower or any other person or entity, or otherwise, all such amounts shall nonetheless be payable by Guarantors immediately upon demand by Administrative Agent.

12. Expenses. Guarantors shall pay on demand all out-of-pocket expenses (including reasonable attorneys' fees and expenses and the allocated cost and disbursements of internal legal counsel) in any way relating to the enforcement or protection of the Credit Parties' rights under this Guaranty, including any incurred in the preservation, protection or enforcement of any rights of the Credit Parties in any case commenced by or against any Guarantor under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute. The obligations of Guarantors under the preceding sentence shall survive termination of this Guaranty.

13. Amendments. No provision of this Guaranty may be waived, amended, supplemented or modified, except by a written instrument executed by Administrative Agent and Guarantors.

14. No Waiver; Enforceability. No failure by the Credit Parties to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy or power hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law or in equity. The unenforceability or invalidity of any provision of this Guaranty shall not affect the enforceability or validity of any other provision herein.

15. Assignments. This Guaranty shall (a) bind each Guarantor and its successors and assigns, *provided* that no Guarantor may assign its rights or obligations under this Guaranty without the prior written consent of Administrative Agent (and any attempted assignment without such consent shall be void), and (b) inure to the benefit of the Credit Parties and their successors and assigns and the Credit Parties may, without notice to any Guarantor and without affecting any Guarantor's obligations hereunder, assign or sell participations in the Guaranteed Obligations and this Guaranty, in whole or in part. Each Guarantor agrees that the Credit Parties may disclose to any prospective purchaser and any purchaser of all or part of the Guaranteed Obligations any and all information in the Credit Parties' possession concerning any Guarantor, this Guaranty and any security for this Guaranty.

16. Condition of Borrower. Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from Borrower such information concerning the financial condition, business and operations of Borrower as Guarantors require, and that Credit Parties have no duty, and Guarantors are not relying on the Credit Parties at any time, to disclose to Guarantors any information relating to the business, operations or financial condition of Borrower.

17. Setoff. If and to the extent any payment is not made when due hereunder, the Credit Parties may setoff and charge from time to time any amount so due against any or all of Guarantors' accounts or deposits with any Credit Parties.

18. Other Guarantees. Unless otherwise agreed by Administrative Agent and Guarantors in writing, this Guaranty is not intended to supersede or otherwise affect any other guaranty now or hereafter given by Guarantors for the benefit of the Credit Parties or any term or provision thereof.

19. Representations and Warranties. Each Guarantor represents and warrants that (a) it is duly organized and in good standing under the laws of the jurisdiction of its organization and has full capacity and right to make and perform this Guaranty, and all necessary authority has been obtained; (b) this Guaranty constitutes its legal, valid and binding obligation enforceable in accordance with its terms, except as limited by Debtor Relief Laws; (c) the making and performance of this Guaranty does not and will not violate the provisions of any applicable law, regulation or order, and does not and will not result in the breach of, or constitute a default or require any consent (that has not been obtained) under, any material agreement, instrument, or document to which it is a party or by which it or any of its property may be bound or affected; (d) all consents, approvals, licenses and authorizations of, and filings and registrations with, any governmental authority required under applicable law and regulations for the making and performance of this Guaranty have been obtained or made and are in full force and effect; (e) by virtue of its relationship with Borrower, the execution, delivery and performance of this Guaranty is for the direct benefit of such Guarantor and it has received adequate consideration for this Guaranty; and (f) the financial information, that has been delivered to Administrative Agent by or on behalf of such Guarantor, is complete and correct in all material respects and accurately presents the financial condition and the operational results of such Guarantor and since the date of the most recent financial statements delivered to Administrative Agent, there has been no material adverse change in the financial condition or operational results of such Guarantor. By execution hereof, each Guarantor covenants and agrees that certain representations, warranties, terms, covenants, and conditions set forth in the Loan Documents are applicable to such Guarantor and shall be imposed upon such Guarantor, and such Guarantor reaffirms that each such representation and warranty is true and correct and covenants and agrees to promptly and properly perform, observe, and comply with each such term, covenant, or condition. Moreover, each Guarantor acknowledges and agrees that this Guaranty is subject to the offset provisions of the Loan Documents in favor of the Credit Parties. In the event the Credit Agreement or any other Loan Document shall cease to remain in effect for any reason whatsoever during any period when any part of the Guaranteed Obligations remains unpaid, the terms, covenants, and agreements of the Credit Agreement or such other Loan Document incorporated herein by reference shall nevertheless continue in full force and effect as obligations of such Guarantor under this Guaranty.

20. Additional Guarantors. The initial Guarantors hereunder shall be each of the Subsidiaries of Borrower that are signatories hereto and that are listed on *Schedule 1* attached hereto. From time to time subsequent to the time hereof, additional Subsidiaries of Borrower may become parties hereto as additional Guarantors (each an "**Additional Guarantor**") by executing a counterpart of this Guaranty Agreement in the form of *Exhibit A* attached hereto. Upon delivery of any such counterpart to Administrative Agent, notice of which is hereby waived by Guarantors, each such Additional Guarantor shall be a Guarantor and shall be a party hereto as if such Additional Guarantor were an original signatory hereof. Each Guarantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Guarantor hereunder, or by any election by Administrative Agent not to cause any Subsidiary of Borrower to become an Additional Guarantor hereunder. This Guaranty Agreement shall be fully effective as to any Guarantor that is or becomes a party hereto regardless of whether any such person becomes or fails to become or ceases to be a Guarantor hereunder.

21. Release of Guarantors. Pursuant to *Section 10.10* of the Credit Agreement, any Guarantor may be released from its obligations under this Guaranty Agreement by Administrative Agent's execution of a Release of Guaranty in the form of *Exhibit B* attached hereto. Each Guarantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the release of any other Guarantor hereunder.

22. GOVERNING LAW; JURISDICTION; ETC.

(a) **GOVERNING LAW.** THIS GUARANTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) **SUBMISSION TO JURISDICTION.** EACH GUARANTOR IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS GUARANTY OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ADMINISTRATIVE AGENT, ANY LENDER, SWINGLINE LENDER OR L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT AGAINST ANY GUARANTOR OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) **WAIVER OF VENUE.** EACH GUARANTOR IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN *PARAGRAPH (b)* OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) **SERVICE OF PROCESS.** EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN *SECTION 11.02* OF THE CREDIT AGREEMENT. NOTHING IN THIS GUARANTY WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

(e) **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT,

TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS GUARANTY AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

23. COUNTERPARTS. This Guaranty may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Guaranty and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

24. AMENDMENT AND RESTATEMENT. This Guaranty is given in amendment, restatement, modification, and increase, but not in extinguishment or novation, of the Existing Guaranty. Each Guarantor ratifies and confirms its obligations pursuant to the Existing Guaranty, as amended and restated by this Guaranty.

[Signature Pages Follow]

IN WITNESS WHEREOF, each Guarantor has caused this Agreement to be duly executed and delivered as of the date first written above.

GUARANTORS:

ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

NEW ARMADA HOFFLER PROPERTIES I, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER, L.P.,
a Virginia limited partnership,
its sole member

By: ARMADA HOFFLER PROPERTIES, INC.,
a Maryland corporation, its general partner

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: President and CEO

NEW ARMADA HOFFLER PROPERTIES II, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER, L.P.,
a Virginia limited partnership,
its sole member

By: ARMADA HOFFLER PROPERTIES, INC.,
a Maryland corporation, its general partner

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: President and CEO

TOWER MANAGER, LLC,
a Virginia limited liability company

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

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AHP HOLDING, INC.,
a Virginia corporation

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: President and CEO

ARMADA HOFFLER TOWER 4, L.L.C.,
a Virginia limited liability company

By: TOWER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

AH RICHMOND TOWER I, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

AH COLUMBUS II, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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COLUMBUS TOWER, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

GATEWAY CENTRE, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

NORTH POINTE DEVELOPMENT ASSOCIATES, L.P.,
a Virginia limited partnership

By: NORTH POINTE DEVELOPMENT ASSOCIATES, L.L.C.,
a Virginia limited liability company,
its general partner

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

NORTH POINTE DEVELOPMENT ASSOCIATES, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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BERMUDA SHOPPING CENTER, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

BROAD CREEK PH. I, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

BROAD CREEK PH. II, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

Signature Page to
Amended and Restated Guaranty Agreement

BROAD CREEK PH. III, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

HOFFLER AND ASSOCIATES EAT, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

TOWN CENTER ASSOCIATES 7, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

FERRELL PARKWAY ASSOCIATES, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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ARMADA/HOFFLER CHARLESTON ASSOCIATES, L.P.,
a Virginia limited partnership

By: GATEWAY CENTRE, L.L.C.,
a Virginia limited liability company,
its general partner

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

HT TYRE NECK, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

TOWN CENTER ASSOCIATES 12, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

NORTH POINTE OUTPARCELS, L.L.C.,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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DIMMOCK SQUARE MARKETPLACE, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

TCA BLOCK 6, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

FBJ INVESTORS, INC.,
a Virginia corporation

By: /s/ A. Russell Kirk

Name: A. Russell Kirk

Title: President

Signature Page to
Amended and Restated Guaranty Agreement

PERRY HALL MARYLAND LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

STONE HOUSE MARYLAND LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

WILLIAMSBURG MEDICAL BUILDING, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

PROVIDENCE PLAZA CHARLOTTE, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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Amended and Restated Guaranty Agreement

AH DURHAM APARTMENTS, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

WENDOVER VILLAGE GREENSBORO, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

PATERSON PLACE DURHAM, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

ALEXANDER POINTE SALISBURY, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

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SOUTH SQUARE DURHAM, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC, a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

HARPER HILL NORTH CAROLINA, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

NORTH HAMPTON MARKET SOUTH CAROLINA, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

GREENBRIER OCEAN PARTNERS, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad _____

Name: Louis S. Haddad

Title: Manager

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COLUMBUS TOWN CENTER II, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

RENAISSANCE CHARLOTTE, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

OYSTER POINT OFFICE BUILDING, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad
Title: Manager

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OAKLAND MARKETPLACE TENNESSEE, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

BROADMOOR PLAZA INDIANA, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

SOUTHSHORE POINTE, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

NORTH POINTE VW4, L.L.C., a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

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WENDOVER VILLAGE GREENSBORO II, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

COURTHOUSE MARKETPLACE OUTPARCELS, L.L.C., a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

COURTHOUSE OFFICE BUILDING, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

GREENBRIER OCEAN PARTNERS II, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad
Name: Louis S. Haddad
Title: Manager

WAYNESBORO COMMONS VIRGINIA, LLC, a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company, its manager

By: /s/ Louis S. Haddad

Name: Louis S. Haddad

Title: Manager

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SCHEDULE 1

INITIAL GUARANTORS

1. AHP Holding, Inc.
2. Armada Hoffler Tower 4, L.L.C.
3. AH Richmond Tower I, LLC
4. New Armada Hoffler Properties I, LLC
5. New Armada Hoffler Properties II, LLC
6. Armada Hoffler Manager, LLC
7. Tower Manager, LLC
8. AH Columbus II, L.L.C.
9. Columbus Tower, L.L.C.
10. GATEWAY CENTRE, L.L.C.
11. North Pointe Development Associates, L.P.
12. North Pointe Development Associates, L.L.C.
13. Bermuda Shopping Center, L.L.C.
14. Broad Creek PH. I, L.L.C.
15. Broad Creek PH. II, L.L.C.
16. Broad Creek Ph. III, L.L.C.
17. Hoffler and Associates EAT, LLC
18. Town Center Associates 7, L.L.C.
19. Ferrell Parkway Associates, L.L.C.
20. Armada/Hoffler Charleston Associates, L.P.
21. HT Tyre Neck, LLC
22. Town Center Associates 12, L.L.C.
23. North Pointe Outparcels, L.L.C.
24. Dimmock Square Marketplace, LLC
25. TCA Block 6, LLC
26. FBJ Investors, Inc.
27. AH Durham Apartments, LLC
28. Perry Hall Maryland LLC
29. Providence Plaza Charlotte, LLC
30. Stone House Maryland LLC
31. Williamsburg Medical Building, LLC
32. South Square Durham, LLC
33. Paterson Place Durham, LLC
34. Wendover Village Greensboro, LLC
35. Alexander Pointe Salisbury, LLC
36. Harper Hill North Carolina, LLC
37. North Hampton Market South Carolina, LLC
38. Greenbrier Ocean Partners, LLC
39. Columbus Town Center II, LLC
40. Renaissance Charlotte, LLC
41. Oyster Point Office Building, LLC
42. Oakland Marketplace Tennessee, LLC
43. Broadmoor Plaza Indiana, LLC
44. Southshore Pointe, LLC
45. North Pointe VW4, L.L.C.

46. Wendover Village Greensboro II, LLC
47. Courthouse Marketplace Outparcels, L.L.C.
48. Courthouse Office Building, LLC
49. Greenbrier Ocean Partners II, LLC
50. Waynesboro Commons Virginia, LLC

EXHIBIT A

COUNTERPART TO SUBSIDIARY GUARANTY

In witness whereof, the undersigned Additional Guarantor has caused this Amended and Restated Guaranty Agreement to be executed and delivered by its officer thereunto duly authorized as of _____, 201__.

[NAME OF ADDITIONAL GUARANTOR] _____

By:____
Name:____
Title:____

EXHIBIT B

FORM OF RELEASE OF GUARANTOR

In witness whereof, the undersigned Administrative Agent, for itself and on behalf of each of the Credit Parties (defined below), hereby releases and discharges _____ from any and all obligations and liabilities of _____ to the Credit Parties under that certain Amended and Restated Guaranty Agreement dated as of October 26, 2017, executed by the Subsidiaries of Armada Hoffler, LP, a Virginia limited partnership, described therein in favor of the Credit Parties defined therein.

BANK OF AMERICA, NA, as Administrative Agent

By: _____
Name: _____
Title: _____

Exhibit B

**Acknowledgment of Ernst & Young LLP,
Independent Registered Public Accounting Firm**

Stockholders and Board of Directors of
Armada Hoffer Properties, Inc.

We are aware of the incorporation by reference of our reports dated May 3, 2017, August 2, 2017 and November 1, 2017 relating to the unaudited condensed consolidated interim financial statements of Armada Hoffer Properties, Inc. that are included in its Form 10-Q for the quarters ended March 31, 2017, June 30, 2017 and September 30, 2017 in the following Registration Statements of Armada Hoffer Properties, Inc.:

- 333-188545 on Form S-8, dated May 10, 2013
- 333-204063 on Form S-3, dated May 11, 2015 and June 1, 2015 (Amendment No. 1)
- 333-214176 on Form S-3, dated October 19, 2016
- 333-216795 on Form S-3, dated March 17, 2017 and May 04, 2017 (Amendment No. 1)
- 333-218750 on Form S-8, dated June 15, 2017

/s/ Ernst & Young LLP

Tysons, Virginia
November 1, 2017

**CERTIFICATION PURSUANT
TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Louis S. Haddad, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Armada Hoffler Properties, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2017

/s/ LOUIS S. HADDAD

Louis S. Haddad

President and Chief Executive Officer

**CERTIFICATION PURSUANT
TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael P. O'Hara, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Armada Hoffler Properties, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2017

/s/ MICHAEL P. O'HARA

Michael P. O'Hara

Chief Financial Officer and Treasurer

CERTIFICATION

The undersigned, Louis S. Haddad, the President and Chief Executive Officer of Armada Hoffer Properties, Inc. (the "Company"), pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, hereby certifies that, to the best of his knowledge:

1. the Quarterly Report for the period ended September 30, 2017 of the Company (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 1, 2017

/s/ LOUIS S. HADDAD

Louis S. Haddad

President and Chief Executive Officer

CERTIFICATION

The undersigned, Michael P. O'Hara, the Chief Financial Officer and Treasurer of Armada Hoffler Properties, Inc. (the "Company"), pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, hereby certifies that, to the best of his knowledge:

1. the Quarterly Report for the period ended September 30, 2017 of the Company (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 1, 2017

/s/ MICHAEL P. O'HARA

Michael P. O'Hara

Chief Financial Officer and Treasurer