

**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 June 30, 2021

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
Commission File Number 1-11527

SERVICE PROPERTIES TRUST
(Exact Name of Registrant as Specified in Its Charter)

Maryland
(State or Other Jurisdiction of
Incorporation or Organization)

04-3262075
(IRS Employer Identification No.)

Two Newton Place, 255 Washington Street, Suite 300, Newton, Massachusetts, 02458-1634
(Address of Principal Executive Offices) (Zip Code)

617-964-8389
(Registrant's Telephone Number, Including Area Code)

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

Title of Each Class	Trading Symbol	Name of each Exchange on which Registered
Common Shares of Beneficial Interest	SVC	The Nasdaq Stock Market LLC

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐		

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

Number of registrant's common shares of beneficial interest, \$.01 par value per share, outstanding as of August 4, 2021: 164,857,754

SERVICE PROPERTIES TRUST
FORM 10-Q
June 30, 2021

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References in this Quarterly Report on Form 10-Q to the Company, SVC, we, us or our include Service Properties Trust and our consolidated subsidiaries unless otherwise expressly stated or the context indicates otherwise.

Part I Financial Information
Item 1. Financial Statements

SERVICE PROPERTIES TRUST
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)
(dollars in thousands, except share data)

	June 30, 2021	December 31, 2020
ASSETS		
Real estate properties:		
Land	\$ 2,036,297	\$ 2,030,440
Buildings, improvements and equipment	9,111,774	9,131,832
Total real estate properties, gross	11,148,071	11,162,272
Accumulated depreciation	(3,429,648)	(3,280,110)
Total real estate properties, net	7,718,423	7,882,162
Acquired real estate leases and other intangibles, net	302,358	325,845
Assets held for sale	4,259	13,543
Cash and cash equivalents	915,330	73,332
Restricted cash	1,295	18,124
Due from related persons	49,636	55,530
Other assets, net	424,434	318,783
Total assets	<u>\$ 9,415,735</u>	<u>\$ 8,687,319</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
Revolving credit facility	\$ 1,000,000	\$ 78,424
Senior unsecured notes, net	6,136,554	6,130,166
Accounts payable and other liabilities	441,276	345,373
Due to related persons	23,254	30,566
Total liabilities	<u>7,601,084</u>	<u>6,584,529</u>
Commitments and contingencies		
Shareholders' equity:		
Common shares of beneficial interest, \$.01 par value; 200,000,000 shares authorized; 164,857,754 and 164,823,833, shares issued and outstanding, respectively	1,649	1,648
Additional paid in capital	4,551,641	4,550,385
Cumulative other comprehensive loss	(760)	(760)
Cumulative net income available for common shareholders	2,894,163	3,180,263
Cumulative common distributions	(5,632,042)	(5,628,746)
Total shareholders' equity	<u>1,814,651</u>	<u>2,102,790</u>
Total liabilities and shareholders' equity	<u>\$ 9,415,735</u>	<u>\$ 8,687,319</u>

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

SERVICE PROPERTIES TRUST
CONDENSED CONSOLIDATED STATEMENTS OF INCOME (LOSS)
(Unaudited)
(amounts in thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Revenues:				
Hotel operating revenues	\$ 280,135	\$ 117,356	\$ 449,088	\$ 500,859
Rental income	95,801	97,584	188,018	197,857
Total revenues	375,936	214,940	637,106	698,716
Expenses:				
Hotel operating expenses	243,183	46,957	438,536	318,105
Other operating expenses	3,904	3,565	7,321	7,324
Depreciation and amortization	121,677	127,427	246,045	255,353
General and administrative	13,952	11,302	26,609	25,326
Transaction related costs	6,151	—	25,785	—
Loss on asset impairment	899	28,514	2,110	45,254
Total expenses	389,766	217,765	746,406	651,362
Other operating income:				
Gain (loss) on sale of real estate, net	10,849	(2,853)	10,840	(9,764)
Gain on insurance settlement	—	62,386	—	62,386
Unrealized gain (losses) on equity securities, net	2,500	3,848	(3,981)	(1,197)
Interest income	225	15	282	277
Interest expense (including amortization of debt issuance costs and debt discounts and premiums of \$4,891, \$3,486, \$9,247 and \$6,774, respectively)	(91,378)	(72,072)	(180,769)	(143,147)
Loss on early extinguishment of debt	—	(6,970)	—	(6,970)
Loss before income taxes and equity in earnings (losses) of an investee	(91,634)	(18,471)	(282,928)	(51,061)
Income tax expense	(211)	(16,660)	(1,064)	(17,002)
Equity in earnings (losses) of an investee	735	(2,218)	(2,108)	(2,936)
Net loss	(91,110)	(37,349)	(286,100)	(70,999)
Weighted average common shares outstanding (basic and diluted)	164,506	164,382	164,502	164,376
Net loss per common share (basic and diluted)	\$ (0.55)	\$ (0.23)	\$ (1.74)	\$ (0.43)

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

SERVICE PROPERTIES TRUST
CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(unaudited) (in thousands, except share data)

	Common Shares			Additional Paid in Capital	Cumulative Net Income Available for Common Shareholders	Cumulative Other Comprehensive Loss	Total
	Number of Shares	Common Shares	Cumulative Common Distributions				
Balance at December 31, 2020	164,823,833	\$ 1,648	\$ (5,628,746)	\$ 4,550,385	\$ 3,180,263	\$ (760)	\$ 2,102,790
Net loss	—	—	—	—	(194,990)	—	(194,990)
Share grants	—	—	—	380	—	—	380
Distributions to common shareholders	—	—	(1,648)	—	—	—	(1,648)
Balance at March 31, 2021	164,823,833	\$ 1,648	\$ (5,630,394)	\$ 4,550,765	\$ 2,985,273	\$ (760)	\$ 1,906,532
Net loss	—	—	—	—	(91,110)	—	(91,110)
Share grants	49,000	1	—	1,066	—	—	1,067
Share repurchases	(15,079)	—	—	(190)	—	—	(190)
Distributions	—	—	(1,648)	—	—	—	(1,648)
Balance at June 30, 2021	164,857,754	\$ 1,649	\$ (5,632,042)	\$ 4,551,641	\$ 2,894,163	\$ (760)	\$ 1,814,651
Balance at December 31, 2019	164,563,034	\$ 1,646	\$ (5,534,942)	\$ 4,547,529	\$ 3,491,645	\$ —	\$ 2,505,878
Net loss	—	—	—	—	(33,650)	—	(33,650)
Share grants	6,000	—	—	590	—	—	590
Share repurchases	(2,637)	—	—	(43)	—	—	(43)
Distributions to common shareholders	—	—	(90,509)	—	—	—	(90,509)
Balance at March 31, 2020	164,566,397	\$ 1,646	\$ (5,625,451)	\$ 4,548,076	\$ 3,457,995	\$ —	\$ 2,382,266
Net loss	—	—	—	—	(37,349)	—	(37,349)
Share grants	35,000	—	—	831	—	—	831
Share repurchases	(3,808)	—	—	(27)	—	—	(27)
Distributions	—	—	—	—	—	—	—
Balance at June 30, 2020	164,597,589	\$ 1,646	\$ (5,625,451)	\$ 4,548,880	\$ 3,420,646	\$ —	\$ 2,345,721

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

SERVICE PROPERTIES TRUST
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(dollars in thousands)

	For the Six Months Ended June 30,	
	2021	2020
Cash flows from operating activities:		
Net loss	\$ (286,100)	\$ (70,999)
Adjustments to reconcile net loss to cash (used in) provided by operating activities:		
Depreciation and amortization	246,045	255,353
Net amortization of debt issuance costs, discounts and premiums as interest	9,247	6,774
Straight-line rental income	2,181	2,669
Security deposits utilized	—	(100,170)
Loss on early extinguishment of debt	—	6,970
Loss on asset impairment	2,110	45,254
Unrealized losses on equity securities, net	3,981	1,197
Equity in losses of an investee	2,108	2,936
(Gain) loss on sale of real estate	(10,840)	9,764
Gain on insurance settlement	—	(62,386)
Deferred income taxes	—	15,650
Other non-cash income, net	(1,363)	(1,919)
Changes in assets and liabilities:		
Due from related persons	(628)	1,070
Other assets	17,588	(69,351)
Accounts payable and other liabilities	(245)	7,858
Due to related persons	(5,290)	(1,873)
Net cash (used in) provided by operating activities	(21,206)	48,797
Cash flows from investing activities:		
Real estate acquisitions and deposits	(7,649)	(7,090)
Real estate improvements	(42,295)	(45,858)
Hotel managers' purchases with restricted cash	(22,959)	(95,744)
Hotel manager's deposit of insurance proceeds into restricted cash	—	15,000
Net proceeds from sale of real estate	33,128	63,960
Investment in Sonesta	(25,443)	(5,314)
Distributions in excess of earnings from Affiliates Insurance Company	—	286
Net cash used in investing activities	(65,218)	(74,760)
Cash flows from financing activities:		
Proceeds from issuance of senior unsecured notes, after discounts and premiums	—	800,000
Repurchase of senior unsecured notes	—	(355,971)
Borrowings under revolving credit facility	984,027	656,000
Repayments of revolving credit facility	(62,451)	(999,873)
Deferred financing costs	(6,497)	(15,015)
Repurchase of common shares	(190)	(70)
Distributions to common shareholders	(3,296)	(90,509)
Net cash provided by (used in) financing activities	911,593	(5,438)
Increase (decrease) in cash and cash equivalents and restricted cash	825,169	(31,401)
Cash and cash equivalents and restricted cash at beginning of period	91,456	81,259
Cash and cash equivalents and restricted cash at end of period	<u>\$ 916,625</u>	<u>\$ 49,858</u>
Supplemental disclosure of cash and cash equivalents and restricted cash:		
The following table provides a reconciliation of cash and cash equivalents and restricted cash reported within the condensed consolidated balance sheets to the amount shown in the condensed consolidated statements of cash flows:		
Cash and cash equivalents	\$ 915,330	\$ 20,206
Restricted cash	1,295	29,652
Total cash and cash equivalents and restricted cash	<u>\$ 916,625</u>	<u>\$ 49,858</u>

Supplemental cash flow information:			
Cash paid for interest	\$	170,903	\$ 142,122
Cash paid for income taxes	\$	1,957	\$ 403
Non-cash investing activities:			
Real estate improvements accrued, not paid	\$	9,500	\$ 4,479
Investment in Sonesta	\$	—	\$ 42,000

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

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

Note 1. Organization and Basis of Presentation

Service Properties Trust, or we, us or our, is a real estate investment trust, or REIT, organized on February 7, 1995 under the laws of the State of Maryland, which invests in hotels and net lease service oriented retail properties. At June 30, 2021, we owned, directly and through our subsidiaries, 304 hotels and 796 net lease properties.

At June 30, 2021, all 304 of our hotels were operated by subsidiaries of the following companies: Sonesta Holdco Corporation, or Sonesta (261 hotels), Hyatt Hotels Corporation, or Hyatt (17 hotels), Radisson Hospitality, Inc., or Radisson (nine hotels), Marriott International, Inc., or Marriott (16 hotels), and InterContinental Hotels Group, plc, or IHG (one hotel). At June 30, 2021, we owned 796 net lease properties with 171 tenants, including 179 travel centers leased to TravelCenters of America Inc., or TA, our largest tenant. Hereinafter, these companies are sometimes referred to as managers and/or tenants, or collectively, operators.

Impact of COVID-19

Since March 2020, the lodging industry and other industries in which our managers and tenants operate have been adversely impacted by the novel coronavirus, or COVID-19, global pandemic along with the federal, state and local government mandates intended to contain and mitigate the spread of COVID-19 and market reactions to the pandemic. The effects of COVID-19 continue to have a significant negative impact on our results of operations, financial position and cash flow. Although lodging demand has improved through the second quarter of 2021 when compared to 2020 levels, we cannot predict with certainty when business levels may return to historical levels. Under the accounting guidance related to the presentation of financial statements, when preparing financial statements for each annual and interim reporting period, management has the responsibility to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about our ability to continue as a going concern within one year after the date that the financial statements are issued. In applying the accounting guidance, we considered our current financial condition and liquidity sources, including current funds available, forecasted future cash flows and our unconditional obligations due over the next 12 months. As of June 30, 2021, we were not in compliance with one of our debt covenants necessary to incur additional debt, and as a result, we will not be able to incur additional debt until we meet the required covenant level. Based on our cash on hand, the cash flows we expect to receive from our operators, improving lodging trends and asset dispositions we expect to complete, we believe we will have sufficient liquidity to meet our obligations for at least the next twelve months.

Basis of Presentation

The accompanying condensed consolidated financial statements of us are unaudited. Certain information and disclosures required by U.S. generally accepted accounting principles, or GAAP, for complete financial statements have been condensed or omitted. We believe the disclosures made are adequate to make the information presented not misleading. However, the accompanying condensed consolidated financial statements should be read in conjunction with the financial statements and notes contained in our Annual Report on Form 10-K for the year ended December 31, 2020, or our 2020 Annual Report. In the opinion of management, all adjustments, consisting of normal recurring accruals considered necessary for a fair statement of results for the interim period, have been included. These condensed consolidated financial statements include our accounts and the accounts of our subsidiaries, all of which are 100% owned directly or indirectly by us. All intercompany transactions and balances with or among our consolidated subsidiaries have been eliminated. Our operating results for interim periods and those of our managers and tenants are not necessarily indicative of the results that may be expected for the full year.

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect reported amounts. Actual results could differ from those estimates. Significant estimates in our condensed consolidated financial statements include the allowance for credit losses, purchase price allocations, useful lives of fixed assets, impairment of real estate and related intangibles.

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

We have determined that each of our wholly owned taxable REIT subsidiaries, or TRSs, is a variable interest entity, or VIE, as defined under the Consolidation Topic of the Financial Accounting Standards Board, or FASB, *Accounting Standards Codification*TM. We have concluded that we must consolidate each of our wholly owned TRSs because we are the entity with the power to direct the activities that most significantly impact such VIEs' performance and we have the obligation to absorb losses or the right to receive benefits from each VIE that could be significant to the VIE and are, therefore, the primary beneficiary of each VIE. The assets of our TRSs were \$151,773 and \$118,862 as of June 30, 2021 and December 31, 2020, respectively, and consist primarily of amounts due from and working capital advances to certain of our hotel managers. The liabilities of our TRSs were \$80,888 and \$70,240 as of June 30, 2021 and December 31, 2020, respectively, and consist primarily of amounts payable to certain of our hotel managers. The assets of our TRSs are available to satisfy our TRSs' obligations and we have guaranteed certain obligations of our TRSs.

Note 2. Revenue Recognition

We report hotel operating revenues for managed hotels in our condensed consolidated statements of income (loss). We generally recognize hotel operating revenues, consisting primarily of room and food and beverage sales, when goods and services are provided.

We report rental income for leased properties in our condensed consolidated statements of income (loss). We recognize rental income from operating leases on a straight line basis over the term of the lease agreements. We reduced rental income by \$299 for the three months ended June 30, 2021, increased rental income by \$875 for the three months ended June 30, 2020 and reduced rental income by \$2,181 and \$2,669 for the six months ended June 30, 2021 and 2020, respectively, to record scheduled rent changes under certain of our leases, the deferred rent obligations payable to us under our leases with TA and the estimated future payments to us under our TA leases for the cost of removing underground storage tanks at our travel centers on a straight line basis. See Notes 5 and 9 for further information regarding our TA leases. Due from related persons includes \$27,379 and \$33,902 and other assets, net, includes \$22,594 and \$16,264 of straight line rent receivables at June 30, 2021 and December 31, 2020, respectively.

Certain of our lease agreements require additional percentage rent if gross revenues of our properties exceed certain thresholds defined in our lease agreements. We may determine percentage rent due to us under our leases monthly, quarterly or annually, depending on the specific lease terms, and recognize it when all contingencies are met and the rent is earned. We had deferred estimated percentage rent of \$1,591 and \$124 for the three months ended June 30, 2021 and 2020, respectively, and \$2,977 and \$849 for the six months ended June 30, 2021 and 2020, respectively.

Note 3. Weighted Average Common Shares

The following table provides a reconciliation of the weighted average number of common shares used in the calculation of basic and diluted earnings per share:

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2021	2020	2021	2020
	(in thousands)			
Weighted average common shares for basic earnings per share	164,506	164,382	164,502	164,376
Effect of dilutive securities: Unvested share awards	—	—	—	—
Weighted average common shares for diluted earnings per share	164,506	164,382	164,502	164,376

Note 4. Real Estate Properties

At June 30, 2021, we owned 304 hotels with an aggregate of 48,439 rooms or suites and 796 service-oriented retail properties with an aggregate of 13,440,784 square feet that are primarily subject to "triple net" leases, or net leases where the tenant is generally responsible for payment of operating expenses and capital expenditures of the property during the lease term. Our properties had an aggregate undepreciated carrying value of \$11,152,330, including \$4,259 classified as held for sale as of June 30, 2021.

Capital expenditures made at certain of our properties were \$53,431 and \$78,500 during the six months ended June 30, 2021 and 2020, respectively.

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

Acquisitions

On March 9, 2021, we acquired a land parcel adjacent to a property we own in Nashville, TN for a purchase price of \$7,709, including acquisition related costs. We accounted for this transaction as an acquisition of assets.

Dispositions

During the six months ended June 30, 2021, we sold nine properties for an aggregate sales price of \$34,051, excluding closing costs, as presented in the table below. The sales of these properties do not represent significant dispositions individually or in the aggregate nor do they represent a strategic shift. As a result, the results of the operations of these properties are included in continuing operations through the date of sale in our condensed consolidated statements of income (loss).

Date of Sale	Number of Properties	Location	Property Type	Rooms/ Square Feet	Gross Sales Price	Gain/(Loss) on Sale
3/16/2021	1	Chattanooga, TN	Net Lease	2,797	\$ 375	\$ (9)
4/1/2021	1	Jacksonville, FL	Hotel	146	9,753	49
4/6/2021	1	Colorado Springs, CO	Net Lease	32,130	1,300	(10)
5/20/2021	5	Various	Hotel	430	22,263	10,763
6/11/2021	1	Emmitsburg, MD	Net Lease	3,114	360	47
	<u>9</u>			<u>576/38,041</u>	<u>\$ 34,051</u>	<u>\$ 10,840</u>

We are currently marketing for sale 69 Sonesta branded hotels (46 extended stay hotels with 5,404 keys, 19 select service hotels with 2,461 keys and four full service hotels with 1,098 keys) located in 27 states with an aggregate net carrying value of \$627,302 as of June 30, 2021. We expect these sales to be completed by the end of the first quarter of 2022.

We have also entered into agreements to sell four net lease properties with an aggregate of 20,712 square feet and an aggregate carrying value of \$1,678 for an aggregate sales price of \$2,165, excluding closing costs. We currently expect these sales to be completed by the end of the third quarter of 2021.

As of June 30, 2021, we had eight net lease properties with an aggregate of 31,966 square feet and an aggregate carrying value of \$4,259 classified as held for sale. See Note 12 for further information on these properties.

Note 5. Management Agreements and Leases

As of June 30, 2021, we owned 304 hotels which were included in six operating agreements and 796 service oriented retail properties net leased to 171 tenants. We do not operate any of our properties.

Hotel agreements

As of June 30, 2021, all 304 of our hotels were leased to our TRSs and managed by independent hotel operating companies. As of June 30, 2021, our hotel properties were managed by separate subsidiaries of Sonesta, Hyatt, Radisson, Marriott and IHG under six agreements. These hotel agreements had initial terms expiring between 2021 and 2037. Each of these agreements is for between one and 208 of our hotels. In general, the agreements contain renewal options for all, but not less than all, of the affected properties included in each agreement, and the renewal terms range between one to 60 years. Most of these agreements require the third party manager or tenant to: (1) make payments to us of minimum returns or minimum rents; (2) deposit a percentage of total hotel sales into FF&E reserves; and (3) for our managed hotels, make payments to our TRSs of additional returns to the extent of available cash flows after payment of operating expenses, payment of certain management fees, payment of our minimum returns, reimbursement of certain advances, funding of our FF&E reserves and replenishment of guarantees. Some of our managers or tenants or their affiliates provided deposits or guarantees to secure their obligations to pay us.

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

Sonesta agreement. As of June 30, 2021, Sonesta managed 41 of our full-service hotels, 157 extended stay hotels and 63 select service hotels pursuant to management agreements for each of the hotels. We are also party to pooling agreements that combine certain of our management agreements with Sonesta for purposes of calculating gross revenues, payment of hotel operating expenses, payment of fees and distributions and minimum returns due to us. Our agreements with Sonesta for 53 hotels expire in January 2037, which we refer to as our legacy management and pooling agreements. As of June 30, 2021, 208 of our hotels were managed by Sonesta under agreements that expire on December 31, 2021 and automatically renew for successive one-year terms unless terminated earlier, which we refer to as our conversion hotel management and pooling agreements or collectively with our legacy management and pooling agreements, our Sonesta agreement.

In February and March 2021, we transitioned the branding and management of 88 hotels to Sonesta from Marriott and in June 2021 we transitioned the branding and management of five hotels to Sonesta from Hyatt. We added these hotels to our conversion hotel management and pooling agreements with Sonesta. Following this transfer and rebranding, Sonesta operates 261 of the 304 hotels we currently own, which comprised approximately 52.8% of our total historical real estate investments as of June 30, 2021.

Our Sonesta agreement provides that we are paid a fixed annual minimum return equal to 8% of our invested capital, as defined therein, if gross revenues of the hotels, after payment of hotel operating expenses and management and related fees (other than Sonesta's incentive fee, if applicable), are sufficient to do so. Our fixed annual minimum return under our Sonesta agreement was \$509,621 as of June 30, 2021. Our Sonesta agreement further provides that we are paid an additional return equal to 80% of the operating profits, as defined therein, after reimbursement of owner or manager advances, FF&E reserve escrows and Sonesta's incentive fee, if applicable. Our Sonesta hotels generated net operating cash flow of \$25,198 and a net operating cash flow deficit of \$17,666 during the three months ended June 30, 2021 and 2020, respectively, and net operating cash flow deficit of \$12,196 and \$25,814 for the six months ended June 30, 2021 and 2020, respectively. The returns we receive from our Sonesta hotels are limited to the hotels' available cash flows, if any, after payment of operating expenses, including management and related fees.

Pursuant to our Sonesta agreement, we incurred management, reservation and system fees and reimbursement costs for certain guest loyalty, marketing program and third-party reservation transmission fees of \$22,046 and \$2,147 for the three months ended June 30, 2021 and 2020, respectively, and \$33,321 and \$8,925 for the six months ended June 30, 2021 and 2020, respectively. These fees and costs are included in hotel operating expenses in our condensed consolidated statements of income (loss). In addition, we incurred procurement and construction supervision fees of \$643 and \$270 for the three months ended June 30, 2021 and 2020, respectively, and \$1,387 and \$902 for the six months ended June 30, 2021 and 2020, respectively, which amounts have been capitalized in our condensed consolidated balance sheets and are depreciated over the estimated useful lives of the related capital assets.

Our Sonesta agreement requires us to fund capital expenditures that we approve at our Sonesta hotels. Each of our 14 full-service hotels operated under the legacy management agreements and all the hotels operated under the conversion hotel management agreements require that 5% of the hotel gross revenues be escrowed for future capital expenditures as FF&E reserves, subject to available cash flows after payment of the annual minimum returns due to us. Our legacy management agreements do not require FF&E escrow deposits for 39 extended stay hotels. No FF&E escrow deposits were required during the three and six months ended June 30, 2021. We incurred capital expenditures for certain hotels included in our Sonesta agreement of \$56,452 and \$40,088 during the six months ended June 30, 2021 and 2020, respectively, which resulted in increases in our contractual annual minimum returns of \$3,990 and \$2,934, respectively. We owed Sonesta \$18,433 and \$7,154 for operating losses generated by our Sonesta hotels, capital expenditures, and other reimbursements at June 30, 2021 and 2020, respectively. Amounts due from Sonesta are included in due from related persons and amounts owed to Sonesta are included in due to related persons in our condensed consolidated balance sheets.

We are required to maintain working capital for each of our hotels managed by Sonesta and have advanced a fixed amount based on the number of rooms in each hotel to meet the cash needs for hotel operations. We had advanced \$55,977 and \$41,514 of initial working capital to Sonesta as of June 30, 2021 and December 31, 2020, respectively. These amounts are included in other assets in our condensed consolidated balance sheets. Any remaining working capital would be returned to us upon termination in accordance with the terms of our Sonesta agreement.

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Accounting for Investment in Sonesta:

We account for our 34% non-controlling interest in Sonesta under the equity method of accounting. In March 2021, we funded a \$25,443 capital contribution to Sonesta related to its acquisition of Red Lion Hotels Corporation. We continue to maintain our 34% ownership in Sonesta after giving effect to this funding. As of June 30, 2021, our investment in Sonesta had a carrying value of \$59,981. This amount is included in other assets, net in our condensed consolidated balance sheets. The cost basis of our investment in Sonesta exceeded our proportionate share of Sonesta's total shareholders' equity book value on the date of acquisition of our initial equity interest in Sonesta, February 27, 2020, by an aggregate of \$8,000. As required under GAAP, we are amortizing this difference to equity in earnings of an investee over 31 years, the weighted average remaining useful life of the real estate assets and intangible assets and liabilities owned by Sonesta as of the date of our acquisition. We recorded amortization of the basis difference of \$65 in each of the three months ended June 30, 2021 and 2020 and \$130 and \$65 for the six months ended June 30, 2021 and 2020, respectively. We recognized income of \$800 and a loss of \$2,218 related to our investment in Sonesta for the three months ended June 30, 2021 and 2020, respectively, and losses of \$1,978 and \$2,936 for the six months ended June 30, 2021 and 2020, respectively. These amounts are included in equity in earnings (losses) of an investee in our condensed consolidated statements of income (loss).

We recorded a liability for the fair value of our initial investment in Sonesta, as no cash consideration was exchanged related to the modification of our management agreement with, and investment in, Sonesta. This liability for our investment in Sonesta is included in accounts payable and other liabilities in our condensed consolidated balance sheet and is being amortized on a straight-line basis through January 31, 2037, as a reduction to hotel operating expenses in our condensed consolidated statements of income (loss). We reduced hotel operating expenses by \$621 for each of the three months ended June 30, 2021 and 2020, and \$1,242 and \$828 for the six months ended June 30, 2021 and 2020, respectively, for amortization of this liability. As of June 30, 2021, the unamortized balance of this liability was \$38,690.

See Note 9 for further information regarding our relationship, agreements and transactions with Sonesta.

Hyatt agreement. On June 7, 2021, we and Hyatt amended our previous agreement for 22 hotels we own, or our Hyatt agreement. Under the amended agreement, Hyatt will continue to manage 17 of the hotels we own for a 10 year term effective April 1, 2021. The amended agreement sets our annual minimum return at \$12,000 and Hyatt provided us with a new \$30,000 limited guarantee for 75% of the aggregate annual minimum returns due to us beginning in 2023. Under the amended agreement, a management fee of 5% of gross room revenues payable to Hyatt will be an operating cost paid senior to our minimum return. Hyatt may also earn a 20% incentive management fee after payment of our annual minimum return and reimbursement of certain advances, if any. We also agreed to fund approximately \$50,000 of renovations that are expected to be completed by the end of 2022. As described above, we transitioned the branding and management of the remaining five hotels to Sonesta in June 2021.

We realized returns of \$2,311 and \$5,509 during the three months ended June 30, 2021 and 2020, respectively, and returns of \$3,867 and \$11,019 during the six months ended June 30, 2021 and 2020, respectively, under our Hyatt agreement. Any returns we receive from Hyatt are currently limited to the hotels' available cash flows, if any, after payment of operating expenses. During the three months ended June 30, 2021, we expensed \$3,700 of working capital we previously funded under our Hyatt agreement because the amount is no longer expected to be recoverable. This amount is included in transaction related costs in our condensed consolidated statement of income (loss).

Radisson agreement. Our management agreement with Radisson for nine hotels, or our Radisson agreement, which expires in 2037, provides that, as of June 30, 2021, we are to be paid an annual minimum return of \$20,601. We realized minimum returns of \$4,906 and \$5,111 during the three months ended June 30, 2021 and 2020, respectively, and \$10,056 and \$10,221 during the six months ended June 30, 2021 and 2020, respectively, under our Radisson agreement. Pursuant to our Radisson agreement, Radisson has provided us with a guaranty, which is limited to \$47,523. During the three and six months ended June 30, 2021, the hotels under our Radisson agreement generated cash flows that were less than the minimum returns due to us for the periods and Radisson made \$5,306 and \$13,238, respectively, of guaranty payments to cover part of the shortfall and the Radisson guaranty was exhausted as of June 30, 2021. In addition to our minimum returns, our Radisson agreement provides for payment to us of 50% of the hotels' available cash flows after payment of operating expenses, funding the required FF&E reserve, payment of our minimum returns, reimbursement of our working capital advances and reimbursement to Radisson of working capital and guaranty advances, if any. We and Radisson are currently in discussions regarding possible changes to our Radisson agreement that may result in some or all of the hotels remaining Radisson managed. However, if such discussions do

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not result in a mutually acceptable agreement for Radisson to continue to manage some or all of these hotels, we expect to transition management of those hotels to Sonesta.

Marriott agreement. As of January 1, 2021, Marriott managed 105 of our hotels under agreements we had terminated in 2020 for Marriott's failure to pay the cumulative shortfall between the payments we had received and 80% of the cumulative priority returns due to us in accordance with the agreement. We transitioned the branding and management of 88 Marriott managed hotels to Sonesta in February and March 2021. We sold one hotel that Marriott managed in April 2021 (see Note 4 for further information regarding this sale). As of June 30, 2021, Marriott managed 16 of our hotels. We are in arbitration proceedings with Marriott regarding, among other things, the timing and characterization of certain payments made to us, including Marriott's assertion we are required to refund \$19,120 of minimum return advances made to us in 2020, and the validity of the timing of the termination of the Marriott agreements, including an exit hotel agreement which, if not terminated, would require us to sell the 16 hotels encumbered with a Marriott brand. We are also seeking repayment of certain working capital advances we made to Marriott during 2020. We have entered an agreement with Marriott regarding the 16 hotels noted above, pursuant to which we agreed to have these hotels remain Marriott branded hotels until the arbitration is resolved.

Our Marriott hotels generated net operating cash flow of \$2,341 and a net operating cash flow deficit of \$12,580 during the three and six months ended June 30, 2021, respectively. Any returns we receive from Marriott are limited to the hotels' available cash flows, if any, after payment of operating expenses. Marriott managed 122 of our hotels during the three and six months ended June 30, 2020. We realized returns of \$28,789 and \$76,437 from our Marriott branded hotels during the three and six months ended June 30, 2020, respectively.

Other. Our management agreement with IHG for one hotel expires on January 31, 2026. Our IHG hotel generated net operating cash flow of \$156 and a cash flow deficit of \$1,344 during the three and six months ended June 30, 2021, respectively. Any returns we receive from IHG are limited to the hotels' available cash flows, if any, after payment of operating expenses. IHG managed or leased 103 of our hotels during the three and six months ended June 30, 2020. We realized returns of \$54,138 and \$108,223 under our IHG agreement during the three and six months ended June 30, 2020, respectively.

Net lease portfolio

As of June 30, 2021, we owned 796 net lease service-oriented retail properties with 13,440,784 square feet with leases requiring annual minimum rents of \$371,907 with a weighted (by annual minimum rents) average remaining lease term of 10.5 years. The portfolio was 98.5% leased by 171 tenants operating under 130 brands in 21 distinct industries.

As a result of the COVID-19 pandemic, some of our tenants requested rent assistance. During the three months ended June 30, 2021, we entered into rent deferral agreements for \$1,121 of rent with two net lease tenants. As of June 30, 2021, we had \$10,564 of deferred rents outstanding related to 35 tenants we granted rent relief to pursuant to these requests who represent approximately 2.9% of our annualized rental income of our net lease retail portfolio as of June 30, 2021. These deferred rents are included in other assets, net in our condensed consolidated balance sheets. These tenants are obligated to pay, in most cases, the deferred rent over a 12 months to 24 months period. We have elected to use the FASB relief package regarding the application of lease accounting guidance to lease concessions provided as a result of the COVID-19 pandemic and account for lease concessions resulting from the COVID-19 pandemic outside of the existing lease modification guidance as the resulting cash flows from the modified lease are substantially the same as or less than the original lease. The deferred amounts did not impact our operating results for the three or six months ended June 30, 2021.

We continually review receivables related to rent, straight-line rent and property operating expense reimbursements and determine collectability by taking into consideration the tenant's payment history, the financial condition of the tenant, business conditions in the industry in which the tenant operates and economic conditions in the area in which the property is located. The review includes an assessment of whether substantially all of the amounts due under a tenant's lease are probable of collection. For leases that are deemed probable of collection, revenue continues to be recorded on a straight-line basis over the lease term. For leases that are deemed not probable of collection, revenue is recorded as cash is received. We recognize all changes in the collectability assessment for an operating lease as an adjustment to rental income. We recorded reserves for uncollectible amounts against rental income of \$1,176 and \$4,995 for the three months ended June 30, 2021 and 2020, respectively, and \$5,960 and \$5,905 for the six months ended June 30, 2021 and 2020, respectively. We had reserves for uncollectible rents of \$23,786 and \$18,230 as of June 30, 2021 and December 31, 2020, respectively, included in other assets in our condensed consolidated balance sheets.

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TA is our largest tenant, leasing 26.7% of our gross carrying value or real estate properties as of June 30, 2021. We lease to TA a total of 179 travel centers under five leases that expire between 2029 and 2035, subject to TA's right to extend those leases, and require annual minimum rents of \$246,110 as of June 30, 2021. In addition, TA is required to pay us previously deferred rent obligations in quarterly installments of \$4,404 through January 31, 2023. TA paid \$4,404 and \$8,808 of deferred rent to us for the three and six months ended June 30, 2021 and 2020, respectively. The remaining balance of previously deferred rents was \$30,824 and \$39,632 as of June 30, 2021 and December 31, 2020, respectively.

We recognized rental income from TA of \$62,077 and \$61,528 for the three months ended June 30, 2021 and 2020, respectively, and \$124,154 and \$123,055 for the six months ended June 30, 2021 and 2020, respectively. Rental income was reduced by \$3,217 and \$3,236 for the three months ended June 30, 2021 and 2020, respectively, and \$6,522 and \$6,584 for the six months ended June 30, 2021 and 2020, respectively, to record the deferred rent obligations under our TA leases and the estimated future payments to us by TA for the cost of removing underground storage tanks on a straight-line basis. As of June 30, 2021 and December 31, 2020, we had receivables for current rent amounts owed to us by TA and straight-line rent adjustments of \$49,636 and \$55,530, respectively. These amounts are included in due from related persons in our condensed consolidated balance sheets.

In addition to the rental income that we recognized during the three months ended June 30, 2021 and 2020 as described above, our TA leases require TA to pay us percentage rent based upon increases in certain sales. We determine percentage rent due under our TA leases annually and recognize any resulting amount as rental income when all contingencies are met. We had aggregate deferred percentage rent under our TA leases of \$1,591 and \$124 for the three months ended June 30, 2021 and 2020, respectively, and \$2,977 and \$849 for the six months ended June 30, 2021 and 2020, respectively.

Our TA leases do not require FF&E escrow deposits. However, TA is required to maintain the leased travel centers, including structural and non-structural components. Under our TA leases, TA may request that we fund capital improvements in return for increases in TA's annual minimum rent equal to 8.5% of the amounts funded. We did not fund any capital improvements to our properties that we leased to TA during each of the three and six months ended June 30, 2021 or 2020.

See Note 9 for further information regarding our relationship with TA.

Our other net lease agreements generally provide for minimum rent payments and in addition may include variable payments. Rental income from operating leases, including any payments derived by index or market-based indices, is recognized on a straight-line basis over the lease term when we have determined that the collectability of substantially all of the lease payments is probable. Some of our leases have options to extend or terminate the lease exercisable at the option of our tenants, which are considered when determining the lease term. We recognized rental income from our net lease properties (excluding TA) of \$33,479 and \$32,386 for the three months ended June 30, 2021 and 2020, respectively, which included \$2,919 and \$4,099, respectively, of adjustments to record scheduled rent changes under certain of our leases on a straight-line basis and \$63,163 and \$69,039 for the six months ended June 30, 2021 and 2020, respectively, which included \$6,523 and \$5,800, respectively, of adjustments to record scheduled rent changes under certain of our leases on a straight-line basis.

Note 6. Indebtedness

Our principal debt obligations at June 30, 2021 were: (1) \$1,000,000 of outstanding borrowings under our \$1,000,000 revolving credit facility; and (2) \$6,200,000 aggregate outstanding principal amount of senior unsecured notes. Our revolving credit facility is governed by a credit agreement with a syndicate of institutional lenders.

The maturity date of our revolving credit facility is July 15, 2022, and, subject to the payment of an extension fee and meeting certain other conditions, we have an option to extend the maturity date of the facility for two additional six-month periods. We can borrow, repay and reborrow funds available under our revolving credit facility until maturity, and no principal repayment is due until maturity. We are required to pay interest on borrowings under our revolving credit facility at the rate of LIBOR plus a premium, which was 235 basis points per annum, subject to a LIBOR floor of 0.50%, as of June 30, 2021. We also pay a facility fee, which was 30 basis points per annum at June 30, 2021, on the total amount of lending commitments under our revolving credit facility. Both the interest rate premium and the facility fee are subject to adjustment based upon changes to our credit ratings. As of June 30, 2021, the annual interest rate payable on borrowings under our revolving credit facility was 2.85%. The weighted average annual interest rate for borrowings under our revolving credit facility was 2.85% and 2.00% for the three months ended June 30, 2021 and 2020, respectively, and 2.85% and 2.30% for the six months ended

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June 30, 2021 and 2020, respectively. As of each of June 30, 2021 and August 4, 2021, our \$1,000,000 revolving credit facility was fully drawn.

We and our lenders amended our credit agreement governing our \$1,000,000 revolving credit facility in 2020. Among other things, the amendments waived all of the then existing financial covenants through the end of the agreement term, or July 15, 2022, or the Waiver Period. As a result of the amendments, among other things:

- we pledged certain equity interests of subsidiaries owning properties and provided first mortgage liens on 74 properties owned by certain of the pledged subsidiaries with an undepreciated book value of \$1,834,420 as of June 30, 2021 to secure our obligations under the credit agreement;
- we have the ability to fund up to \$250,000 of capital expenditures per year and up to \$50,000 of certain other investments per year as defined in the credit agreement;
- we agreed to certain covenants and restrictions on distributions to common shareholders, share repurchases, incurring indebtedness, and acquiring real property (in each case subject to various exceptions);
- we agreed to maintain minimum liquidity of \$125,000;
- we are generally required to apply the net cash proceeds from the disposition of assets, capital markets transactions and debt refinancings to repay outstanding amounts under the credit agreement, and then to other debt maturities; and
- we may not, during the Waiver Period and until we demonstrate compliance with certain covenants, utilize the feature in our credit agreement pursuant to which maximum aggregate borrowings may be increased to up to \$2,300,000 on a combined basis in certain circumstances.

Our credit agreement and our unsecured senior notes indentures and their supplements provide for acceleration of payment of all amounts outstanding upon the occurrence and continuation of certain events of default, such as, in the case of our credit agreement, a change of control of us, which includes The RMR Group LLC, or RMR LLC, ceasing to act as our business manager. Our credit agreement and our unsecured senior notes indentures and their supplements also contain covenants, including those that restrict our ability to incur debts or to make distributions under certain circumstances and generally require us to maintain certain financial ratios. As of June 30, 2021, we were not in compliance with one of our debt covenants necessary to incur additional debt, and as a result, we will not be able to incur additional debt until we meet the required covenant level.

Note 7. Shareholders' Equity

Distributions

During the three months ended June 30, 2021, we declared and paid regular quarterly distributions to common shareholders as follows:

Declaration Date	Record Date	Paid Date	Dividend Per Common Share	Total Distributions
January 14, 2021	January 25, 2021	February 18, 2021	\$ 0.01	\$ 1,648
April 15, 2021	April 26, 2021	May 20, 2021	0.01	1,648
			\$ 0.02	\$ 3,296

On July 15, 2021, we declared a regular quarterly distribution to common shareholders of record as of July 26, 2021 of \$0.01 per share, or \$1,648. We expect to pay this amount on or about August 19, 2021.

Share Awards

On June 16, 2021, in accordance with our Trustee compensation arrangements, we awarded 7,000 of our common shares, valued at \$13.94 per common share, the closing price of our common shares on The Nasdaq Stock Market, or Nasdaq, on that day, to each of our seven Trustees as part of their annual compensation.

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Share Purchases

During the six months ended June 30, 2021, we purchased an aggregate of 15,079 of our common shares valued at a weighted average share price of \$12.60 per share, from a former officer and a former officer and employee of RMR LLC in satisfaction of tax withholding and payment obligations in connection with the vesting of awards of our common shares.

Note 8. Business and Property Management Agreements with RMR LLC

We have no employees. The personnel and various services we require to operate our business are provided to us by RMR LLC. We have two agreements with RMR LLC to provide management services to us: (1) a business management agreement, which relates to our business generally, and (2) a property management agreement, which relates to our property level operations of our net lease portfolio, excluding properties leased to TA, the office building component of one of our hotels and to major renovation or repositioning activities at our hotels.

We recognized net business management fees payable to RMR LLC of \$10,743 and \$8,411 for the three months ended June 30, 2021 and 2020, respectively, and \$21,042 and \$18,971 for the six months ended June 30, 2021 and 2020, respectively. Based on our common share total return, as defined in our business management agreement, as of each of June 30, 2021 and 2020, no incentive fees are included in the net business management fees we recognized for the three and six months ended June 30, 2021 or 2020. The actual amount of annual incentive fees for 2021, if any, will be based on our common share total return, as defined in our business management agreement, for the three-year period ending December 31, 2021, and will be payable in January 2022. We did not incur an incentive fee payable to RMR LLC for the year ended December 31, 2020. We include business management fee amounts in general and administrative expenses in our condensed consolidated statements of income (loss).

We recognized property management and construction supervision fees payable to RMR LLC of \$1,077 and \$921 for the three months ended June 30, 2021 and 2020, respectively, and \$1,881 and \$1,941 for the six months ended June 30, 2021 and 2020, respectively. Of those amounts, for the three months ended June 30, 2021 and 2020, \$875 and \$913, respectively, of property management fees were expensed to other operating expenses in our condensed consolidated statements of income (loss) and \$202 and \$8, respectively, of construction and supervision fees were capitalized and included in building, improvements and equipment in our condensed consolidated balance sheets and are being depreciated over the estimated useful lives of the related capital assets. For the six months ended June 30, 2021 and 2020, \$1,678 and \$1,929, respectively, of property management fees were expensed to other operating expenses in our condensed consolidated statements of income (loss) and \$203 and \$12, respectively, of construction and supervision fees were capitalized and included in building, improvements and equipment in our condensed consolidated balance sheets and are being depreciated over the estimated useful lives of the related capital assets.

We are generally responsible for all our operating expenses, including certain expenses incurred or arranged by RMR LLC on our behalf. We are generally not responsible for payment of RMR LLC's employment, office or administrative expenses incurred to provide management services to us, except for the employment and related expenses of RMR LLC employees assigned to work exclusively or partly at our net lease properties, our share of the wages, benefits and other related costs of RMR LLC's centralized accounting personnel, our share of RMR LLC's costs for providing our internal audit function, and as otherwise agreed. We reimbursed RMR LLC \$734 and \$139 for these expenses and costs for the three months ended June 30, 2021 and 2020, respectively, and \$1,478 and \$266 for the six months ended June 30, 2021 and 2020, respectively. We included these amounts in other operating expenses and selling, general and administrative expenses, as applicable, in our condensed consolidated statements of income (loss).

On June 22, 2021, we and RMR LLC amended our property management agreement to, among other things, provide for RMR LLC's oversight of any major capital projects and repositioning activities at our hotels, including our hotels that are managed by Sonesta, as we may request from time to time. RMR LLC will receive the same fee previously paid to Sonesta for these services, which is equal to 3% of the cost of any such major capital project or repositioning activity.

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Note 9. Related Person Transactions

We have relationships and historical and continuing transactions with TA, Sonesta, RMR LLC, The RMR Group, Inc., or RMR Inc., and others related to them, including other companies to which RMR LLC or its subsidiaries provide management services and some of which have trustees, directors or officers who are also our Trustees or officers. RMR LLC is a majority owned operating subsidiary of RMR Inc. The Chair of our Board of Trustees and one of our Managing Trustees, Adam D. Portnoy, is the sole trustee, an officer and the controlling shareholder of ABP Trust, which is the controlling shareholder of RMR Inc., a managing director and the president and chief executive officer of RMR Inc. and an officer and employee of RMR LLC. John G. Murray, our other Managing Trustee and our President and Chief Executive Officer also serves as an officer and employee of RMR LLC. In addition, each of our other officers serves as an officer of RMR LLC. Some of our Independent Trustees also serve as independent trustees or independent directors of other public companies to which RMR LLC or its subsidiaries provide management services. Adam Portnoy serves as chair of the boards of trustees or boards of directors of several of these public companies and as a managing director or managing trustee of these public companies. Other officers of RMR LLC, including Mr. Murray and certain of our other officers, serve as managing trustees, managing directors or officers of certain of these companies.

TA. We lease 179 of our travel centers to TA under our TA leases. As of June 30, 2021, we owned 1,184,797 shares of TA common stock, representing approximately 8.1% of TA's outstanding shares of common stock. RMR LLC provides management services to both us and TA, and Adam D. Portnoy, also serves as the chair of the board of directors and as a managing director of TA and, as of June 30, 2021, beneficially owned 658,506 shares of TA common stock (including through RMR LLC), representing approximately 4.5% of TA's outstanding shares of common stock. See Note 5 for further information regarding our relationships, agreements and transactions with TA and Note 12 for further information regarding our investment in TA.

Sonesta. Sonesta is a private company. One of our Managing Trustees, Mr. Portnoy, is the controlling shareholder and a director of Sonesta. One of Sonesta's other directors is our other Managing Trustee, President and Chief Executive Officer and Sonesta's other director serves as RMR LLC's and RMR Inc.'s executive vice president, general counsel and secretary, as a managing director of RMR Inc. and as our Secretary. Sonesta's chief executive officer and chief financial officer are officers of RMR LLC. Certain other officers and employees of Sonesta are former employees of RMR LLC. RMR LLC also provides certain services to Sonesta. As of June 30, 2021, we owned approximately 34% of Sonesta which managed 261 of our hotels. See Note 5 for further information regarding our relationships, agreements and transactions with Sonesta.

Our Manager, RMR LLC. We have two agreements with RMR LLC to provide management services to us. See Note 8 for further information regarding our management agreements with RMR LLC.

For further information about these and certain other such relationships and certain other related person transactions, refer to our 2020 Annual Report.

Note 10. Income Taxes

We have elected to be taxed as a REIT under the United States Internal Revenue Code of 1986, as amended, or the IRC, and, as such, are generally not subject to federal and most state income taxation on our operating income provided we distribute our taxable income to our shareholders and meet certain organization and operating requirements. We are subject to income tax in Canada, Puerto Rico and certain states despite our qualification for taxation as a REIT. Further, we lease our managed hotels to our wholly owned TRSs that, unlike most of our subsidiaries, file a separate consolidated tax return and are subject to federal, state and foreign income taxes. Our consolidated income tax provision includes the income tax provision related to the operations of our TRSs and certain state and foreign income taxes incurred by us despite our qualification for taxation as a REIT.

During the three months ended June 30, 2021, we recognized income tax expense of \$211, which includes \$70 of foreign taxes and \$141 of state taxes. During the three months ended June 30, 2020, we recognized income tax expense of \$16,660 which includes \$451 of foreign taxes and \$559 of state taxes and a \$15,650 deferred tax liability recorded as a result of the book value to tax basis difference related to the accounting of an insurance settlement at one of our hotels. During the six months ended June 30, 2021, we recognized income tax expense of \$1,064, which includes \$170 of foreign taxes and \$894 of state taxes. During the six months ended June 30, 2020, we recognized income tax expense of \$17,002 which includes \$502 of foreign taxes, \$850 of state taxes and the \$15,650 deferred tax liability described above.

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Note 11. Segment Information

We aggregate our hotels and net lease portfolio into two reportable segments, hotel investments and net lease investments, based on their similar operating and economic characteristics.

	Hotels	For the Three Months Ended June 30, 2021		Consolidated
		Net Lease	Corporate	
Revenues:				
Hotel operating revenues	\$ 280,135	\$ —	\$ —	\$ 280,135
Rental income	245	95,556	—	95,801
Total revenues	280,380	95,556	—	375,936
Expenses:				
Hotel operating expenses	243,183	—	—	243,183
Other operating expenses	—	3,904	—	3,904
Depreciation and amortization	66,582	55,095	—	121,677
General and administrative	—	—	13,952	13,952
Transaction related costs	6,151	—	—	6,151
Loss on asset impairment	—	899	—	899
Total expenses	315,916	59,898	13,952	389,766
Gain on sale of real estate, net	10,813	36	—	10,849
Unrealized gains on equity securities, net	—	—	2,500	2,500
Interest income	—	—	225	225
Interest expense	—	—	(91,378)	(91,378)
Income (loss) before income taxes and equity in earnings of an investee	(24,723)	35,694	(102,605)	(91,634)
Income tax expense	—	—	(211)	(211)
Equity in earnings of an investee	735	—	—	735
Net income (loss)	\$ (23,988)	\$ 35,694	\$ (102,816)	\$ (91,110)
	Hotels	For the Six Months Ended June 30, 2021		Consolidated
		Net Lease	Corporate	
Revenues:				
Hotel operating revenues	\$ 449,088	\$ —	\$ —	\$ 449,088
Rental income	701	187,317	—	188,018
Total revenues	449,789	187,317	—	637,106
Expenses:				
Hotel operating expenses	438,536	—	—	438,536
Other operating expenses	—	7,321	—	7,321
Depreciation and amortization	134,707	111,338	—	246,045
General and administrative	—	—	26,609	26,609
Transaction related costs	25,785	—	—	25,785
Loss on asset impairment	—	2,110	—	2,110
Total expenses	599,028	120,769	26,609	746,406
Gain on sale of real estate, net	10,813	27	—	10,840
Unrealized losses on equity securities, net	—	—	(3,981)	(3,981)
Interest income	—	—	282	282
Interest expense	—	—	(180,769)	(180,769)
Income (loss) before income taxes and equity in losses of an investee	(138,426)	66,575	(211,077)	(282,928)
Income tax expense	—	—	(1,064)	(1,064)
Equity in losses of an investee	(2,108)	—	—	(2,108)
Net income (loss)	\$ (140,534)	\$ 66,575	\$ (212,141)	\$ (286,100)
	Hotels	As of June 30, 2021		Consolidated
		Net Lease	Corporate	
Total assets	\$ 4,760,796	\$ 3,708,974	\$ 945,965	\$ 9,415,735

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

	Hotels	For the Three Months Ended June 30, 2020			Consolidated
		Net Lease	Corporate		
Revenues:					
Hotel operating revenues	\$ 117,356	\$ —	\$ —	\$	117,356
Rental income	1,992	95,592	—		97,584
Total revenues	119,348	95,592	—		214,940
Expenses:					
Hotel operating expenses	46,957	—	—		46,957
Other operating expenses	—	3,565	—		3,565
Depreciation and amortization	67,898	59,529	—		127,427
General and administrative	—	—	11,302		11,302
Loss on asset impairment	22,361	6,153	—		28,514
Total expenses	137,216	69,247	11,302		217,765
Loss on sale of real estate, net	—	(2,853)	—		(2,853)
Gain on insurance settlement	62,386	—	—		62,386
Unrealized gains on equity securities, net	—	—	3,848		3,848
Interest income	15	—	—		15
Interest expense	—	—	(72,072)		(72,072)
Loss on early extinguishment of debt	—	—	(6,970)		(6,970)
Income (loss) before income taxes and equity in losses of an investee	44,533	23,492	(86,496)		(18,471)
Income tax expense	—	—	(16,660)		(16,660)
Equity in losses of an investee	(2,218)	—	—		(2,218)
Net income (loss)	\$ 42,315	\$ 23,492	\$ (103,156)	\$	(37,349)
For the Six Months Ended June 30, 2020					
	Hotels	Net Lease	Corporate		Consolidated
Revenues:					
Hotel operating revenues	\$ 500,859	\$ —	\$ —	\$	500,859
Rental income	2,573	195,284	—		197,857
Total revenues	503,432	195,284	—		698,716
Expenses:					
Hotel operating expenses	318,105	—	—		318,105
Other operating expenses	—	7,324	—		7,324
Depreciation and amortization	135,438	119,915	—		255,353
General and administrative	—	—	25,326		25,326
Loss on asset impairment	22,361	22,893	—		45,254
Total expenses	475,904	150,132	25,326		651,362
Loss on sale of real estate, net	—	(9,764)	—		(9,764)
Gain on insurance settlement	62,386	—	—		62,386
Unrealized loss on equity securities, net	—	—	(1,197)		(1,197)
Interest income	162	—	115		277
Interest expense	—	—	(143,147)		(143,147)
Loss on early extinguishment of debt	—	—	(6,970)		(6,970)
Income (loss) before income taxes and equity in losses of an investee	90,076	35,388	(176,525)		(51,061)
Income tax expense	—	—	(17,002)		(17,002)
Equity in losses of an investee	(2,936)	—	—		(2,936)
Net income (loss)	\$ 87,140	\$ 35,388	\$ (193,527)	\$	(70,999)
As of December 31, 2020					
	Hotels	Net Lease	Corporate		Consolidated
Total assets	\$ 4,846,410	\$ 3,721,418	\$ 119,491	\$	8,687,319

Note 12. Fair Value of Assets and Liabilities

The table below presents certain of our assets carried at fair value at June 30, 2021, categorized by the level of inputs, as defined in the fair value hierarchy under GAAP, used in the valuation of each asset.

SERVICE PROPERTIES TRUST
Notes to Condensed Consolidated Financial Statements
(dollars in thousands, except share data)
(Unaudited)

	June 30, 2021		December 31, 2020	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Recurring Fair Value Measurement Assets:				
Investment in TA (Level 1) ⁽¹⁾	\$ 34,643	\$ 34,643	\$ 38,624	\$ 38,624
Non-Recurring Fair Value Measurement Assets:				
Assets of properties held for sale (Level 2) ⁽²⁾	\$ 4,259	\$ 4,259	\$ 13,543	\$ 13,543

- (1) As of June 30, 2021 and December 31, 2020, we owned 1,184,797 shares of TA common stock, which are included in other assets in our condensed consolidated balance sheets and reported at fair value based on quoted market prices (Level 1 inputs). Our historical cost basis for these shares was \$24,418 as of both June 30, 2021 and December 31, 2020. We recorded unrealized gains of \$2,500 and \$3,848 during the three months ended June 30, 2021 and 2020, respectively, and unrealized losses of \$3,981 and \$1,197 during the six months ended June 30, 2021 and 2020, respectively, to adjust the carrying value of our investment in shares of TA common stock to its fair value.
- (2) As of June 30, 2021, we owned eight net lease properties located in six states with an aggregate carrying value of \$4,259 classified as held for sale. These properties are recorded at their estimated fair value less costs to sell based on information derived from offers received from prospective buyers of the properties (Level 2 inputs as defined in the fair value hierarchy under GAAP). We recorded a \$899 loss on asset impairment during the three months ended June 30, 2021 to reduce the carrying value of three of these properties to their estimated fair value less costs to sell. As of December 31, 2020, we owned five hotels in four states with an aggregate carrying value of \$10,699 and six net lease properties located in six states with an aggregate carrying value of \$2,844 classified as held for sale.

In addition to the assets included in the table above, our financial instruments include our cash and cash equivalents, restricted cash, rents receivable, revolving credit facility and senior notes. At June 30, 2021 and December 31, 2020, the fair values of these additional financial instruments approximated their carrying values in our condensed consolidated balance sheets due to their short-term nature or floating interest rates, except as follows:

	June 30, 2021		December 31, 2020	
	Carrying Value ⁽¹⁾	Fair Value	Carrying Value ⁽¹⁾	Fair Value
Senior Unsecured Notes, due 2022 at 5.00%	\$ 498,638	\$ 509,700	\$ 498,032	\$ 510,285
Senior Unsecured Notes, due 2023 at 4.50%	499,678	513,763	499,596	505,280
Senior Unsecured Notes, due 2024 at 4.65%	348,903	357,469	348,700	347,893
Senior Unsecured Notes, due 2024 at 4.35%	820,281	835,176	819,546	819,328
Senior Unsecured Notes, due 2025 at 4.50%	347,462	349,309	347,118	346,462
Senior Unsecured Notes, due 2025 at 7.50%	790,173	908,460	789,006	926,404
Senior Unsecured Notes, due 2026 at 5.25%	344,777	356,605	344,212	354,996
Senior Unsecured Notes, due 2026 at 4.75%	446,821	444,503	446,515	448,506
Senior Unsecured Notes, due 2027 at 4.95%	395,782	400,332	395,405	404,328
Senior Unsecured Notes, due 2027 at 5.50%	442,837	479,689	442,370	491,918
Senior Unsecured Notes, due 2028 at 3.95%	392,483	378,184	391,908	388,146
Senior Unsecured Notes, due 2029 at 4.95%	418,498	419,575	418,102	430,064
Senior Unsecured Notes, due 2030 at 4.375%	390,221	383,294	389,656	388,292
Total financial liabilities	\$ 6,136,554	\$ 6,336,059	\$ 6,130,166	\$ 6,361,902

- (1) Carrying value includes unamortized discounts and premiums and issuance costs.

At June 30, 2021 and December 31, 2020, we estimated the fair values of our senior notes using an average of the bid and ask price of our then outstanding issuances of senior notes (Level 2 inputs).

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

The following discussion should be read in conjunction with our condensed consolidated financial statements and notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and with our 2020 Annual Report.

Overview (dollar amounts in thousands, except share amounts and per-room hotel data)

We are a REIT organized under the laws of the State of Maryland. As of June 30, 2021, we owned 1,100 properties in 47 states, the District of Columbia, Canada and Puerto Rico.

Business Environment and Outlook. Since March 2020, the lodging industry and other industries in which our managers and tenants operate have been adversely impacted by the COVID-19 global pandemic, along with federal, state and local government mandates intended to contain and mitigate the spread of COVID-19 and market reactions to the pandemic. The effects of COVID-19 continue to have a significant negative impact on our results of operations, financial position and cash flow. Although lodging demand improved during the second quarter of 2021 when compared to 2020 levels, we cannot predict with certainty when business levels may return to historical levels. We currently expect that the recovery with respect to business transient and group business will be gradual and likely inconsistent. We currently expect the recovery of the U.S. hospitality industry to be a multi-year process and to remain uneven. In addition, consumer confidence and lodging demand will continue to be affected by unemployment, perceptions of the safety of returning to normal activities, the continued use of video conferencing technologies rather than in person meetings and broader macroeconomic trends. For more information and risks relating to the COVID-19 pandemic on us and our business, see Part I, Item 1, "Business—Impact of COVID-19" and Part I, Item 1A, "Risk Factors", of our 2020 Annual Report. Our manager, RMR LLC, has taken various actions in response to the COVID-19 pandemic to address its operating and financial impact on us. In addition, we are continuing to closely monitor the impact of the COVID-19 pandemic on all aspects of our business. For more information regarding these actions and monitoring activities, see our 2020 Annual Report.

Management agreements and leases. At June 30, 2021, we owned 304 hotels operated under six agreements. We leased these hotels to our wholly owned TRSs that are managed by hotel operating companies. We own 796 service-oriented properties with 171 tenants subject to "triple net" leases, where the tenants are generally responsible for the payment of operating expenses and capital expenditures. Our condensed consolidated statements of income (loss) include hotel operating revenues and hotel operating expenses from our managed hotels and rental income and other operating expenses from our leased hotels and net lease properties.

In February and March 2021, we transitioned the branding and management of 88 hotels to Sonesta from Marriott and, in June 2021, we transitioned the branding and management of five hotels to Sonesta from Hyatt. For further information regarding these transfers, see Note 5 to our condensed consolidated financial statements in Part I, Item 1 of this Quarterly Report on Form 10-Q.

On June 7, 2021, we and Hyatt amended our Hyatt agreement. Under the amended agreement, Hyatt will continue to manage 17 of the 22 hotels we own for a 10-year term effective April 1, 2021. For further information regarding our Hyatt agreement, see Note 5 to our condensed consolidated financial statements in Part I, Item 1 of this Quarterly Report on Form 10-Q.

We and Radisson are currently in discussions regarding possible changes to our Radisson agreement that may result in some or all of the hotels remaining Radisson managed. However, if such discussions do not result in a mutually acceptable agreement for Radisson to continue to manage some or all of these hotels, we expect to transition management of those hotels to Sonesta. For further information on our Radisson and Sonesta agreements, see Notes 5 and 9 to our condensed consolidated financial statements in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Hotel Portfolio. As of June 30, 2021, we owned 304 hotels. In the second quarter of 2021, the U.S. hotel industry generally realized increases in average daily rate, or ADR, revenue per available room, or RevPAR, and occupancy compared to 2020. During the quarter ended June 30, 2021, our 304 hotels that we owned as of June 30, 2021 produced aggregate quarter over quarter increases in ADR, RevPAR and occupancy. The following table provides a summary of these revenue metrics for the periods presented which we believe are key indicators of performance at our hotels.

All Hotels	Three Months Ended June 30,						Six Months Ended June 30,						
	2021		2020		Change		2021		2020		Change		
No. of hotels		304		304		—		304		304		—	
No. of rooms or suites		48,439		48,439		—		48,439		48,439		—	
Occupancy		56.6	%	27.6	%	29.0	pts	48.3	%	42.2	%	6.1	
ADR	\$	100.72		\$	85.52	17.8	%	\$	95.54		\$	112.43	(15.0)
RevPAR	\$	57.01		\$	23.60	141.5	%	\$	46.15		\$	47.45	(2.7)

Comparable hotels data. We present RevPAR, ADR and occupancy for the periods presented on a comparable basis to facilitate comparisons between periods. We generally define comparable hotels as those that were owned by us and were open and operating for the entire periods being compared. For the three months ended June 30, 2021 and 2020, our comparable results exclude 21 hotels that had suspended operations during part of the periods presented. For the six months ended June 30, 2021 and 2020, SVC's comparable results exclude 22 hotels that had suspended operations during part of the periods presented. The following table provides a summary of these revenue metrics for the periods presented.

Comparable Hotels	Three Months Ended June 30,						Six Months Ended June 30,					
	2021		2020		Change		2021		2020		Change	
No. of hotels	283		283		—		282		282		—	
No. of rooms or suites	42,414		42,414		—		42,292		42,292		—	
Occupancy	57.9	%	30.6	%	27.3	pts	49.6	%	44.2	%	5.4	
ADR	\$	92.59	\$	84.61	9.4	%	\$	89.13	\$	106.21	(16.1)	
RevPAR	\$	53.61	\$	25.89	107.1	%	\$	44.21	\$	46.94	(5.8)	

We believe these results are primarily due to the improved lodging fundamentals in the current year periods and disruption and displacement at certain of our hotels as a result of the COVID-19 pandemic that negatively affected results in the prior year periods.

Net Lease Portfolio. As of June 30, 2021, we owned 796 net lease service-oriented retail properties with 13,440,784 square feet leased to 171 tenants subject to “triple net” leases (where the tenants are responsible for payments of operating expenses and capital expenditures) requiring annual minimum rent of \$371,907. Our net lease portfolio was 98.5% occupied as of June 30, 2021 with a weighted (by annual minimum rent) lease term of 10.5 years, operating under 130 brands in 21 distinct industries. TA is our largest tenant. As of June 30, 2021, we leased 179 travel centers to TA under five master leases that expire between 2029 and 2035 and require annual minimum rents of \$246,110.

Additional details of our hotel operating agreements and our net lease agreements are set forth in Notes 5 and 9 to our condensed consolidated financial statements in Part I, Item 1 of this Quarterly Report on Form 10-Q and in the tables and notes thereto below.

Acquisitions and Dispositions. In March 2021, we acquired a land parcel adjacent to a property we own in Nashville, TN for a purchase price of \$7,709, including acquisition related costs.

During the six months ended June 30, 2021, we sold six hotels with 576 rooms for \$32,016, excluding closing costs, and three net lease properties with 38,041 square feet for \$2,035, excluding closing costs.

Results of Operations (dollar amounts in thousands, except share amounts)

Three Months Ended June 30, 2021 compared to the Three Months Ended June 30, 2020

Transition costs

	For the Three Months Ended June 30,			
	2021	2020	Increase (Decrease)	% Increase (Decrease)
Revenues:				
Hotel operating revenues	\$ 280,135	\$ 117,356	\$ 162,779	138.7 %
Rental income - hotels	245	1,992	(1,747)	(87.7) %
Rental income - net lease	95,556	95,592	(36)	— %
Total revenues	375,936	214,940	160,996	74.9 %
Expenses:				
Hotel operating expenses	243,183	46,957	196,226	417.9 %
Other operating expenses	3,904	3,565	339	9.5 %
Depreciation and amortization - hotels	66,582	67,898	(1,316)	(1.9) %
Depreciation and amortization - net lease	55,095	59,529	(4,434)	(7.4) %
Total depreciation and amortization	121,677	127,427	(5,750)	(4.5) %
General and administrative	13,952	11,302	2,650	23.4 %
Transaction related costs	6,151	—	6,151	n/m
Loss on asset impairment	899	28,514	(27,615)	(96.8) %
Total expenses	389,766	217,765	172,001	79.0 %
Other operating income:				
Gain (Loss) on sale of real estate, net	10,849	(2,853)	13,702	480.3 %
Gain on insurance settlement	—	62,386	(62,386)	(100.0) %
Unrealized gain on equity securities, net	2,500	3,848	(1,348)	(35.0) %
Interest income	225	15	210	n/m
Interest expense	(91,378)	(72,072)	(19,306)	(26.8) %
Loss on early extinguishment of debt	—	(6,970)	6,970	100.0 %
Loss before income taxes and equity in earnings (losses) of an investee	(91,634)	(18,471)	(73,163)	(396.1) %
Income tax expense	(211)	(16,660)	16,449	98.7 %
Equity in earnings (losses) of an investee	735	(2,218)	2,953	133.1 %
Net loss	\$ (91,110)	\$ (37,349)	\$ (53,761)	(143.9) %
Weighted average shares outstanding (basic and diluted)	164,506	164,382	124	0.1 %
Net loss per common share (basic and diluted)	\$ (0.55)	\$ (0.23)	\$ (0.32)	(139.1) %

References to changes in the income and expense categories below relate to the comparison of consolidated results for the three months ended June 30, 2021, compared to the three months ended June 30, 2020.

Hotel operating revenues. The increase in hotel operating revenues is primarily as a result of higher occupancies at certain of our hotels in the 2021 period and the negative impact the COVID-19 pandemic had on our hotels in the 2020 period (\$168,408), partially offset by the sale of certain hotels since April 1, 2020 (\$5,629). Additional operating statistics of our hotels are included in the table on page 29.

Rental income - hotels. The decrease in rental income – hotels is primarily the result of the conversion of one hotel from a leased to managed property during 2020.

Rental income - net lease. The decrease in rental income - net lease is primarily the result of certain vacancies and lease restructurings (\$2,885) and the sale of certain net lease properties since April 1, 2020 (\$898), partially offset by of lower reserves for uncollectible rents in the 2021 period (\$3,819).

Hotel operating expenses. The increase in hotel operating expenses is a result of an increase in occupancy at certain managed hotels (\$60,867), an increase in wages and benefits (\$24,422) and a decrease in the amount of guaranty and security deposit utilization under certain of our hotel management agreements (\$115,848), partially offset by the sale of certain hotels since April 1, 2020 (\$4,911). Hotel operating expenses were decreased by \$5,306 and \$121,155 during the three months ended June 30, 2021 and 2020, respectively, as a result of such guaranty and security deposit utilization.

Other operating expenses. The increase in other operating expenses is primarily the result of higher carrying costs at vacant properties.

Depreciation and amortization - hotels. The decrease in depreciation and amortization - hotels is a result of certain of our depreciable assets becoming fully depreciated since April 1, 2020 (\$4,006) and the sale of certain hotels since April 1, 2020 (\$1,591), partially offset by an increase in depreciation expense from capital improvements made since April 1, 2020 (\$4,281).

Depreciation and amortization - net lease. The decrease in depreciation and amortization - net lease is a result of our net lease dispositions since April 1, 2020 (\$3,668) and certain of our depreciable assets becoming fully depreciated since April 1, 2020 (\$766).

General and administrative. The increase in general and administrative costs is primarily due to an increase in business management fees as a result of an increase in market capitalization (\$2,331) and professional service expenses (\$319) in the 2021 period.

Transaction related costs. Transaction related costs for the three months ended June 30, 2021 includes \$3,700 of working capital we previously funded under our Hyatt agreement as a result of the amount no longer expected to be recoverable, \$1,110 of legal costs related to the arbitration claim against Marriott and \$1,341 of costs related to the rebranding of certain hotels.

Loss on asset impairment. We recorded a \$899 loss on asset impairment during the three months ended June 30, 2021 to reduce the carrying value of three net lease properties to their estimated fair value less costs to sell and a \$28,514 loss on asset impairment during the three months ended June 30, 2020 to reduce the carrying value of 17 hotels and four net lease properties to their estimated fair value less costs to sell.

Gain (loss) on sale of real estate, net. We recorded a \$10,849 net gain on sale of real estate during the three months ended June 30, 2021 in connection with the sale of six hotels and two net lease properties and a \$2,853 net loss on sale of real estate during the three months ended June 30, 2020 in connection with the sales of four net lease properties.

Gain on insurance settlement. We recorded a \$62,386 gain on insurance settlement during the three months ended June 30, 2020 for insurance proceeds received for our then leased hotel in San Juan, PR related to Hurricane Maria. Under GAAP, we were required to increase the building basis of this hotel for the amount of the insurance proceeds.

Unrealized gain on equity securities, net. Unrealized gain on equity securities, net represents the adjustment required to adjust the carrying value of our investment in shares of TA common stock to its fair value as of June 30, 2021 and 2020.

Interest income. The increase in interest income is due to higher average cash balances during the 2021 period.

Interest expense. The increase in interest expense is due to higher average outstanding borrowings and a higher weighted average interest rate in the 2021 period.

Loss on early extinguishment of debt. Loss on early extinguishment of debt represents costs incurred in 2020 for our repurchase of certain unsecured senior notes.

Income tax expense. We recognized lower income taxes during the 2021 period primarily due to a decrease in the amount of state and foreign sourced income subject to income taxes. We recorded a \$15,650 deferred tax liability as a result of the book value to tax basis difference related to the accounting of an insurance settlement during the three months ended June 30, 2020.

Equity in earnings (losses) of an investee. Equity in earnings (losses) of an investee represents our proportionate share of the earnings and losses of Sonesta.

Net loss. Our net loss and net loss per common share (basic and diluted) each increased in the 2021 period compared to the 2020 period primarily due to the revenue and expense changes discussed above.

Six Months Ended June 30, 2021 compared to the Six Months Ended June 30, 2020

	For the Six Months Ended June 30,			
	2021	2020	Increase (Decrease)	% Increase (Decrease)
Revenues:				
Hotel operating revenues	\$ 449,088	\$ 500,859	\$ (51,771)	(10.3) %
Rental income - hotels	701	2,573	(1,872)	(72.8) %
Rental income - net lease portfolio	187,317	195,284	(7,967)	(4.1) %
Total revenues	637,106	698,716	(61,610)	(8.8) %
Expenses:				
Hotel operating expenses	438,536	318,105	120,431	37.9 %
Other operating expenses	7,321	7,324	(3)	n/m
Depreciation and amortization - hotels	134,707	135,438	(731)	(0.5) %
Depreciation and amortization - net lease portfolio	111,338	119,915	(8,577)	(7.2) %
Total depreciation and amortization	246,045	255,353	(9,308)	(3.6) %
General and administrative	26,609	25,326	1,283	5.1 %
Transaction related costs	25,785	—	25,785	n/m
Loss on asset impairment	2,110	45,254	(43,144)	95.3 %
Total expenses	746,406	651,362	95,044	14.6 %
Other operating income:				
Gain (loss) on sale of real estate, net	10,840	(9,764)	20,604	211.0 %
Gain on insurance settlement	—	62,386	(62,386)	(100.0) %
Unrealized loss on equity securities, net	(3,981)	(1,197)	(2,784)	(232.6) %
Interest income	282	277	5	1.8 %
Interest expense	(180,769)	(143,147)	(37,622)	(26.3) %
Loss on early extinguishment of debt	—	(6,970)	6,970	100.0 %
Income before income taxes and equity in losses of an investee	(282,928)	(51,061)	(231,867)	n/m
Income tax expense	(1,064)	(17,002)	15,938	n/m
Equity in losses of an investee	(2,108)	(2,936)	828	n/m
Net loss	<u>\$ (286,100)</u>	<u>\$ (70,999)</u>	<u>\$ (215,101)</u>	<u>n/m</u>
Weighted average shares outstanding (basic and diluted)	<u>164,502</u>	<u>164,376</u>	<u>126</u>	<u>0.1 %</u>
Net loss per common share (basic and diluted)	<u>\$ (1.74)</u>	<u>\$ (0.43)</u>	<u>\$ (1.31)</u>	<u>n/m</u>

References to changes in the income and expense categories below relate to the comparison of consolidated results for the six months ended June 30, 2021, compared to the six months ended June 30, 2020.

Hotel operating revenues. The decrease in hotel operating revenues is a result of decreased occupancies at certain of our managed hotels primarily as a result of the impact of the COVID-19 pandemic starting in March 2020 (\$37,718) and the sale of certain of our hotels since January 1, 2020 (\$14,053). Additional operating statistics of our hotels are included in the table on page 29.

Rental income - hotels. The decrease in rental income - hotels is primarily a result of the conversion of one hotel from a leased to managed property during 2020.

Rental income - net lease portfolio. The decrease in rental income - net lease is primarily the result of the sale of properties since January 1, 2020 (\$4,765), rent adjustments and restructuring and a decrease in below market lease revenue amortizations (\$2,849) and certain tenant vacancies (\$353).

Hotel operating expenses. The increase in hotel operating expenses is primarily as a result of a decrease in the amount of guaranty and security deposit utilization under certain of our hotel management agreements (\$175,962), partially offset by a decrease in hotel operating expenses as a result of a decrease in occupancy at certain managed hotels primarily as a result of the COVID-19 pandemic (\$49,361), a decrease in wage and benefit costs, sales and marketing expenses at certain of our managed hotels (\$3,746), and a decrease in real estate taxes at certain of our hotels (\$2,424). Hotel operating expenses were decreased by \$15,696 and \$191,661 during the six months ended June 30, 2021 and 2020, respectively, as a result of such guaranty and security deposit utilization.

Other operating expenses. The decrease in other operating expenses is primarily the result of sale of certain net lease properties since January 1, 2020.

Depreciation and amortization - hotels. The decrease in depreciation and amortization - hotels is a result of certain of our depreciable assets becoming fully depreciated since January 1, 2020 (\$8,371) and our hotel dispositions since January 1, 2020 (\$3,030), partially offset by depreciation and amortization of improvements acquired with funds from our FF&E reserves or directly funded by us since January 1, 2020 (\$10,670).

Depreciation and amortization - net lease portfolio. The decrease in depreciation and amortization - net lease portfolio is a result of the depreciation and amortization of properties that were sold since January 1, 2020 (\$7,024) and by certain of our depreciable assets becoming fully depreciated since January 1, 2020 (\$1,553).

General and administrative. The increase in general and administrative costs is primarily due to higher business management fees as a result of increase in our market capitalization (\$2,070), partially offset by lower professional fees (\$787) in the 2021 period.

Transaction related costs. Transaction related costs for the six months ended June 30, 2021 includes \$3,700 of working capital we previously funded under our Hyatt agreement as a result of the amount no longer expected to be recoverable, \$2,257 of legal costs related to the arbitration claim against Marriott and \$19,828 of costs related to rebranding certain hotels.

Loss on asset impairment. We recorded a \$2,110 loss on asset impairment during the six months ended June 30, 2021 to reduce the carrying value of five net lease properties to their estimated fair value less costs to sell. We recorded a \$45,254 loss on asset impairment during the six months ended June 30, 2020 to reduce the carrying value of 17 hotels and six net lease properties to their estimated fair value.

Gain (loss) on sale of real estate, net. We recorded a \$10,840 net gain on sale of real estate in the 2021 period in connection with the sales of six hotels and three net lease properties and a \$9,764 net loss on sale of real estate in connection with the sales of ten net lease properties during the six months ended June 30, 2020.

Gain on insurance settlement. In the 2020 period we recorded a \$62,386 gain on insurance settlement as a result of insurance proceeds received for our then leased hotel in San Juan, PR related to Hurricane Maria.

Unrealized loss on equity securities, net. Unrealized loss on equity securities, net represents the adjustment required to adjust the carrying value of our investment in shares of TA common stock to its fair value as of June 30, 2021 and 2020.

Interest income. The increase in interest income is due to higher average cash balances during the 2021 period.

Interest expense. The increase in interest expense is due to higher average outstanding borrowings and weighted average interest rates in the 2021 period.

Loss on early extinguishment of debt. Loss on early extinguishment of debt represents losses incurred in the 2020 period for our repurchase of certain unsecured senior notes.

Income tax expense. We recorded a \$15,650 deferred tax liability as a result of the book value to tax basis difference related to the accounting of an insurance settlement in the 2020 period.

Equity in earnings (losses) of an investee. Equity in earnings (losses) of an investee represents our proportionate share of the earnings (losses) of Sonesta.

Net loss. Our net loss and net loss per common share (basic and diluted) each increased in the 2021 period compared to the 2020 period primarily due to the revenue and expense changes discussed above.

Liquidity and Capital Resources (dollar amounts in thousands, except share amounts)

Our Managers and Tenants

As of June 30, 2021, 304 of our hotels were managed by five hotel operating companies pursuant to six combination portfolio agreements. Our 796 net lease properties were leased to 171 tenants as of June 30, 2021. The costs of operating and maintaining our properties are generally paid by the hotel managers as agents for us or by our tenants for their own account. Our hotel managers and tenants derive their funding for property operating expenses and for returns and rents due to us generally from property operating revenues and, to the extent that these parties themselves fund our minimum returns and rents, from their separate resources. As of June 30, 2021, our hotel managers included Sonesta (261 hotels), Hyatt (17 hotels), Radisson (nine hotels), Marriott (16 hotels) and IHG (one hotel). TA is our largest tenant (179 travel centers).

The COVID-19 pandemic has had a material and adverse effect on the lodging and service industries and on our hotel managers' and tenants' businesses, which may reduce their ability or willingness to pay us our minimum returns and rents, increase the likelihood they will default in paying us returns and rent and reduce the value of those properties. We continue to carefully monitor the effects of the COVID-19 pandemic and its impact on our operators and our other stakeholders.

As of January 1, 2021, Marriott managed 105 of our hotels under agreements we had terminated in 2020 for Marriott's failure to pay the cumulative shortfall between the payments we had received and 80% of the cumulative priority returns due to us in accordance with the agreement. We transitioned the branding and management of 88 Marriott hotels to Sonesta in February 2021 and March 2021. We sold one Marriott hotel in April 2021. As of June 30, 2021, Marriott managed 16 of our hotels. For further information regarding this sale, see the Notes to condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q. We are in arbitration proceedings with Marriott regarding, among other things, the timing and characterization of certain payments made to us, including Marriott's assertion that we are required to refund \$19,120 of minimum return advances made to us in 2020, and the validity of the timing of the termination of the Marriott agreements, including an exit hotel agreement which, if not terminated, would require us to sell the 16 hotels encumbered with a Marriott brand. We are also seeking repayment of certain working capital advances we made to Marriott during 2020. We have entered an agreement with Marriott regarding the 16 hotels noted above, pursuant to which we agreed to have these hotels remain Marriott branded hotels until the arbitration is resolved.

On June 7, 2021, we and Hyatt amended our Hyatt agreement. Under the amended agreement, Hyatt will continue to manage 17 of the 22 hotels we own for a 10-year term effective April 1, 2021. The agreement sets our annual minimum return at \$12,000, and Hyatt provided us with a new \$30,000 limited guarantee for 75% of the aggregate annual minimum returns due to us beginning in 2023. Under the amended agreement a management fee of 5% of gross room revenues payable to Hyatt will be an operating cost paid senior to our minimum return. Hyatt may also earn a 20% incentive management fee after payment of our annual minimum return and reimbursement of certain advances, if any. We also agreed to fund approximately \$50,000 of renovations that are expected to be completed by the end of 2022. We transitioned the branding and management of the remaining five hotels to Sonesta in June 2021.

During the three months ended June 30, 2021, we entered into rent deferral agreements for \$1,121 of rent with two net lease tenants. We had \$10,564 of deferred rents outstanding related to 35 tenants who represent approximately 2.9% of our annualized rental income of our net lease retail portfolio as of June 30, 2021. Generally, these rent deferrals are payable by the tenants over a 12 months to 24 months period. We may receive additional similar requests in the future, and we may determine to grant additional relief in the future, which may vary from the type of relief we have granted to date, and could include more substantial relief, if we determine it prudent or appropriate to do so. In addition, if any of our tenants are unable to continue as going concerns as a result of the current economic conditions or otherwise, we will experience a reduction in rents received and we may be unable to find suitable replacement tenants for an extended period or at all and the terms of our leases with those replacement tenants may not be as favorable to us as the terms of our agreements with our existing tenants. As a result of these uncertainties surrounding the COVID-19 pandemic and the duration and extent of the resulting economic conditions, we are unable to determine what the ultimate impact will be on our tenants and their ability and willingness to pay us rent and any additional impact this pandemic will have on our future cash flows. During the three months ended June 30, 2021 and 2020, we recorded reserves for uncollectible rents of \$1,176 and \$4,995, respectively, and for the six months ended June 30, 2021 and 2020, we recorded reserves for uncollectible rents of \$5,960 and \$5,905, respectively, based on our assessment of whether amounts due under certain tenants' leases are probable of collection. We had reserves for uncollectible rents of \$23,786 and \$18,230 as of June 30, 2021 and December 31, 2020, respectively.

We define net lease coverage as earnings before interest, taxes, depreciation, amortization and rent, or EBITDAR, divided by the annual minimum rent due to us weighted by the minimum rent of the property to total minimum rents of the net lease portfolio. EBITDAR amounts used to determine rent coverage are generally for the latest twelve month period reported based on the most recent operating information, if any, furnished by the tenant. Operating statements furnished by the tenant often are unaudited and, in certain cases, may not have been prepared in accordance with GAAP and are not independently verified by us. Tenants that do not report operating information are excluded from the coverage calculations. In instances where we do not have financial information for our portion of the measurement period from our tenants, we have calculated an implied EBITDAR for the period using industry benchmark data to more accurately reflect the impact of COVID-19 on our tenants' operations. We believe using only financial information from the earlier periods could be misleading as it would not reflect the negative impact those tenants experienced as a result of the COVID-19 pandemic. As a result, we believe using this industry benchmark data provides a more accurate estimated representation of recent operating results and coverage for those tenants. Our net lease properties generated coverage of 2.29x and 2.16x as of June 30, 2021 and 2020, respectively.

Our Operating Liquidity and Capital Resources

Our principal sources of funds to meet operating and capital expenses, debt service obligations and distributions to our shareholders are minimum returns and rents from our hotels and net lease portfolio and borrowings under our revolving credit facility. We receive minimum returns and rents from our managers and tenants monthly. We may receive additional returns, percentage rents and our share of the operating profits of our managed hotels after payment of management fees and other deductions, if any, either monthly or quarterly, and these amounts are usually subject to annual reconciliations. We believe we have sufficient liquidity to withstand the current decline in operating cash flow, fund our capital expenditures, pay debt service obligations and make distributions to our shareholders for the next twelve months and for the foreseeable future thereafter. However, our managers and tenants may become further or increasingly unable or unwilling to pay minimum returns and rents to us when due as a result of current economic conditions and, as a result, our revenue, cash flow, and net income could decline. Under the challenging operating environment posed by the COVID-19 pandemic and the slowdown in U.S. economic activity and lodging demand beginning in March 2020, we have taken steps to preserve liquidity by drawing down the remaining capacity on our \$1,000,000 revolving credit facility, maintaining our quarterly distribution to our shareholders at \$0.01 per share, which we expect to continue at that rate for the foreseeable future, subject to applicable REIT tax requirements, by selectively making capital expenditures, and by continuing to work with our hotel operators to reduce hotel operating expenses. We intend to use available cash in the near term predominantly to fund any operating losses at our hotels, to pay corporate expenses, including debt service, fund capital expenditures, and to pay distributions to our shareholders. As of June 30, 2021, we were not in compliance with one of our debt covenants necessary to incur additional debt, and as a result, we will not be able to incur additional debt until we meet the required covenant level. We may access equity markets or seek other sources of capital if favorable conditions exist for us in order to enhance our liquidity, reduce debt and to fund cash needs.

The following is a summary of our sources and uses of cash flows for the periods presented (dollars in thousands):

	Six Months Ended June 30,	
	2021	2020
Cash and cash equivalents and restricted cash at the beginning of the period	\$ 91,456	81,259
Net cash provided by (used in):		
Operating activities	(21,206)	48,797
Investing activities	(65,218)	(74,760)
Financing activities	911,593	(5,438)
Cash and cash equivalents and restricted cash at the end of the period	\$ 916,625	\$ 49,858

The change from cash flows provided by operating activities in the 2020 period to cash flows used in operating activities in the 2021 period is primarily due to lower returns earned from our hotel portfolio and higher interest expense in the 2021 period. The decrease in cash flows used in investing activities in the 2021 period is primarily due to a decrease in hotel managers' purchases with restricted cash and a decrease in real estate dispositions in the 2021 period, partially offset by an investment in Sonesta we made in the 2021 period and our receipt of a hotel manager's deposit of insurance proceeds into restricted cash during the 2020 period. The increase in cash provided by financing activities for the 2021 period as compared to the prior year period is primarily due to a draw down of the remaining capacity on our \$1,000,000 revolving credit facility, a decrease in net senior notes issuances and lower common share distributions compared to the 2020 period.

We maintain our qualification for taxation as a REIT under the IRC by meeting certain requirements. We lease 304 hotels to our wholly owned TRSs that are managed by hotel operating companies. As a REIT, we do not expect to pay federal income taxes on the majority of our income; however, the income realized by our TRSs in excess of the rent they pay to us is subject to U.S. federal income tax at corporate income tax rates. In addition, the income we receive from our hotels in Canada and Puerto Rico is subject to taxes in those jurisdictions and we are subject to taxes in certain states where we have properties despite our qualification for taxation as a REIT.

Our Investment and Financing Liquidity and Capital Resources

Various percentages of total sales at some of our hotels are escrowed as FF&E reserves to fund future capital improvements. We own all the FF&E escrows for our hotels. During the six months ended June 30, 2021, our hotel managers and tenants deposited \$1,469 to these accounts and spent \$22,959 from the FF&E reserve escrow accounts to renovate and refurbish our hotels. As of June 30, 2021, there was \$1,295 on deposit in these escrow accounts, which was held directly by us and is reflected in our condensed consolidated balance sheets as restricted cash. As a result of the COVID-19 pandemic and the adverse impact on the lodging industry and our properties, we and certain of our hotel operators agreed to temporarily suspend the required contribution to our FF&E reserves under certain of our agreements. As a result, less cash will be available to us to fund future capital improvements and we may be required to provide additional fundings that may have otherwise been available in escrowed FF&E reserves. Such fundings are unlikely to materially increase in the near term above what we currently expect, as reduced occupancies are resulting in less usage and less wear and tear of our properties.

Our hotel operating agreements generally provide that, if necessary, we may provide our managers and tenants with funding for capital improvements to our hotels in excess of amounts otherwise available in escrowed FF&E reserves or when no FF&E reserves are available. During the six months ended June 30, 2021, capital improvements in excess of FF&E reserves available to our hotels were \$53,431. We currently expect to fund \$100,000 for capital improvements to certain hotels during the last six months of 2021 using cash on hand.

Our net lease portfolio leases do not require FF&E escrow deposits. However, tenants under these leases are required to maintain the leased properties, including structural and non-structural components. Tenants under certain of our net lease portfolio leases, including TA, may request that we purchase qualifying capital improvements to the leased facilities in return for minimum rent increases or we may agree to provide allowances for tenant improvements upon execution of new leases or when renewing our existing leases. We funded \$227 of capital improvements to properties under these lease provisions during the six months ended June 30, 2021. Tenants are not obligated to request and we are not obligated to purchase any such improvements. As of June 30, 2021, we had \$4,470 of unspent leasing-related obligations related to certain net lease tenants.

In March 2021, we funded a \$25,443 capital contribution to Sonesta related to its acquisition of Red Lion Hotels Corporation using cash on hand.

In March 2021, we acquired a parcel of land adjacent to a property we own in Nashville, TN for a purchase price of \$7,709 using cash on hand, including acquisition related costs of \$109.

During the six months ended June 30, 2021, we sold six hotels with an aggregate of 576 rooms for net proceeds of \$31,214 in two separate transactions and we also sold three net lease properties with 38,041 square feet for net proceeds of \$1,914. We used the net proceeds from these sales to repay amounts outstanding under our revolving credit facility and for general business purposes.

We are currently marketing for sale 69 Sonesta branded hotels (46 extended stay hotels with 5,404 keys, 19 select service hotels with 2,461 keys and four full service hotels with 1,098 keys) located in 27 states with an aggregate net carrying value of \$627,302 as of June 30, 2021. We expect these sales to be completed by the end of the first quarter of 2022. We also entered into agreements to sell four net lease properties with an aggregate of 20,712 square feet and an aggregate carrying value of \$1,678 for an aggregate sales price of \$2,165, excluding closing costs. We currently expect these sales to be completed by the end of the third quarter of 2021. We expect to use the net sales proceeds from these sales for general business purposes or to repay debt.

During the six months ended June 30, 2021, we declared and paid regular quarterly distributions to common shareholders using cash on hand as follows:

Declaration Date	Record Date	Paid Date	Dividend Per Common Share	Total Distributions
January 14, 2021	January 25, 2021	February 18, 2021	\$ 0.01	\$ 1,648
April 15, 2021	April 26, 2021	May 20, 2021	0.01	1,648
			\$ 0.02	\$ 3,296

On July 15, 2021, we declared a regular quarterly distribution to common shareholders of record on July 26, 2021 of \$0.01 per share, or \$1,648. We expect to pay this amount on or about August 19, 2021 using cash on hand.

In order to meet cash needs that may result from our desire or need to make distributions or pay operating or capital expenses, we maintain a \$1,000,000 revolving credit facility which is governed by a credit agreement with a syndicate of institutional lenders. The maturity date of our revolving credit facility is July 15, 2022, and, subject to the payment of an extension fee and meeting certain other conditions, we have an option to extend the maturity date of this facility by two additional six-month periods. We are required to pay interest at the rate of LIBOR plus a premium, which was 235 basis points per annum, subject to a LIBOR floor of 0.50% at June 30, 2021, on the amount outstanding under our revolving credit facility. We also pay a facility fee on the total amount of lending commitments under our revolving credit facility, which was 30 basis points per annum at June 30, 2021. Both the interest rate premium and the facility fee are subject to adjustment based upon changes to our credit ratings. We can borrow, subject to meeting certain financial covenants, repay and reborrow funds available under our revolving credit facility until maturity, and no principal repayment is due until maturity. As of June 30, 2021, the annual interest rate payable on borrowings under our revolving credit facility was 2.85%. On January 19, 2021, we borrowed \$972,793 under our revolving credit facility as a precautionary measure to preserve financial flexibility. As of June 30, 2021, we were fully drawn under our \$1,000,000 revolving credit facility and remain fully drawn as of August 4, 2021.

We and our lenders amended our credit agreement governing our \$1,000,000 revolving credit facility in 2020. Among other things, the amendments waived all of the then existing financial covenants through the Waiver Period. As a result of the amendments, among other things:

- we pledged certain equity interests of subsidiaries owning properties and provided first mortgage liens on 74 properties owned by certain of the pledged subsidiaries with an undepreciated book value of \$1,834,420 as of June 30, 2021 to secure our obligations under the credit agreement;
- we have the ability to fund up to \$250,000 of capital expenditures per year and up to \$50,000 of certain other investments per year as defined in the credit agreement;
- we agreed to certain covenants and restrictions on distributions to common shareholders, share repurchases, incurring indebtedness, and acquiring real property (in each case subject to various exceptions);
- we agreed to maintain minimum liquidity of \$125,000;
- we are generally required to apply the net cash proceeds from the disposition of assets, capital markets transactions and debt refinancings to repay outstanding amounts under the credit agreement, and then to other debt maturities; and
- we may not, during the Waiver Period and until we demonstrate compliance with certain covenants, utilize the feature in our credit agreement pursuant to which maximum aggregate borrowings may be increased to up to \$2,300,000 on a combined basis in certain circumstances.

Our term debt maturities (other than our revolving credit facility) as of June 30, 2021 were as follows:

Year	Maturity
2021	\$ —
2022	500,000
2023	500,000
2024	1,175,000
2025	1,150,000
2026	800,000
2027	850,000
2028	400,000
2029	425,000
2030	400,000
	<u>\$ 6,200,000</u>

None of our unsecured debt obligations require principal or sinking fund payments prior to their maturity dates.

We currently expect to use cash on hand, the cash flows from our operations, borrowings under our revolving credit facility (when available), net proceeds from any asset sales and net proceeds of offerings of equity or debt securities, as allowed by our existing credit agreement, to fund our operations, capital expenditures, future debt maturities, distributions to our shareholders and other general business purposes.

When significant amounts are outstanding for an extended period of time under our revolving credit facility, or the maturities of our indebtedness approach, we currently expect to explore refinancing alternatives. Such alternatives may include incurring additional debt when permitted under our debt agreements, issuing new equity securities and the sale of properties. We have an effective shelf registration statement that allows us to issue public securities on an expedited basis, but it does not assure that there will be buyers for such securities. We may also seek to participate in joint ventures or other arrangements that may provide us additional sources of financing. Although we have not historically done so, we may also assume mortgage debt on properties we may acquire or obtain mortgage financing on our existing properties.

While we believe we will generally have access to various types of financings, including debt or equity, to fund our future acquisitions and to pay our debts and other obligations, we cannot be sure that we will be able to complete any debt or equity offerings or other types of financings or that our cost of any future public or private financings will not increase. Also, as noted above, we are limited in our ability to incur additional debt pursuant to our debt agreements and are not permitted under our debt agreements to incur any debt while below the 1.5x debt service coverage ratio requirement under our public debt covenants as described below.

Our ability to complete, and the costs associated with, future debt transactions depends primarily upon credit market conditions and our then perceived creditworthiness. We have no control over market conditions. Our credit ratings depend upon evaluations by credit rating agencies of our business practices and plans, including our ability to maintain our earnings, to stagger our debt maturities and to balance our use of debt and equity capital so that our financial performance and leverage ratios afford us flexibility to withstand any reasonably anticipated adverse changes. Similarly, our ability to raise equity capital in the future will depend primarily upon equity capital market conditions and our ability to conduct our business to maintain and grow our operating cash flows. We intend to conduct our business activities in a manner which will afford us reasonable access to capital for investment and financing activities. However, as discussed elsewhere in this Quarterly Report on Form 10-Q, the continued duration and severity of the current economic conditions resulting from the COVID-19 pandemic are uncertain and may have various negative consequences on us and our operations including a decline in financing availability and increased costs for financing. Further, such conditions could also disrupt the capital markets generally and limit our access to financing from public sources or on favorable terms, particularly if the global financial markets experience significant disruptions.

Off Balance Sheet Arrangements

As of June 30, 2021, we had no off balance sheet arrangements that have had or that we expect would be reasonably likely to have a material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

Debt Covenants

Our debt obligations at June 30, 2021 consisted of outstanding borrowings under our \$1,000,000 revolving credit facility and \$6,200,000 of publicly issued term debt. Our publicly issued term debt is governed by our indentures and related supplements. These indentures and related supplements and our credit agreement contain covenants that generally restrict our ability to incur debts, including debts secured by mortgages on our properties, in excess of calculated amounts, and require us to maintain various financial ratios and our credit agreement currently restricts our ability to make certain investments and limits our distributions under certain circumstances. Our credit agreement and our unsecured senior notes, indentures and their supplements provide for acceleration of payment of all amounts outstanding upon the occurrence and continuation of certain events of default, such as, in the case of our credit agreement, a change of control of us, which includes RMR LLC ceasing to act as our business manager. As of June 30, 2021, we believe we were in compliance with all of the covenants under our indentures and their supplements and our credit agreement, subject to the waivers and except as noted above and below.

Senior Notes Indenture Covenants

The following table summarizes the results of the financial tests required by the indentures and related supplements for our senior unsecured notes as of June 30, 2021:

	Actual Results	Covenant Requirement
Total debt / adjusted total assets	55.6%	Maximum of 60%
Secured debt / adjusted total assets	7.7%	Maximum of 40%
Consolidated income available for debt service / debt service	1.00x	Minimum of 1.50x
Total unencumbered assets / unsecured debt	179.1%	Minimum 150%

The above consolidated income available for debt service to debt service ratio as of June 30, 2021 is based on results for the first and second quarters of 2021 and third and fourth quarters of 2020. This ratio was 2.05x as of September 30, 2020, 1.56x as of December 31, 2020, 1.12x as of March 31, 2021 and 1.00x as of June 30, 2021, which is below the required level. We are not permitted under our debt agreements to incur additional debt while we remain below the required covenant level.

Acceleration and Cross-Default

Neither our indentures and their supplements nor our credit agreement contain provisions for acceleration which could be triggered by a change in our debt ratings. However, under our credit agreement, our highest senior debt rating is used to determine the fees and interest rates we pay. Accordingly, if that debt rating is downgraded, our interest expense and related costs under our revolving credit facility would increase.

Our public debt indentures and their supplements contain cross default provisions to any other debt of \$20,000 or more (\$50,000 or more in the case of our indenture entered into in February 2016 and its supplements). Similarly, our credit agreement has cross default provisions to other indebtedness that is recourse of \$25,000 or more and indebtedness that is non-recourse of \$75,000 or more.

Supplemental Guarantor Information

Our \$800,000 of 7.50% unsecured senior notes due 2025, or the 2025 Notes, and our \$450,000 of 5.5% unsecured senior notes due 2027, or the 2027 Notes, are fully and unconditionally guaranteed, on a joint and several basis and on a senior unsecured basis, by all of our subsidiaries, except for certain excluded subsidiaries, including our foreign subsidiaries and our subsidiaries pledged under our credit agreement. The notes and the guarantees will be effectively subordinated to all of our and the subsidiary guarantors' secured indebtedness, respectively, to the extent of the value of the collateral securing such secured indebtedness, and will be structurally subordinated to all indebtedness and other liabilities and any preferred equity of any of our subsidiaries that do not guarantee the notes. Our remaining \$4,950,000 of senior unsecured notes do not have the benefit of any guarantees.

A subsidiary guarantor's guarantee of the 2025 Notes and 2027 Notes and all other obligations of such subsidiary guarantor under the indentures governing the notes will automatically terminate and such subsidiary guarantor will automatically be released from all of its obligations under such subsidiary guarantee and such indenture under certain circumstances, including on or after the date on which (a) the notes have received a rating equal to or higher than Baa2 (or the equivalent) by Moody's Investors Service, or Moody's, or BBB (or the equivalent) by Standard & Poor's, or S&P, or if Moody's or S&P ceases to rate the notes for reasons outside of our control, the equivalent investment grade rating from any other rating agency and (b) no

default or event of default has occurred and is continuing under the indenture. Our non-guarantor subsidiaries are separate and distinct legal entities and will have no obligation, contingent or otherwise, to pay any amounts due on these notes or the guarantees, or to make any funds available therefor, whether by dividend, distribution, loan or other payments. The rights of holders of these notes to benefit from any of the assets of our non-guarantor subsidiaries are subject to the prior satisfaction of claims of those subsidiaries' creditors and any preferred equity holders. As a result, these notes and the related guarantees will be structurally subordinated to all indebtedness, guarantees and other liabilities of our subsidiaries that do not guarantee these notes, including guarantees of or pledges under other indebtedness of ours, payment obligations under lease agreements, trade payables and preferred equity.

The following table presents summarized financial information for us and the subsidiary guarantors, on a combined basis after elimination of (i) intercompany transactions and balances among us and the subsidiary guarantors and (ii) equity in earnings from, and any investments in, any of our non-guarantor subsidiaries:

	As of June 30, 2021	As of December 31, 2020
Real estate properties, net ⁽¹⁾	\$ 5,758,302	\$ 5,871,790
Intercompany balances ⁽²⁾	205,956	800,198
Other assets, net	1,572,543	677,408
Indebtedness, net	\$ 7,136,554	\$ 6,208,590
Other liabilities	376,245	341,907
		Six Months Ended June 30, 2021
Revenues		\$ 341,310
Expenses		442,687
Net income (loss)		(101,377)

(1) Real estate properties, net as of June 30, 2021 includes \$770,507 of properties owned directly by us and not included in the assets of the subsidiary guarantors.

(2) Intercompany balances represent receivables from non-guarantor subsidiaries.

Management Agreements, Leases and Operating Statistics (dollar amounts in thousands, except hotel statistics)

As of June 30, 2021, we owned and managed a diverse portfolio of hotels and net lease properties across the United States and in Puerto Rico and Canada with 142 brands across 22 industries.

Hotel Portfolio

The following tables summarize the operating statistics, including ADR, occupancy and RevPAR reported to us by our hotel managers or tenants by hotel brand for the periods indicated. All operating data presented are based upon the operating results provided by our hotel managers and tenants for the indicated periods. We have not independently verified our managers' or tenants' operating data.

Comparable Hotels ^(*)			Occupancy							ADR				RevPAR					
Brand	Service Level	No. of Hotels	No. of Rooms or Suites	Three months ended June 30,					Three months ended June 30,				Three months ended June 30,						
				2021		2020		Change	2021		2020		Change	2021		2020		Change	
Sonesta ⁽¹⁾	Full Service	18	6,110	50.7	%	20.3	%	30.4 pts	\$	107.72	\$	101.58	6.0	%	\$	54.61	\$	20.62	164.9
Royal Sonesta ⁽¹⁾	Full Service	7	2,002	34.3	%	9.7	%	24.6 pts		156.69		120.19	30.4	%		53.74		11.66	361.0
Radisson Hotel	Full Service	4	969	52.4	%	17.9	%	34.5 pts		101.62		96.78	5.0	%		53.25		17.32	207.4
Crowne Plaza	Full Service	1	495	52.5	%	9.8	%	42.7 pts		109.70		88.50	24.0	%		57.59		8.67	564.0
Radisson Blu	Full Service	1	84	52.8	%	32.7	%	20.1 pts		86.74		81.93	5.9	%		45.80		26.79	70.9
Country Inn and Suites	Full Service	1	360	21.4	%	9.7	%	11.7 pts		105.61		99.58	6.1	%		22.60		9.66	134.0
Full Service Total/Average		32	10,020	46.6	%	17.2	%	29.4 pts		114.14		102.48	11.4	%		53.19		17.63	201.8
Sonesta Select ⁽¹⁾	Select Service	63	8,888	39.5	%	13.3	%	26.2 pts		95.30		94.56	0.8	%		37.64		12.58	199.3
Hyatt Place	Select Service	17	2,107	65.2	%	28.9	%	36.3 pts		98.24		83.12	18.2	%		64.05		24.02	166.6
Courtyard	Select Service	13	1,813	53.4	%	13.4	%	40.0 pts		98.80		92.22	7.1	%		52.76		12.36	326.9
Select Service Total/Average		93	12,808	45.7	%	15.9	%	29.8 pts		96.57		90.86	6.3	%		44.13		14.45	205.5
Sonesta ES Suites ⁽¹⁾	Extended Stay	91	11,326	70.9	%	41.4	%	29.5 pts		94.74		93.36	1.5	%		67.17		38.65	73.8
Sonesta Simply Suites ⁽¹⁾	Extended Stay	64	7,918	73.3	%	55.8	%	17.5 pts		67.75		65.02	4.2	%		49.66		36.28	36.9
Inn Residence	Extended Stay	3	342	56.4	%	34.0	%	22.4 pts		107.52		103.28	4.1	%		60.64		35.12	72.7
Extended Stay Total/Average		158	19,586	71.6	%	47.1	%	24.5 pts		83.73		79.89	4.8	%		59.95		37.63	59.3
Comparable Hotels Total/Average		283	42,414	57.9	%	30.6	%	27.3 pts	\$	92.59	\$	84.61	9.4	%	\$	53.61	\$	25.89	107.1

Comparable Hotels*			Occupancy							ADR				RevPAR					
Brand	Service Level	No. of Hotels	No. of Rooms or Suites	Six months ended June 30,					Six months ended June 30,				Six months ended June 30,						
				2021		2020		Change	2021		2020		Change	2021		2020		Change	
	Full Service	18	6,110	41.1	%	40.7	%	0.4 pts	\$	104.90	\$	126.05	(16.8)	%	\$	43.11	\$	51.30	(16.0)
Sonesta ⁽¹⁾	Full Service	7	2,002	29.0	%	32.6	%	(3.6) pts		145.12		158.28	(8.3)	%		42.08		51.60	(18.4)
Radisson Hotel	Full Service	4	969	46.2	%	39.2	%	7.0 pts		97.55		113.00	(13.7)	%		45.07		44.30	1.7
Crowne Plaza	Full Service	1	495	44.3	%	28.3	%	16.0 pts		103.32		135.35	(23.7)	%		45.77		38.30	19.5
Blu	Full Service	1	84	43.5	%	42.6	%	0.9 pts		82.66		83.44	(0.9)	%		35.96		35.55	1.2
Country Inn and Suites	Full Service	1	360	18.0	%	32.2	%	(14.2) pts		96.11		116.44	(17.5)	%		17.30		37.49	(53.9)
Total/Average		32	10,020	38.5	%	38.0	%	0.5 pts		109.65		129.92	(15.6)	%		42.22		49.37	(14.5)
Sonesta ⁽¹⁾	Select Service	63	8,888	32.4	%	32.5	%	(0.1) pts		91.38		124.00	(26.3)	%		29.61		40.30	(26.5)
Hyatt Place	Select Service	17	2,107	56.4	%	44.0	%	12.4 pts		92.36		101.15	(8.7)	%		52.09		44.51	17.0
Courtyard	Select Service	13	1,813	45.3	%	28.1	%	17.2 pts		92.19		100.94	(8.7)	%		41.76		28.36	47.2
Total/Average		93	12,808	38.1	%	33.8	%	4.3 pts		91.76		116.39	(21.2)	%		34.96		39.34	(11.1)
Sonesta ES Suites ⁽¹⁾	Extended Stay	91	11,326	62.5	%	49.7	%	12.8 pts		92.07		109.61	(16.0)	%		57.54		54.48	5.6
Sonesta Simply Suites ⁽¹⁾	Extended Stay	63	7,796	64.2	%	61.3	%	2.9 pts		66.16		74.06	(10.7)	%		42.47		45.40	(6.4)
Inn Residence	Extended Stay	3	342	50.1	%	42.1	%	8.0 pts		102.84		107.98	(4.8)	%		51.52		45.46	13.3
Total/Average		157	19,464	63.0	%	54.2	%	8.8 pts		81.61		93.48	(12.7)	%		51.41		50.67	1.5
Comparable Hotels Total/Average		282	42,292	49.6	%	44.2	%	5.4 pts	\$	89.13	\$	106.21	(16.1)	%	\$	44.21	\$	46.94	(5.8)

* We generally define comparable hotels as those that were owned by us and were open and operating for the entire periods being compared. For the three months ended June 30, 2021 and 2020, our comparable results excluded 21 hotels that had suspended operations during part of the periods presented and for the six months ended June 30, 2021 and 2020, our comparable results excluded 22 hotels that had suspended operations during part of the periods presented.

All Hotels			Occupancy							ADR				RevPAR							
			Three months ended June 30,							Three months ended June 30,				Three months ended June 30,							
Brand	Service Level	No. of Hotels	No. of Rooms or Suites																		
				2021		2020		Change		2021		2020		Change		2021		2020		Change	
Sonesta ⁽¹⁾	Full Service	25	8,040	51.7	%	17.0	%	34.7	pts	\$	125.58	\$	107.36	17.0	%	\$	64.92	\$	18.25	255.7	
Sonesta ⁽¹⁾	Royal Service	16	5,303	38.2	%	5.2	%	33.0	pts		183.84		126.61	45.2	%		70.23		6.58	966.7	
Radisson Hotel	Full Service	5	1,149	48.8	%	15.1	%	33.7	pts		100.45		96.75	3.8	%		49.02		14.61	235.5	
Plaza Crowne	Full Service	1	495	52.5	%	9.8	%	42.7	pts		109.70		88.50	24.0	%		57.59		8.67	564.0	
Inn and Suites	Full Service	3	430	53.6	%	7.7	%	45.9	pts		104.07		83.68	24.4	%		55.78		6.44	765.7	
Blu Radisson	Full Service	1	360	21.4	%	9.7	%	11.7	pts		105.61		99.58	6.1	%		22.60		9.66	134.0	
Total/Average		51	15,777	46.4	%	12.6	%	33.8	pts		138.10		107.73	28.2	%		64.08		13.57	372.1	
Select ⁽¹⁾	Sonesta Service	63	8,888	39.5	%	13.3	%	26.2	pts		95.30		94.56	0.8	%		37.64		12.58	199.3	
Hyatt Place	Select Service	17	2,107	65.2	%	28.9	%	36.3	pts		98.24		83.12	18.2	%		64.05		24.02	166.6	
Courtyard	Select Service	13	1,813	53.4	%	13.4	%	40.0	pts		98.80		92.22	7.1	%		52.76		12.36	326.9	
Total/Average		93	12,808	45.7	%	15.9	%	29.8	pts		96.57		90.86	6.3	%		44.13		14.45	205.5	
Simply ES Suites ⁽¹⁾	Extended Stay	92	11,472	70.9	%	40.8	%	30.1	pts		94.97		93.36	1.7	%		67.33		38.09	76.8	
Sonesta Simply Suites ⁽¹⁾	Extended Stay	65	8,040	73.4	%	55.4	%	18.0	pts		67.63		64.96	4.1	%		49.64		35.99	37.9	
Inn Residence	Extended Stay	3	342	56.4	%	34.0	%	22.4	pts		107.52		103.28	4.1	%		60.64		35.12	72.7	
Total/Average		160	19,854	71.6	%	46.6	%	25.0	pts		83.78		79.80	5.0	%		59.99		37.19	61.3	
All Hotels Total/Average		304	48,439	56.6	%	27.6	%	29.0	pts	\$	100.72	\$	85.52	17.8	%	\$	57.01	\$	23.60	141.5	

All Hotels			Occupancy							ADR				RevPAR							
			Six months ended June 30,							Six months ended June 30,				Six months ended June 30,							
Brand	Service Level	No. of Hotels	No. of Rooms or Suites																		
				2021	2020	Change				2021	2020	Change		2021	2020	Change					
Sonesta ⁽¹⁾	Full Service	25	8,040	41.4	%	37.6	%	3.8	pts	\$	118.41	\$	129.86	(8.8)	%	\$	49.02	\$	48.83	0.4	%
Royal Sonesta ⁽¹⁾	Full Service	16	5,303	30.6	%	29.7	%	0.9	pts		172.74		197.36	(12.5)	%		52.86		58.62	(9.8)	%
Radisson Hotel	Full Service	5	1,149	43.4	%	36.4	%	7.0	pts		96.16		123.51	(22.1)	%		41.73		44.96	(7.2)	%
Plaza Crowne	Full Service	1	495	44.3	%	28.3	%	16.0	pts		103.32		135.35	(23.7)	%		45.77		38.30	19.5	%
Country Inn and Suites	Full Service	3	430	42.0	%	25.5	%	16.5	pts		95.36		110.48	(13.7)	%		40.05		28.17	42.2	%
Radisson Blu	Full Service	1	360	18.0	%	32.2	%	(14.2)	pts		96.11		116.44	(17.5)	%		17.30		37.49	(53.9)	%
Total/Average		51	15,777	37.6	%	34.2	%	3.4	pts		129.46		147.41	(12.2)	%		48.68		50.41	(3.4)	%
Sonesta Select ⁽¹⁾	Select Service	63	8,888	39.5	%	32.5	%	7.0	pts		91.38		124.00	(26.3)	%		36.10		40.30	(10.4)	%
Hyatt Place	Select Service	17	2,107	65.2	%	44.0	%	21.2	pts		92.36		101.15	(8.7)	%		60.22		44.51	35.3	%
Courtyard	Select Service	13	1,813	53.4	%	28.1	%	25.3	pts		92.19		100.94	(8.7)	%		49.23		28.36	73.6	%
Total/Average		93	12,808	38.1	%	33.8	%	4.3	pts		91.76		116.39	(21.2)	%		34.96		39.34	(11.1)	%
Simply ES Suites ⁽¹⁾	Extended Stay	92	11,472	70.9	%	49.5	%	21.4	pts		92.20		109.98	(16.2)	%		65.37		54.44	20.1	%
Sonesta Simply Suites ⁽¹⁾	Extended Stay	65	8,040	73.4	%	60.2	%	13.2	pts		65.83		73.83	(10.8)	%		48.32		44.45	8.7	%
Inn Residence	Extended Stay	3	342	56.4	%	42.1	%	14.3	pts		102.84		107.98	(4.8)	%		58.00		45.46	27.6	%
Total/Average		160	19,854	63.0	%	53.7	%	9.3	pts		81.43		93.54	(12.9)	%		51.30		50.23	2.1	%
All Hotels Total/Average		304	48,439	48.3	%	42.2	%	6.1	pts	\$	95.54	\$	112.43	(15.0)	%	\$	46.15	\$	47.45	(2.7)	%

(1) Includes operator data for periods prior to when certain hotels were managed by Sonesta.

Net Lease Portfolio

As of June 30, 2021, our net lease properties were 98.5% occupied and we had 32 properties available for lease. During the six months ended June 30, 2021, we entered into lease renewals for 352,284 rentable square feet at weighted (by rentable square feet) average rents that were 5.1% below prior rents for the same space. The weighted (by rentable square feet) average lease term for these leases was 11.7 years. Also during the six months ended June 30, 2021, we entered into new leases for an aggregate of 65,551 rentable square feet at weighted (by rentable square feet) average rents that were 58.4% below prior rents for the same space. The weighted (by rentable square feet) average lease term for these leases was 11.0 years.

As of June 30, 2021, our net lease tenants operated across more than 130 brands. The following table identifies the top ten brands based on investment.

	Brand	No. of Buildings	Investment ^{(1) (2)}	Percent of Total Investment ⁽³⁾	Annualized Minimum Rent ^{(2) (3)}	Percent of Total Annualized Minimum Rent ^{(2) (3)}	Coverage ⁽⁴⁾
1.	TravelCenters of America	134	\$ 2,289,189	44.4 %	\$ 168,012	45.2 %	2.11 x
2.	Petro Stopping Centers	45	1,021,226	19.8 %	78,099	21.0 %	1.78 x
3.	AMC Theatres	11	102,580	2.0 %	7,809	2.1 %	-0.31x
4.	The Great Escape	14	98,242	1.9 %	7,140	1.9 %	1.96x
5.	Life Time Fitness	3	92,617	1.8 %	5,770	1.6 %	1.12x
6.	Buehler's Fresh Foods	5	76,536	1.5 %	5,657	1.5 %	5.90x
7.	Heartland Dental	59	61,120	1.2 %	4,561	1.2 %	4.01x
8.	Norms	10	53,673	1.0 %	1,584	0.4 %	0.47x
9.	Express Oil Change	23	49,724	1.0 %	3,717	1.0 %	3.91x
10.	Pizza Hut	43	48,833	0.9 %	3,453	0.9 %	1.67x
11.	Other ⁽⁵⁾	449	1,265,538	24.5 %	86,105	23.2 %	3.11 x
	Total	796	\$ 5,159,278	100.0 %	\$ 371,907	100.0 %	2.29 x

(1) Represents historical cost of our properties plus capital improvements funded by us less impairment write-downs, if any.

(2) Each of our leases provides for payment to us of minimum rent. Certain of these minimum payment amounts are secured by full or limited guarantees. Annualized minimum rent amounts represent cash rent amounts due to us and exclude adjustments, if any, to record scheduled rent changes under certain of our leases, the deferred rent obligations payable to us under our leases with TA, and the estimated future payments to us under our TA leases for the cost of removing underground storage tanks at our travel centers on a straight-line basis, or any reimbursement of expenses paid by us.

(3) As of June 30, 2021, we have eight net lease properties with a carrying value of \$4,259 and annual minimum rent of \$255 classified as held for sale.

(4) See page 28 for our definition of coverage.

(5) Other includes 120 distinct brands with an average investment of \$10,546 and average annual minimum rent of \$718.

As of June 30, 2021, our top 10 net lease tenants based on annualized minimum rent are listed below.

	Tenant	Brand Affiliation	No. of Buildings	Investment ^{(1) (2)}	Percent of Total Investment	Annualized Minimum Rent ^{(2) (3)}	Percent of Total Annualized Minimum Rent ^{(2) (3)}	Coverage ⁽⁴⁾
1.	TravelCenters of America	TravelCenters of America/ Petro Shopping Centers	179	\$ 3,310,415	64.2 %	\$ 246,110	66.2 %	2.00x ⁽⁵⁾
2.	American Multi-Cinema, Inc.	AMC Theatres	11	102,580	2.0 %	7,809	2.1 %	-0.31x
3.	Universal Pool Co., Inc.	The Great Escape	14	98,242	1.9 %	7,140	1.9 %	1.96x
4.	Healthy Way of Life II, LLC	Life Time Fitness	3	92,617	1.8 %	5,770	1.6 %	1.12x
5.	Styx Acquisition, LLC	Buehler's Fresh Foods	5	76,536	1.5 %	5,657	1.5 %	5.90x
6.	Professional Resource Development, Inc.	Heartland Dental	59	61,120	1.2 %	4,561	1.2 %	4.01x
7.	Norms Restaurants, LLC	Norms	10	53,673	1.0 %	1,584	0.4 %	0.47x
8.	Express Oil Change, L.L.C.	Express Oil Change	23	49,724	1.0 %	3,717	1.0 %	3.91x
9.	Regal Cinemas, Inc.	Regal Cinemas	6	44,476	0.9 %	3,854	1.0 %	0.01x
10.	Pilot Travel Centers LLC	Flying J Travel Plaza	3	41,681	0.8 %	3,183	0.9 %	4.18x
	Subtotal, top 10		313	3,931,064	76.3 %	289,385	77.8 %	2.04x
11.	Other ⁽⁶⁾	Various	483	1,228,214	23.7 %	82,522	22.2 %	3.16x
	Total		796	\$ 5,159,278	100.0 %	\$ 371,907	100.0 %	2.29x

(1) Represents historical cost of our net lease properties plus capital improvements funded by us less impairment write-downs, if any.

(2) Each of our leases provides for payment to us of minimum rent. Certain of these minimum payment amounts are secured by full or limited guarantees. Annualized minimum rent amounts represent cash rent amounts due to us and exclude adjustments, if any, to record scheduled rent changes under certain of our leases, the deferred rent obligations payable to us under our leases with TA, and the estimated future payments to us under our TA leases for the cost of removing underground storage tanks at our travel centers on a straight-line basis, or any reimbursement of expenses paid by us.

- (3) As of June 30, 2021, we have eight net lease properties with an aggregate carrying value of \$4,259 and annual minimum rent of \$255 classified as held for sale.
- (4) See page 28 for our definition of coverage.
- (5) TA is our largest tenant. We lease 179 travel centers (134 under the TravelCenters of America brand and 45 under the Petro Stopping Centers brand) to a subsidiary of TA under five master leases that expire in 2029, 2031, 2032, 2033 and 2035, respectively. TA has two renewal options for 15 years each for all of the travel centers. In addition to the payment of our minimum rent, the TA leases provide for payment to us of percentage rent based on increases in total non-fuel revenues over base levels (3.5% of non-fuel revenues above applicable base years). TA's remaining deferred rent obligation of \$30,824 is being paid in quarterly installments of \$4,404 through January 31, 2023.
- (6) Other includes 161 tenants with an average investment of \$7,629 and average annual minimum rent of \$513.

As of June 30, 2021, our net lease tenants operated across 21 distinct industries within the service-oriented retail sector of the U.S. economy.

Industry	No. of Buildings	Investment ^{(1) (2)}	Percent of Total Investment	Annualized Minimum Rent ^{(2) (3)}	Percent of Total Annualized Minimum Rent	Coverage ⁽⁴⁾
Travel Centers	182	\$ 3,352,096	65.0%	\$ 249,293	67.1 %	2.03x
Restaurants-Quick Service	229	305,257	5.9%	20,643	5.6 %	2.72x
Restaurants-Casual Dining	57	205,670	4.0%	11,023	3.0 %	1.50x
Health and Fitness	15	197,696	3.8%	11,925	3.2 %	1.05x
Movie Theaters	22	190,725	3.7%	14,262	3.8 %	-0.18x
Grocery Stores	19	129,219	2.5%	9,123	2.5 %	5.37x
Home Goods and Leisure	20	118,899	2.3%	9,041	2.4 %	1.96x
Medical, Dental Office	71	118,098	2.3%	9,232	2.5 %	3.98x
Automotive Equipment & Services	63	96,496	1.9%	6,930	1.9 %	2.85x
Automotive Dealers	9	64,756	1.3%	5,354	1.4 %	7.11x
Entertainment	4	61,436	1.2%	4,265	1.1 %	0.76x
General Merchandise Stores	5	56,321	1.1%	3,833	1.0 %	3.03x
Educational Services	9	55,647	1.1%	4,226	1.0 %	1.24x
Miscellaneous Manufacturing	7	32,873	0.6%	2,433	0.7 %	14.49x
Building Materials	26	28,987	0.6%	2,458	0.7 %	4.82x
Car Washes	5	28,658	0.6%	2,128	0.6 %	4.82x
Drug Stores and Pharmacies	7	19,251	0.4%	1,258	0.3 %	1.77x
Sporting Goods	2	14,220	0.3%	926	0.2 %	4.42x
Legal Services	5	11,362	0.2%	1,024	0.3 %	-2.50x
Other	4	10,417	0.1%	2,344	0.6 %	5.08x
Dollar Stores	3	2,971	—%	186	0.1 %	3.69x
Vacant	32	58,223	1.1%	—	— %	n/a
Total	796	\$ 5,159,278	100.0%	\$ 371,907	100.0 %	2.29 x

- (1) Represents historical cost of our net lease properties plus capital improvements funded by us less impairment write-downs, if any.
- (2) As of June 30, 2021, we have eight net lease properties with an aggregate carrying value of \$4,259 and annual minimum rent of \$255 classified as held for sale.
- (3) Each of our leases provides for payment to us of minimum rent, respectively. Certain of these minimum payment amounts are secured by full or limited guarantees. Annualized minimum rent amounts represent cash rent amounts due to us and exclude adjustments, if any, to record scheduled rent changes under certain of our leases, the deferred rent obligations payable to us under our leases with TA, and the estimated future payments to us under our TA leases for the cost of removing underground storage tanks at our travel centers on a straight-line basis, or any reimbursement of expenses paid by us.
- (4) See page 28 for our definition of coverage.

As of June 30, 2021, lease expirations at our net lease properties by year are as follows.

Year ⁽¹⁾	Square Feet	Annualized Minimum Rent Expiring ⁽²⁾	Percent of Total Annualized Minimum Rent Expiring	Cumulative % of Total Minimum Rent Expiring
2021	257,250	1,623	0.4%	0.4%
2022	309,867	4,426	1.2%	1.6%
2023	323,785	3,772	1.0%	2.6%
2024	787,547	11,051	3.0%	5.6%
2025	457,960	8,990	2.4%	8.0%
2026	949,023	11,216	3.0%	11.0%
2027	974,398	13,264	3.6%	14.6%
2028	553,330	9,534	2.6%	17.2%
2029	1,321,924	47,728	12.8%	30.0%
2030	207,468	5,010	1.3%	31.3%
2031	1,504,454	51,033	13.7%	45.0%
2032	1,233,445	52,069	14.0%	59.0%
2033	1,140,257	53,382	14.4%	73.4%
2034	104,508	3,709	1.0%	74.4%
2035	2,577,853	84,573	22.7%	97.1%
2036	291,408	4,820	1.3%	98.4%
2037	—	—	0.0%	98.4%
2038	10,183	423	0.1%	98.5%
2039	134,901	3,209	0.9%	99.4%
2040	1,739	153	0.0%	99.4%
2041	29,384	339	0.1%	99.5%
2042	—	—	0.0%	99.5%
2043	—	—	0.0%	99.5%
2044	—	—	0.0%	99.5%
2045	63,490	1,583	0.5%	100.0%
Total	13,234,174	\$ 371,907	100%	

(1) The year of lease expiration is pursuant to contract terms.

(2) As of June 30, 2021, we have eight net lease properties with an annual minimum rent of \$255 classified as held for sale.

As of June 30, 2021, shown below is the list of our top ten states based on annualized minimum rent where our net lease properties were located. No other state represents more than 3% of our net lease annual minimum rents.

State	Square Feet	Annualized Minimum Rent	Percent of Total Annualized Minimum Rent
Texas	1,205,393	\$ 32,236	8.7%
Ohio	1,302,273	26,402	7.1%
Illinois	1,019,885	26,103	7.0%
California	399,045	21,811	5.9%
Georgia	597,248	20,227	5.4%
Arizona	476,651	17,052	4.6%
Indiana	637,239	16,994	4.6%
Florida	538,130	16,097	4.3%
Pennsylvania	529,444	15,819	4.3%
Nevada	190,262	9,618	2.6%
Other	6,545,214	169,548	45.5%
	13,440,784	\$ 371,907	100.0%

Related Person Transactions

We have relationships and historical and continuing transactions with RMR LLC, RMR Inc., TA and Sonesta and others related to them. For further information about these and other such relationships and related person transactions, see Notes 5, 8 and 9 to our Notes to Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q, our 2020 Annual Report, our definitive Proxy Statement for our 2021 Annual Meeting of Shareholders and our other filings with the Securities and Exchange Commission, or SEC. In addition, see the section captioned “Risk Factors” in our 2020 Annual Report for a description of risks that may arise as a result of these and other related person transactions and relationships. We may engage in additional transactions with related persons, including businesses to which RMR LLC or its subsidiaries provide management services.

Non-GAAP Financial Measures

We present certain “non-GAAP financial measures” within the meaning of the applicable SEC rules, including funds from operations, or FFO, and normalized funds from operations, or Normalized FFO. These measures do not represent cash generated by operating activities in accordance with GAAP and should not be considered alternatives to net income (loss) as indicators of our operating performance or as measures of our liquidity. These measures should be considered in conjunction with net income (loss) as presented in our condensed consolidated statements of income (loss). We consider these non-GAAP measures to be appropriate supplemental measures of operating performance for a REIT, along with net income (loss). We believe these measures provide useful information to investors because by excluding the effects of certain historical amounts, such as depreciation and amortization expense, they may facilitate a comparison of our operating performance between periods and with other REITs.

Funds From Operations and Normalized Funds From Operations

We calculate FFO and Normalized FFO as shown below. FFO is calculated on the basis defined by The National Association of Real Estate Investment Trusts, which is net income (loss), calculated in accordance with GAAP, excluding any gain or loss on sale of properties and loss on impairment of real estate assets, if any, plus real estate depreciation and amortization, less any unrealized gains and losses on equity securities, as well as adjustments to reflect our share of FFO attributable to an investee and certain other adjustments currently not applicable to us. In calculating Normalized FFO, we adjust for the items shown below. FFO and Normalized FFO are among the factors considered by our Board of Trustees when determining the amount of distributions to our shareholders. Other factors include, but are not limited to, requirements to satisfy our REIT distribution requirements, limitations in our credit agreement and public debt covenants, the availability to us of debt and equity capital, our distribution rate as a percentage of the trading price of our common shares, or dividend yield, and to the dividend yield of other REITs, our expectation of our future capital requirements and operating performance and our expected needs for and availability of cash to pay our obligations. Other real estate companies and REITs may calculate FFO and Normalized FFO differently than we do.

Our calculations of FFO and Normalized FFO for the three and six months ended June 30, 2021 and 2020 and reconciliations of net income, the most directly comparable financial measure under GAAP reported in our condensed consolidated financial statements, to those amounts appear in the following table (amounts in thousands, except per share amounts).

		For the Three Months Ended June 30,		For the Six Months Ended June 30,	
		2021	2020	2021	2020
Net loss		\$ (91,110)	\$ (37,349)	\$ (286,100)	\$ (70,999)
Add (Less):	Depreciation and amortization expense	121,677	127,427	246,045	255,353
	Loss on asset impairment ⁽¹⁾	899	28,514	2,110	45,254
	(Gain) loss on sale of real estate, net ⁽²⁾	(10,849)	2,853	(10,840)	9,764
	Unrealized (gains) loss on equity securities, net ⁽³⁾	(2,500)	(3,848)	3,981	1,197
	Adjustments to reflect our share of FFO attributable to an investee ⁽⁴⁾	1,034	327	1,499	439
FFO		19,151	117,924	(43,305)	241,008
Add (less):	Loss on early extinguishment of debt ⁽⁵⁾	—	6,970	—	6,970
Add (less):	Gain on insurance settlement, net of tax ⁽⁶⁾	—	(46,736)	—	(46,736)
Add (less):	Adjustments to reflect our share of Normalized FFO attributable to an investee ⁽⁴⁾	538	—	1,363	—
	Transaction related costs ⁽⁷⁾	6,151	—	25,785	—
Normalized FFO		\$ 25,840	\$ 78,158	\$ (16,157)	\$ 201,242
Weighted average shares outstanding (basic and diluted) ⁽⁸⁾		164,506	164,382	164,502	164,376
Basic and diluted per common share amounts:					
	Net loss	\$ (0.55)	\$ (0.23)	\$ (1.74)	\$ (0.43)
	FFO	\$ 0.12	\$ 0.72	\$ (0.26)	\$ 1.47
	Normalized FFO	\$ 0.16	\$ 0.48	\$ (0.10)	\$ 1.22
	Distributions declared per share	\$ 0.01	\$ 0.01	\$ 0.02	\$ 0.55

- (1) We recorded a \$899 loss on asset impairment during the three months ended June 30, 2021 to reduce the carrying value of three net lease properties to their estimated fair value less costs to sell and a \$28,514 loss on asset impairment during the three months ended June 30, 2020 to reduce the carrying value of 17 hotel properties and four net lease properties to their estimated fair value less costs to sell. We recorded a \$2,110 loss on asset impairment during the six months ended June 30, 2021 to reduce the carrying value of five net lease properties to their estimated fair value less costs to sell and a \$45,254 loss on asset impairment during the six months ended June 30, 2020 to reduce the carrying value of 17 hotel properties and six net lease properties to their estimated fair value less costs to sell.
- (2) We recorded a \$10,849 net gain on sale of real estate during the three months ended June 30, 2021 in connection with the sale of six hotels and two net lease properties. We recorded a \$2,853 net loss on sale of real estate during the three months ended June 30, 2020 in connection with the sale of four net lease properties. We recorded a \$10,840 net gain on sale of real estate during the six months ended June 30, 2021 in connection with the sale of six hotels and three net lease properties and recorded a net loss on sale of real estate of \$9,764 during the six months ended June 30, 2020 in connection with the sale of ten net lease properties.
- (3) Unrealized gains (losses) on equity securities, net represents the adjustment required to adjust the carrying value of our investment in shares of TA common stock to its fair value.
- (4) Represents adjustments to reflect our proportionate share of FFO and normalized FFO related to our equity investment in Sonesta.
- (5) We recorded a \$6,970 loss on early extinguishment of debt, during the three and six months ended June 30, 2020, related to the repurchase of certain of our senior notes.
- (6) We recorded a \$62,386 gain on insurance settlement, during the three and six months ended June 30, 2020, for insurance proceeds received for our then leased hotel in San Juan, PR related to Hurricane Maria. Under GAAP, We were required to increase the building basis of this hotel for the amount of the insurance proceeds. We also recorded a \$15,650 deferred tax liability as a result of the book value to tax basis difference related to this accounting during the three and six months ended June 30, 2020.
- (7) Transaction related costs for the three months ended June 30, 2021 includes \$3,700 of working capital we previously funded under our Hyatt agreement as a result of the amount no longer being expected to be recoverable, \$1,110 of legal costs related to our arbitration claim against Marriott and \$1,341 of hotel manager transition costs. Transaction costs for the three months ended March 31, 2021 included \$19,634 of hotel manager transition related costs resulting from the rebranding of certain hotels during the period.
- (8) Represents weighted average common shares adjusted to reflect the potential dilution of unvested share awards.

Item 3. Quantitative and Qualitative Disclosures About Market Risk (dollar amounts in thousands, except per share amounts)

We are exposed to risks associated with market changes in interest rates. We manage our exposure to this market risk by monitoring available financing alternatives. Our strategy to manage exposure to changes in interest rates has not materially changed since December 31, 2020. Other than as described below, we do not currently foresee any significant changes in our exposure to fluctuations in interest rates or in how we manage this exposure in the near future.

Fixed Rate Debt

At June 30, 2021, our outstanding publicly tradable debt consisted of 13 issues of fixed rate, senior notes:

Principal Balance	Annual Interest Rate	Annual Interest Expense	Maturity	Interest Payments Due
\$ 500,000	5.000 %	\$ 25,000	2022	Semi-Annually
500,000	4.500 %	22,500	2023	Semi-Annually
350,000	4.650 %	16,275	2024	Semi-Annually
825,000	4.350 %	35,888	2024	Semi-Annually
350,000	4.500 %	15,750	2025	Semi-Annually
800,000	7.500 %	60,000	2025	Semi-Annually
350,000	5.250 %	18,375	2026	Semi-Annually
450,000	4.750 %	21,375	2026	Semi-Annually
400,000	4.950 %	19,800	2027	Semi-Annually
450,000	5.500 %	24,750	2027	Semi-Annually
400,000	3.950 %	15,800	2028	Semi-Annually
425,000	4.950 %	21,038	2029	Semi-Annually
400,000	4.375 %	17,500	2030	Semi-Annually
\$ 6,200,000		\$ 314,051		

No principal repayments are due under these notes until maturity. Because these notes require interest at fixed rates, changes in market interest rates during the term of these debts will not affect our interest obligations. If these notes were refinanced at interest rates which are one percentage point higher than the rates shown above, our per annum interest cost would increase by approximately \$62,000. Changes in market interest rates would affect the fair value of our fixed rate debt obligations; increases in market interest rates decrease the fair value of our fixed rate debt while decreases in market interest rates increase the fair value of our fixed rate debt. Based on the balances outstanding at June 30, 2021 and discounted cash flows analyses through the respective maturity dates, and assuming no other changes in factors that may affect the fair value of our fixed rate debt obligations, a hypothetical immediate one percentage point change in interest rates would change the fair value of those debt obligations by approximately \$246,775.

Each of these fixed rate unsecured debt arrangements allows us to make repayments earlier than the stated maturity date. We are generally allowed to make prepayments only at a premium equal to a make whole amount, as defined, which is generally designed to preserve a stated yield to the noteholder. Also, we have in the past repurchased and retired some of our outstanding debts and we may do so again in the future. These prepayment rights and our ability to repurchase and retire outstanding debt may afford us opportunities to mitigate the risks of refinancing our debts at their maturities at higher rates by refinancing prior to maturity.

Floating Rate Debt

At June 30, 2021, our floating rate debt consisted of \$1,000,000 outstanding under our \$1,000,000 revolving credit facility. The maturity date of our revolving credit facility is July 15, 2022, and, subject to our meeting certain conditions, including our payment of an extension fee, we have an option to extend the stated maturity date of the facility by two additional six month periods. No principal repayments are required under our revolving credit facility prior to maturity and repayments may be made and redrawn subject to conditions at any time without penalty. Borrowings under our revolving credit facility are in U.S. dollars and require annual interest to be paid at the rate of LIBOR plus premiums that are subject to adjustment based upon changes to our credit ratings. Accordingly, we are vulnerable to changes in U.S. dollar based short term interest rates, specifically LIBOR and to changes in our credit ratings. In addition, upon renewal or refinancing of our revolving credit facility, we are vulnerable to increases in interest rate premiums due to market conditions or our perceived credit characteristics. Generally, a change in interest rates would not affect the value of this floating rate debt but would affect our operating results.

The following table presents the impact a one percentage point increase in interest rates would have on our annual floating rate interest expense as of June 30, 2021:

	Impact of Increase in Interest Rates				Total Interest Expense Per Year		Annual Per Share Impact ⁽²⁾	
	Interest Rate Per Year ⁽¹⁾		Outstanding Debt					
At June 30, 2021	2.85	%	\$	1,000,000	\$	28,500	\$	0.17
One percentage point increase	3.85	%	\$	1,000,000	\$	38,500	\$	0.23

(1) Weighted average based on the interest rates and the outstanding borrowings as of June 30, 2021.

(2) Based on diluted weighted average common shares outstanding for the three months ended June 30, 2021.

The foregoing table shows the impact of an immediate change in floating interest rates as of June 30, 2021. If interest rates were to change gradually over time, the impact would be spread over time. Our exposure to fluctuations in floating interest rates will increase or decrease in the future with increases or decreases in the outstanding amounts under our revolving credit facility or other floating rate debt, if any. Although we have no present plans to do so, we may in the future enter into hedge arrangements from time to time to mitigate our exposure to changes in interest rates.

LIBOR Phase Out

LIBOR is currently expected to be phased out for new contracts by December 31, 2021 and for pre-existing contracts by June 30, 2023. We are required to pay interest on borrowings under our credit facility at floating rates based on LIBOR. Future debt that we may incur may also require that we pay interest based upon LIBOR. We currently expect that, as a result of any phase out of LIBOR, the interest rates under our credit agreement would be revised as provided under the agreement or amended as necessary to provide for an interest rate that approximates the existing interest rate as calculated in accordance with LIBOR.

Item 4. Controls and Procedures

As of the end of the period covered by this Quarterly Report on Form 10-Q, our management carried out an evaluation, under the supervision and with the participation of our President and Chief Executive Officer and our Chief Financial Officer and Treasurer, of the effectiveness of our disclosure controls and procedures pursuant to Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934, as amended. Based upon that evaluation, our President and Chief Executive Officer and our Chief Financial Officer and Treasurer concluded that our disclosure controls and procedures are effective.

There have been no changes in our internal control over financial reporting during the quarter ended June 30, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Warning Concerning Forward-Looking Statements

This Quarterly Report on Form 10-Q contains statements that constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other securities laws. Whenever we use words such as “believe,” “expect,” “anticipate,” “intend,” “plan,” “estimate,” “will,” “may” and negatives or derivatives of these or similar expressions, we are making forward-looking statements. These forward-looking statements are based upon our present intent, beliefs or expectations, but forward-looking statements are not guaranteed to occur and may not occur. Forward-looking statements in this Quarterly Report on Form 10-Q relate to various aspects of our business, including:

- The duration and severity of the COVID-19 pandemic and its impact on us and our managers and tenants, and on our and their ability to operate throughout the pandemic and its aftermath,
- Our expectation about the ability of Sonesta to operate the hotels that have been or may be transitioned and rebranded to it,
- The likelihood and extent to which our managers and tenants will pay the contractual amounts of returns, rents or other obligations due to us,
- Our ability to maintain sufficient liquidity during the duration of the COVID-19 pandemic and any resulting economic conditions,
- Potential defaults on, or non-renewal of, leases by our tenants,
- Decreased rental rates or increased vacancies,
- Our sales and acquisitions of properties,
- Our policies and plans regarding investments, financings and dispositions,
- Our ability to pay interest on and principal of our debt,
- Our ability to pay distributions to our shareholders and to sustain the amount of such distributions,
- Our ability to raise or appropriately balance the use of debt or equity capital,
- Our intent to make improvements to certain of our properties,
- Our ability to engage and retain qualified managers and tenants for our hotels and net lease properties on satisfactory terms,
- Our ability to diversify our sources of rents and returns that improve the security of our cash flows,
- The future availability of borrowings under our revolving credit facility,
- Our credit ratings,
- Our expectation that we benefit from our relationships with RMR LLC, Sonesta and TA,
- Our qualification for taxation as a REIT,
- Changes in federal or state tax laws, and
- Other matters.

Our actual results may differ materially from those contained in or implied by our forward-looking statements. Forward-looking statements involve known and unknown risks, uncertainties and other factors, some of which are beyond our control. Risks, uncertainties and other factors that could have a material adverse effect on our forward-looking statements and upon our business, results of operations, financial condition, FFO, Normalized FFO, cash flows, liquidity and prospects include, but are not limited to:

- The impact of conditions in the economy, including the COVID-19 pandemic and any resulting economic conditions, and the capital markets on us and our managers and tenants,
- Competition within the real estate, hotel, transportation and travel center and other industries in which our managers and tenants operate, particularly in those markets in which our properties are located,
- Compliance with, and changes to, federal, state and local laws and regulations, accounting rules, tax laws and similar matters,
- Limitations imposed on our business and our ability to satisfy complex rules in order for us to maintain our qualification for taxation as a REIT for U.S. federal income tax purposes,
- Acts of terrorism, outbreaks of pandemics, including the COVID-19 pandemic, or other man-made or natural disasters beyond our control, and
- Actual and potential conflicts of interest with our related parties, including our Managing Trustees, TA, Sonesta, RMR LLC and others affiliated with them.

For example:

- Our ability to make future distributions to our shareholders and to make payments of principal and interest on our indebtedness depends upon a number of factors, including our future earnings, the capital costs we incur to acquire and maintain our properties and our working capital requirements. We may be unable to pay our debt obligations or to increase or maintain our current rate of distributions on our common shares and future distributions may be reduced or eliminated,
- Sonesta operated 261 of our 304 hotels as of June 30, 2021. We are currently negotiating with Radisson its possible continued management of nine of our hotels. If we do not reach an agreement with Radisson, we expect that some or all of these hotels may transition to Sonesta. Transitioning hotels to another operator is disruptive to the hotels' operations and requires significant capital investments. If Sonesta were to fail to provide quality services and amenities or to maintain a quality brand, our income from these properties may be adversely affected. There can be no assurance that Sonesta can operate the hotels as effectively or for returns at levels that could otherwise be achieved by other large well known hotel companies. Further, if we were required to replace Sonesta, we could experience significant disruptions in operations at the applicable properties, which could reduce our income and cash flows from, and the value of, those properties. We have no guarantee or security deposit under our Sonesta agreement. Accordingly, the returns we receive from our hotels managed under our Sonesta agreement are dependent upon the financial results of those hotel operations and we may continue to receive amounts from Sonesta that are less than the contractual minimum returns stated in our Sonesta agreement or we may be requested to fund operating losses for our Sonesta hotels. Further, we own an approximately 34% ownership interest in Sonesta. If Sonesta experiences losses, or requires additional capital, Sonesta may request we fund our share through the contribution of additional capital and if we do not fund those contributions, our equity interest in Sonesta will be diluted if Sonesta obtains such contributions from other shareholders,
- We cannot be sure of the future financial performance of our properties, or regarding our managers', tenants' or guarantors' future actions or their abilities or willingness to pay contracted amounts owed to us. If other operators or guarantors do not honor their obligations, we may seek to terminate our arrangements with them or other actions to enforce our rights,
- Recent improvements in lodging demand may not be sustained, may stall or could decline,
- If general economic activity in the country declines, the operating results of certain of our properties may decline, the financial results of our managers and our tenants may suffer and these managers and tenants may be unable to pay our returns or rents. Also, depressed operating results from our properties for extended periods may result in the operators of some or all of our properties becoming unable or unwilling to meet their obligations,

- Hotel and other competitive forms of temporary lodging supply have been increasing and may affect our hotel operators' ability to grow ADR and occupancy, and ADR and occupancy could decline due to increased competition which may cause our hotel operators to become unable to pay our returns or rents,
- If the current level of commercial activity in the country declines, including as a result of the COVID-19 pandemic, if the price of diesel fuel increases significantly, if fuel conservation measures are increased, if freight business is directed away from trucking, if TA is unable to effectively compete or operate its business, if fuel efficiencies, the use of alternative fuels or transportation technologies reduce the demand for products and services TA sells or for various other reasons, TA may become unable to pay current and deferred rents due to us,
- Our ability to grow our business and increase our distributions depends in large part upon our ability to buy properties that generate returns or can be leased for rents which exceed our operating and capital costs. We may be unable to identify properties that we want to acquire and we may fail to reach agreement with the sellers and complete the purchases of any properties we do want to acquire. In addition, any properties we may acquire may not generate returns or rents which exceed our operating and capital costs,
- We believe that our portfolio agreements include diverse groups of properties and that this diversity may improve operating results that might be realized from a more concentrated group of properties. However, our operator concentration with respect to our hotel operations has recently increased as a result of our transitioning of a majority of our hotels to Sonesta management, and our travel center properties continue to be concentrated with TA. As a result, our operating results may not improve,
- Current market conditions may cause the process of selling properties to continue to take longer than previously expected. We may not complete the sales of any properties we currently plan to sell, and we may determine to sell fewer properties. Also, we may sell assets at prices that are less than we expect and less than their carrying values and we may incur losses on these sales or with respect to these assets,
- Contingencies in our pending sale agreements may not be satisfied and any expected sales and any related management or lease arrangements we expect to enter may not occur, may be delayed or the terms of such transactions or arrangements may change,
- As of August 4, 2021, we had approximately \$963.1 million of cash or cash equivalents. This statement may imply that we have sufficient working capital and liquidity to meet our obligations for the next twelve months. The amounts we receive from our operators may be insufficient to operate our business profitably. Certain tenants have requested and we have granted certain rent relief and these requests could increase. In addition, our managers and tenants may not be able to fund minimum returns and rents due to us from operating our properties or from other resources. In the past and currently, certain of our tenants and managers have in fact not paid the minimum amounts due to us from their operations of our leased or managed properties and we may be required to fund hotel operating losses and working capital for our hotels. Further, our properties require significant funding for capital improvements and other matters. Accordingly, we may not have sufficient working capital or liquidity,
- Continued availability of borrowings under our revolving credit facility is subject to our satisfying certain financial covenants and other credit facility conditions. The ratio of income available for debt service to debt service was below the 1.5x requirement under our public debt covenants as of June 30, 2021. We are not permitted under our debt agreements to incur additional debt while this ratio is below 1.5x. As a precautionary measure, we have fully drawn our \$1.0 billion credit facility to maintain our financial flexibility. Our ability to incur debt may be limited for an extended period of time. We cannot be certain how long our ratio of income available for debt service to debt service may remain below 1.5x. We may not have any immediately available borrowing capacity to meet any funding needs beyond our cash on hand if our operating results and financial condition are significantly and adversely impacted by current economic conditions or otherwise. If we cannot incur additional debt, we may be forced to raise additional sources of capital or take other measures to maintain adequate liquidity and we may not succeed in raising any capital we may need,
- We expect the borrowings under our revolving credit facility to strengthen our financial position; however, we may not obtain the financial flexibility we expect due to the ongoing COVID-19 pandemic or for other reasons. We can provide no assurance regarding the duration and severity of the economic conditions resulting from the COVID-19 pandemic and its impact on us and our operators,
- We may be unable to repay our debt obligations when they become due,

- We intend to conduct our business activities in a manner that will afford us reasonable access to capital for investment and financing activities. However, we may not succeed in this regard and we may not have reasonable access to capital, including due to the COVID-19 pandemic and the resulting economic conditions. If challenging market conditions last for a long period or worsen, our managers and tenants may experience liquidity constraints and as a result may be unable or unwilling to pay returns or rents to us and our ability to operate our business effectively may be challenged,
- We currently expect to fund \$100 million of capital expenditures during the last six months of 2021. The cost of capital projects may be greater than we anticipate and operating results at our hotels may decline as a result of having rooms out of service to complete such improvements,
- Actual costs under our revolving credit facility or other floating rate debt will be higher than LIBOR plus a premium because of fees and expenses associated with such debt,
- The premiums used to determine the interest rate and facility fee payable on our revolving credit facility are based on our credit ratings. Changes in our credit ratings may cause the interest and fees we pay to increase,
- We have the option to extend the maturity date of our revolving credit facility upon payment of a fee and meeting other conditions; however, the applicable conditions may not be met,
- The business and property management agreements between us and RMR LLC have continuing 20 year terms. However, those agreements permit early termination in certain circumstances. Accordingly, we cannot be sure that these agreements will remain in effect for continuing 20 year terms,
- We believe that our relationships with our related parties, including RMR LLC, RMR Inc., TA, Sonesta and others affiliated with them may benefit us and provide us with competitive advantages in operating and growing our business. However, the advantages we believe we may realize from these relationships may not materialize, and
- Two of our subsidiaries have initiated arbitration proceedings against Marriott and several of its subsidiaries after Marriott challenged the efficacy of the termination of our agreement with them. The results of arbitration proceedings are difficult to predict and we can provide no assurances regarding such results. Even if we are successful in such proceedings, the pendency and conduct of such proceedings may be expensive and distracting to our management, and could be disruptive to our operations.

Currently unexpected results could occur due to many different circumstances, some of which are beyond our control, such as pandemics, including the COVID-19 pandemic, acts of terrorism, natural disasters, changes in our managers' or tenants' revenues or expenses, changes in our managers' or tenants' financial conditions, the market demand for hotel rooms or the goods and services provided at our properties or changes in capital markets or the economy generally.

The information contained elsewhere in this Quarterly Report on Form 10-Q, our 2020 Annual Report or in our other filings with the SEC, including under the caption "Risk Factors," or incorporated herein or therein, identifies other important factors that could cause differences from our forward-looking statements. Our filings with the SEC are available on the SEC's website at www.sec.gov.

You should not place undue reliance upon our forward-looking statements.

Except as required by law, we do not intend to update or change any forward-looking statements as a result of new information, future events or otherwise.

Statement Concerning Limited Liability

The Amended and Restated Declaration of Trust establishing Service Properties Trust dated August 21, 1995, as amended and supplemented, as filed with the State Department of Assessments and Taxation of Maryland, provides that no trustee, officer, shareholder, employee or agent of Service Properties Trust shall be held to any personal liability, jointly or severally, for any obligation of, or claim against, Service Properties Trust. All persons dealing with Service Properties Trust in any way shall look only to the assets of Service Properties Trust for the payment of any sum or the performance of any obligation.

Part II Other Information**Item 1A. Risk Factors**

There have been no material changes to risk factors from those we previously disclosed in our 2020 Annual Report.

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

Issuer purchases of equity securities. The following table provides information about our purchases of our equity securities during the quarter ended June 30, 2021:

Calendar Month	Number of Shares Purchased ⁽¹⁾	Average Price Paid per Share		Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
June 2021	15,079	\$	12.60	\$	—

- (1) These common share withholdings and purchases were made to satisfy the tax withholding and payment obligations of a former officer and a former officer and employee of RMR LLC in satisfaction of tax withholding and payment obligations in connection with the vesting of awards of our common shares. We withheld and purchased these shares at their fair market value based upon the trading price of our common shares at the close of trading on Nasdaq on the purchase date.

Item 6. Exhibits

Exhibit Number	Description
3.1	Composite Copy of Amended and Restated Declaration of Trust, dated as of August 21, 1995, as amended to date. (Incorporated by reference to the Company's Post-Effective Amendment No. 2 to Registration Statement on Form S-3, filed on July 15, 2020, File No. 333-226944.)
3.2	Articles Supplementary to the Declaration of Trust of the Company, dated June 10, 2020. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 10, 2020.)
3.3	Amended and Restated Bylaws of the Company, adopted effective September 23, 2019. (Incorporated by reference to the Company's Current Report on Form 8-K filed on September 23, 2019.)
4.1	Form of Common Share Certificate. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2019.)
4.2	Indenture, dated as of February 25, 1998, between the Company and State Street Bank and Trust Company. (Incorporated by reference to Exhibit 4.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997.)
4.3	Supplemental Indenture No. 14, dated as of August 16, 2012, between the Company and U.S. Bank National Association, relating to the Company's 5.000% Senior Notes due 2022, including form thereof. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012.)
4.4	Supplemental Indenture No. 15, dated as of June 6, 2013, between the Company and U.S. Bank National Association, relating to the Company's 4.500% Senior Notes due 2023, including form thereof. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013.)
4.5	Authentication Order, dated January 13, 2017, from the Company to U.S. Bank National Association, relating to the Company's 4.500% Senior Notes due 2023. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2016.)
4.6	Supplemental Indenture No. 16, dated as of March 12, 2014, between the Company and U.S. Bank National Association, relating to the Company's 4.650% Senior Notes due 2024, including form thereof. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2014.)
4.7	Supplemental Indenture No. 17, dated as of September 12, 2014, between the Company and U.S. Bank National Association, relating to the Company's 4.50% Senior Notes due 2025, including form thereof. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2014.)
4.8	Indenture, dated as of February 3, 2016, between the Company and U.S. Bank National Association. (Incorporated by reference to the Company's Current Report on Form 8-K filed on February 4, 2016.)
4.9	Second Supplemental Indenture, dated as of February 3, 2016, between the Company and U.S. Bank National Association, relating to the Company's 5.25% Senior Notes due 2026, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on February 4, 2016.)
4.10	Third Supplemental Indenture, dated as of January 13, 2017, between the Company and U.S. Bank National Association, relating to the Company's 4.950% Senior Notes due 2027, including form thereof. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2016.)
4.11	Fourth Supplemental Indenture, dated as of October 26, 2017, between the Company and U.S. Bank National Association, relating to the Company's 3.950% Senior Notes due 2028, including form thereof. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2017.)
4.12	Fifth Supplemental Indenture, dated as of February 2, 2018, between the Company and U.S. Bank National Association, relating to the Company's 4.375% Senior Notes due 2030, including form thereof. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.)
4.13	Sixth Supplemental Indenture, dated as of September 18, 2019, between the Company and U.S. Bank National Association, relating to the Company's 4.350% Senior Notes due 2024, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on September 18, 2019.)
4.14	Seventh Supplemental Indenture, dated as of September 18, 2019, between the Company and U.S. Bank National Association, relating to the Company's 4.750% Senior Notes due 2026, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on September 18, 2019.)
4.15	Eighth Supplemental Indenture, dated as of September 18, 2019, between the Company and U.S. Bank National Association, relating to the Company's 4.950% Senior Notes due 2029, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on September 18, 2019.)
4.16	Ninth Supplemental Indenture, dated as of June 17, 2020, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 18, 2020.)

Exhibit Number	Description
4.17	Supplemental Indenture, dated as of July 15, 2020, among the Company, Highway Ventures Properties Trust, HPTWN Properties Trust, HPT Suite Properties Trust, SVCN 2 LLC and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2020.)
4.18	Supplemental Indenture, dated as of October 9, 2020, among the Company, Banner NewCo LLC, SVCN 3 LLC and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020.)
4.19	Supplemental Indenture, dated as of November 13, 2020, among the Company, SVC Jersey City TRS LLC, SVC Morris Plains TRS LLC, SVC Nanuet TRS LLC, SVC NJ TRS LLC, SVC Randolph Street TRS LLC, SVC Redondo Beach TRS LLC and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025. (Incorporated by reference to the Company's Current Report on Form 8-K filed on November 17, 2020.)
4.20	Supplemental Indenture, dated as of January 29, 2021, among the Company, SVC Gatehall Drive TRS LLC and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021.)
4.21	Supplemental Indenture, dated as of July 8, 2021, among the Company, SVCN 1 LLC, SVCN 4 LLC and U.S. Bank National Association, relating to the Company's 7.50% Senior Notes due 2025. (Filed herewith.)
4.22	Tenth Supplemental Indenture, dated as of November 20, 2020, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank National Association, relating to the Company's 5.50% Senior Notes due 2027, including form thereof. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2020.)
4.23	Supplemental Indenture, dated as of January 29, 2021, among the Company, SVC Gatehall Drive TRS LLC and U.S. Bank National Association, relating to the Company's 5.50% Senior Notes due 2027. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021.)
4.24	Supplemental Indenture, dated as of July 8, 2021, among the Company, SVCN 1 LLC, SVCN 4 LLC and U.S. Bank National Association, relating to the Company's 5.50% Senior Notes due 2027. (Filed herewith.)
4.25	Registration Rights and Lock-Up Agreement, dated as of June 5, 2015, among the Company, ABP Trust (f/k/a Reit Management & Research Trust) and Adam D. Portnoy. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 8, 2015.)
10.1	Summary of Trustee Compensation. (Incorporated by Reference to the Company's Current Report on Form 8-K filed on June 17, 2021.)
10.2	Fourth Amendment to Second Amended and Restated Credit Agreement, dated as of June 11, 2021, among the Company, Wells Fargo Bank, National Association, as Administrative Agent, and each of the other financial institutions signatory thereto. (Filed herewith.)
10.3	Third Amended and Restated Property Management Agreement, dated as of June 22, 2021, between the Company and The RMR Group LLC. (Filed herewith.)
22.1	List of Subsidiary Guarantors. (Filed herewith.)
31.1	Rule 13a-14(a) Certification. (Filed herewith.)
31.2	Rule 13a-14(a) Certification. (Filed herewith.)
32.1	Section 1350 Certification. (Furnished herewith.)
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema Document. (Filed herewith.)
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document. (Filed herewith.)
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document. (Filed herewith.)
101.LAB	XBRL Taxonomy Extension Label Linkbase Document. (Filed herewith.)
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document. (Filed herewith.)
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

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.

SERVICE PROPERTIES TRUST

/s/ John G. Murray

John G. Murray
President and Chief Executive Officer
Dated: August 5, 2021

/s/ Brian E. Donley

Brian E. Donley
Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)
Dated: August 5, 2021

Supplemental Indenture

This Supplemental Indenture (this “*Supplemental Indenture*”), dated as of July 8, 2021, among SVCN 1 LLC and SVCN 4 LLC, each a limited liability company formed and existing under the laws of the State of Delaware (together, the “*Additional Subsidiary Guarantors*”), each a subsidiary of Service Properties Trust, a real estate investment trust organized and existing under the laws of the State of Maryland (the “*Company*”), the Company and U.S. Bank National Association, a national banking organization organized and existing under the laws of the United States (the “*Trustee*”).

WITNESSETH

WHEREAS, the Company (then known as Hospitality Properties Trust) and the Trustee are parties to an Indenture (the “*Base Indenture*”), dated as of February 3, 2016 (as supplemented by that certain Ninth Supplemental Indenture (the “*Ninth Supplemental Indenture*”), dated as of June 17, 2020, among the Company, the Initial Subsidiary Guarantors party thereto and the Trustee, providing for the issuance of the Company’s 7.50% Senior Notes due 2025 (the “*Notes*”), as supplemented by that certain Supplemental Indenture, dated as of July 15, 2020, among the Company, the Subsidiary Guarantors party thereto and the Trustee, that certain Supplemental Indenture, dated as of October 9, 2020, among the Company, the Subsidiary Guarantors party thereto and the Trustee, that certain Supplemental Indenture, dated as of November 13, 2020, among the Company, the Subsidiary Guarantors party thereto and the Trustee, and that certain Supplemental Indenture, dated as of January 29, 2021, among the Company, the Subsidiary Guarantor party thereto and the Trustee, and as from time to time hereafter further amended, supplemented or otherwise modified so far as it applies to the Notes, the “*Indenture*”);

WHEREAS, the Indenture provides that under certain circumstances the Additional Subsidiary Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Additional Subsidiary Guarantors will fully and unconditionally guarantee the Notes, jointly and severally with all of the other Subsidiary Guarantors, on the terms and conditions set forth herein;

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company, each Additional Subsidiary Guarantor and the Trustee have been done; and

WHEREAS, pursuant to Section 901 of the Base Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Additional Subsidiary Guarantors and the Trustee mutually covenant and agree as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
-

2. Agreement to Guarantee. Each Additional Subsidiary Guarantor hereby agrees that its obligations to the Holders and the Trustee pursuant to the Subsidiary Guarantee shall be as expressly set forth in Article 6 of the Ninth Supplemental Indenture and in such other provisions of the Indenture as are applicable to the Subsidiary Guarantors (including, without limitation, Article 3 of the Ninth Supplemental Indenture), and reference is made to the Indenture for the precise terms of this Supplemental Indenture. The terms of Article 6 of the Ninth Supplemental Indenture and such other provisions of the Indenture (including, without limitation, Article 3 of the Ninth Supplemental Indenture) as are applicable to the Subsidiary Guarantors are incorporated herein by reference.

3. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

4. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

5. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

6. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Additional Subsidiary Guarantors and the Company.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

COMPANY:

SERVICE PROPERTIES TRUST

By: /s/ Brian E. Donley

Name: Brian E. Donley

Title: Chief Financial Officer and Treasurer

ADDITIONAL SUBSIDIARY GUARANTORS:

SVCN 1 LLC

SVCN 4 LLC

By: /s/ Brian E. Donley

Name: Brian E. Donley

Title: Chief Financial Officer and Treasurer

[Signature Page to Supplemental Indenture for 7.50% Senior Notes due 2025 (July 2021)]

TRUSTEE:

U.S. BANK, NATIONAL ASSOCIATION, as Trustee

By: /s/ David W. Doucette

Name: David W. Doucette

Title: Vice President

[Signature Page to Supplemental Indenture for 7.50% Senior Notes due 2025 (July 2021)]

Supplemental Indenture

This Supplemental Indenture (this “*Supplemental Indenture*”), dated as of July 8, 2021, among SVCN 1 LLC and SVCN 4 LLC, each a limited liability company formed and existing under the laws of the State of Delaware (together, the “*Additional Subsidiary Guarantors*”), each a subsidiary of Service Properties Trust, a real estate investment trust organized and existing under the laws of the State of Maryland (the “*Company*”), the Company and U.S. Bank National Association, a national banking organization organized and existing under the laws of the United States (the “*Trustee*”).

WITNESSETH

WHEREAS, the Company (then known as Hospitality Properties Trust) and the Trustee are parties to an Indenture (the “*Base Indenture*”), dated as of February 3, 2016 (as supplemented by that certain Tenth Supplemental Indenture (the “*Tenth Supplemental Indenture*”), dated as of November 20, 2020, among the Company, the Initial Subsidiary Guarantors party thereto and the Trustee, providing for the issuance of the Company’s 5.50% Senior Notes due 2027 (the “*Notes*”), as supplemented by that certain Supplemental Indenture, dated as of January 29, 2021, among the Company, the Subsidiary Guarantor party thereto and the Trustee, and as from time to time hereafter further amended, supplemented or otherwise modified so far as it applies to the Notes, the “*Indenture*”);

WHEREAS, the Indenture provides that under certain circumstances the Additional Subsidiary Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Additional Subsidiary Guarantors will fully and unconditionally guarantee the Notes, jointly and severally with all of the other Subsidiary Guarantors, on the terms and conditions set forth herein;

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company, each Additional Subsidiary Guarantor and the Trustee have been done; and

WHEREAS, pursuant to Section 901 of the Base Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Additional Subsidiary Guarantors and the Trustee mutually covenant and agree as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
 2. Agreement to Guarantee. Each Additional Subsidiary Guarantor hereby agrees that its obligations to the Holders and the Trustee pursuant to the Subsidiary Guarantee shall be as expressly set forth in Article 6 of the Tenth Supplemental Indenture and in such other provisions of the Indenture as are applicable to the Subsidiary Guarantors (including, without
-

limitation, Article 3 of the Tenth Supplemental Indenture), and reference is made to the Indenture for the precise terms of this Supplemental Indenture. The terms of Article 6 of the Tenth Supplemental Indenture and such other provisions of the Indenture (including, without limitation, Article 3 of the Tenth Supplemental Indenture) as are applicable to the Subsidiary Guarantors are incorporated herein by reference.

3. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

4. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

5. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

6. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Additional Subsidiary Guarantors and the Company.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

COMPANY:

SERVICE PROPERTIES TRUST

By: /s/ Brian E. Donley

Name: Brian E. Donley

Title: Chief Financial Officer and Treasurer

ADDITIONAL SUBSIDIARY GUARANTORS:

SVCN 1 LLC

SVCN 4 LLC

By: /s/ Brian E. Donley

Name: Brian E. Donley

Title: Chief Financial Officer and Treasurer

[Signature Page to Supplemental Indenture for 5.50% Senior Notes due 2027 (July 2021)]

TRUSTEE:

U.S. BANK, NATIONAL ASSOCIATION, as Trustee

By: /s/ David W. Doucette

Name: David W. Doucette

Title: Vice President

[Signature Page to Supplemental Indenture for 5.50% Senior Notes due 2027 (July 2021)]

FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT

THIS FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this “Amendment”) dated as of June 11, 2021, by and among SERVICE PROPERTIES TRUST (f/k/a HOSPITALITY PROPERTIES TRUST), a real estate investment trust formed under the laws of the State of Maryland (the “Borrower”), the Guarantors solely for the purpose of Section 11 hereof, each of the financial institutions party hereto and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent (the “Administrative Agent”).

WHEREAS, the Borrower, the Lenders, the Administrative Agent and certain other parties have entered into that certain Second Amended and Restated Credit Agreement dated as of May 10, 2018 (as amended by that certain First Amendment to Second Amended and Restated Credit Agreement, dated as of September 17, 2019, that certain Second Amendment to Second Amended and Restated Credit Agreement, dated as of May 8, 2020, and that certain Third Amendment to Second Amended and Restated Credit Agreement, dated as of November 5, 2020, and as further amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof, the “Credit Agreement”); and

WHEREAS, as permitted by Section 12.6. of the Credit Agreement, the parties hereto desire to amend the Credit Agreement subject to the terms and conditions of this Amendment (the Credit Agreement as so amended, the “Amended Credit Agreement”);

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

Section 1. Amendments to Credit Agreement. Subject to the conditions precedent set forth in Section 2 below, as of the Fourth Amendment Effective Date, the Credit Agreement is hereby amended to delete the red font stricken text (indicated textually in the same manner as the following example: ~~stricken-text~~) and to add the blue font double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in Exhibit A attached hereto such that, immediately after giving effect to this Amendment, the Amended Credit Agreement will read as set forth in Exhibit A.

Section 2. Conditions Precedent. The effectiveness of this Amendment is subject to (i) the truth and accuracy of the representations set forth in Section 3 below and (ii) the Administrative Agent’s receipt of each of the following, each of which shall be in form and substance satisfactory to the Administrative Agent (the first date on which each of the conditions pursuant to the foregoing clauses (i) and (ii) shall have been satisfied, the “Fourth Amendment Effective Date”):

- (a) a counterpart of this Amendment duly executed by the Borrower, the Administrative Agent and the Requisite Lenders;
- (b) an opinion of Sullivan & Worcester LLP, as counsel to the Borrower and the other Loan Parties, and an opinion of Saul Ewing Arnstein & Lehr LLP, as special Maryland counsel to the Borrower, in each case addressed to the Administrative Agent and the Lenders and covering such matters as the Administrative Agent may reasonably request;

(c) the side letter agreement, dated as of the Fourth Amendment Effective Date, in form and substance satisfactory to the Administrative Agent and the Requisite Lenders (the “Side Letter”), duly executed by the Administrative Agent and the Borrower;

(d) evidence that all fees, expenses and reimbursement amounts due and payable to the Administrative Agent and any of the Lenders in connection with this Amendment have been paid;

(e) all information requested by the Administrative Agent and each Lender in order to comply with applicable “know your customer” and Anti-Money Laundering Laws and regulations, including without limitation, the Patriot Act, in each case, at least five (5) Business Days prior to the Fourth Amendment Effective Date; and

(f) such other documents, agreements, instruments, certificates or other confirmations as the Administrative Agent may reasonably request.

Section 3. Representations and Warranties. The Borrower represents and warrants to the Administrative Agent and the Lenders that:

(a) Authorization. The Borrower has the right and power, and has taken all necessary action to authorize it, to execute and deliver this Amendment and to perform its obligations hereunder and under the Amended Credit Agreement in accordance with their respective terms. This Amendment has been duly executed and delivered by a duly authorized officer of the Borrower and each of this Amendment and the Amended Credit Agreement is a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its respective terms except as (i) the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting creditors’ rights generally and (ii) the availability of equitable remedies may be limited by equitable principles of general applicability.

(b) Compliance with Laws, etc. The execution and delivery by the Borrower of this Amendment and the performance by the Borrower of this Amendment and the Amended Credit Agreement in accordance with their respective terms, do not and will not, by the passage of time, the giving of notice or otherwise: (i) require any Governmental Approval or violate any Applicable Law (including Environmental Laws) relating to the Borrower or any other Loan Party; (ii) conflict with, result in a breach of or constitute a default under the organizational documents of Borrower or any other Loan Party, or any indenture, agreement or other instrument to which the Borrower or any other Loan Party is a party or by which it or any of its respective properties may be bound; or (iii) result in or require the creation or imposition of any Lien upon or with respect to any property now owned or hereafter acquired by the Borrower or any other Loan Party other than in favor of the Administrative Agent for its benefit and the benefit of the Lenders and the Issuing Banks.

(c) No Default. No Default or Event of Default has occurred and is continuing as of the date hereof or will exist immediately after giving effect to this Amendment.

Section 4. Certain References. Each reference to the Credit Agreement in any of the Loan Documents shall be deemed to be a reference to the Amended Credit Agreement. This Amendment is a Loan Document.

Section 5. Costs and Expenses. The Borrower shall reimburse the Administrative Agent for all reasonable out-of-pocket costs and expenses (including reasonable attorneys’ fees) incurred by the

Administrative Agent in connection with the preparation, negotiation and execution of this Amendment and the other agreements and documents executed and delivered in connection herewith.

Section 6. Benefits. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

Section 7. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED, AND TO BE FULLY PERFORMED, IN SUCH STATE.

Section 8. Effect. Except as expressly herein amended, the terms and conditions of the Credit Agreement and the other Loan Documents remain in full force and effect. The amendment contained herein shall be deemed to have prospective application only. The Amended Credit Agreement is hereby ratified and confirmed in all respects. Nothing in this Amendment shall limit, impair or constitute a waiver of the rights, powers or remedies available to the Administrative Agent or the Lenders under the Amended Credit Agreement or any other Loan Document.

Section 9. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and shall be binding upon all parties, their successors and assigns.

Section 10. Electronic Signatures. The words “execute,” “execution,” “signed,” “signature,” and words of like import in or related to any document to be signed by any Lender, Titled Agent, Issuing Bank or Swingline Lender (collectively, the “Lender Parties”) in connection with this Amendment and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the 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 of such Lender Party or the use of a paper-based recordkeeping system with respect to such Lender Party, 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, the Administrative Agent is under no obligation to agree to accept electronic signatures from any Lender Party in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it. Each of the undersigned hereby (i) agrees that, for all purposes, electronic images of this Amendment (including with respect to any of the Lender Parties’ signature pages thereto) shall have the same legal effect, validity, admissibility into evidence and enforceability as any paper original, and (ii) waives any argument, defense or right to contest the validity, admissibility into evidence or enforceability of this Amendment based solely on the lack of paper original copies hereof, including with respect to any of the Lender Parties’ signatures hereto.

Section 11. Confirmation of Guaranty. Each Guarantor (i) confirms its obligations under the Guaranty, (ii) confirms that its obligations under the Amended Credit Agreement constitute “Obligations” (as defined in the Amended Credit Agreement) and “Guaranteed Obligations” (as defined in the Guaranty), (iii) confirms its guarantee of the Obligations under the Guaranty, (iv) confirms that its obligations under the Amended Credit Agreement are entitled to the benefits of the guarantee set forth in the Guaranty, (v) agrees that the Amended Credit Agreement is the “Credit Agreement” under and for all

purposes of the Guaranty, (vi) confirms that it has received reasonably equivalent value for the Guaranteed Obligations it has incurred, which reasonably equivalent value includes, without limitation, the availability of extensions of credit for the working capital needs of such Guarantor pursuant to the terms of the Loan Documents, and (vii) confirms that the incurrence by such Guarantor of its Guaranteed Obligations does not result in any fraudulent transfer or fraudulent conveyance within the meaning of any applicable federal or state statute or the interpretation thereof or relevant common law. Each Guarantor, by its execution of this Amendment, hereby confirms that the Obligations shall remain in full force and effect.

Section 12. Side Letter. The undersigned Lenders constituting Requisite Lenders hereby authorize the Administrative Agent to enter into the Side Letter by and between the Administrative Agent and the Borrower. The Lenders shall be bound by, and will not take any action contrary to, the provisions of the Side Letter to the same extent as if each Lender were a party thereto.

Section 13. Definitions. All capitalized terms not otherwise defined herein are used herein with the respective definitions given them in the Amended Credit Agreement.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to Second Amended and Restated Credit Agreement to be executed as of the date first above written.

SERVICE PROPERTIES TRUST

By: /s/ Brian E. Donley
Name: Brian E. Donley
Title: Chief Financial Officer and Treasurer

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

BANNER NEWCO LLC
CAMBRIDGE TRS, INC.
HARBOR COURT ASSOCIATES, LLC
HIGHWAY VENTURES BORROWER LLC
HIGHWAY VENTURES LLC
HIGHWAY VENTURES PROPERTIES LLC
HIGHWAY VENTURES PROPERTIES TRUST
HPT CAMBRIDGE LLC
HPT CLIFT TRS LLC
HPT CW MA REALTY LLC
HPT CY TRS, INC.
HPT GEARY ABC HOLDINGS LLC
HPT GEARY PROPERTIES TRUST
HPT IHG CHICAGO PROPERTY LLC
HPT IHG GA PROPERTIES LLC
HPT IHG-2 PROPERTIES TRUST
HPT IHG-3 PROPERTIES LLC
HPT SN HOLDING, INC.
HPT STATE STREET TRS LLC
HPT SUITE PROPERTIES TRUST
HPT TA PROPERTIES LLC
HPT TA PROPERTIES TRUST
HPT TRS IHG-2, INC.
HPT TRS INC.
HPT TRS MRP, INC.
HPT TRS SPES II, INC.
HPT TRS WYN, INC.
HPT WACKER DRIVE TRS LLC
HPTCY PROPERTIES TRUST
HPTMI HAWAII, INC.
HPTMI PROPERTIES TRUST
HPTWN PROPERTIES TRUST
ROYAL SONESTA, INC.
SVC GATEHALL DRIVE TRS LLC
SVC HOLDINGS LLC
SVC JERSEY CITY TRS LLC
SVC MORRIS PLAINS TRS LLC
SVC NANUET TRS LLC
SVC NJ TRS LLC
SVC RANDOLPH STREET TRS LLC
SVC REDONDO BEACH TRS LLC
SVCN 2 LLC
SVCN 3 LLC
SVCN 5 LLC,

each as a Guarantor

By: /s/ Brian E. Donley
Name: Brian E. Donley
Title: Chief Financial Officer and Treasurer

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

HPT CW MA REALTY TRUST, as a guarantor

By: /s/ Brian E. Donley
Name: Brian E. Donley
Title: as a trustee and not individually

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent, as Issuing Bank, as Swingline Lender, and as a Lender

By: /s/ Anand J. Jobanputra
Name: Anand J. Jobanputra
Title: Managing Director

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

PNC BANK, NATIONAL ASSOCIATION, as Issuing Bank, as Swingline Lender, and as a Lender

By: /s/ Shari L Reams-Henofor
Name: Shari L Reams-Henofor
Title: Senior Vice President

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

ROYAL BANK OF CANADA, as Issuing Bank, as Swingline Lender, and as a Lender

By: /s/ William Behuniak
Name: William Behuniak
Title: Authorized Signatory

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

BANK OF AMERICA, N.A., as Issuing Bank, as Swingline Lender, and as a Lender

By: /s/ Kyle Pearson
Name: Kyle Pearson
Title: Vice President

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG
SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT

Name of Institution: The Bank of East Asia, Limited,
as a Lender

By: /s/ Chong Tan
Name: Chong Tan
Title: Senior Vice President

By: /s/ Danny Leung
Name: Danny Leung
Title: Senior Vice President

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT

Name of Institution: U.S. Bank, National Association,
as a Lender

By: /s/ Joseph L. Hord
Name: Joseph L. Hord
Title: Senior Vice President

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG
SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT

Name of Institution: REGIONS BANK,
as a Lender

By: /s/ c. Vincent Hughes, Jr.
Name: C. Vincent Hughes, Jr.
Title: Vice President

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG
SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT

Name of Institution: MIZUHO BANK, LTD.,
as a Lender

By: /s/ Donna DeMagistris
Name: Donna DeMagistris
Title: Authorized Signatory

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG
SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT

Name of Institution: Berkshire Bank,
as a Lender

By: /s/ F. Clarke Cronin
Name: F. Clarke Cronin
Title: S.V.P.

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT

Name of Institution: UBS AG, Stamford Branch,
as a Lender

By: /s/ Anthony Joseph
Name: Anthony Joseph
Title: Associate Director

By: /s/ Ken Chin
Name: Ken Chin
Title: Director

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG
SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT

Mega International Commercial Bank Co., Ltd,
Los Angeles Branch
as a Lender

By: /s/ Yi-Ming Ko
Name: Yi-Ming Ko
Title: SVP & GM

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

Mega International Commercial Bank Co., Ltd.
New York Branch, as a Lender

By: /s/ Pi-Kai Liu
Name: Pi-Kai Liu
Title: AVP

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

SIGNATURE PAGE TO FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT, AMONG SERVICE PROPERTIES TRUST, EACH LENDER PARTY HERETO AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT

Name of Institution: BARCLAYS BANK PLC,
as a Lender

By: /s/ Anh Tran
Name: Anh Tran
Title: Assistant Vice President

Signature Page to Fourth Amendment to Second Amended and Restated Credit Agreement

EXHIBIT A

Amended Credit Agreement

[To be attached]



Revolving Credit Loan Number/ CUSIP Number: 1005467/ 44106VAC6
Term Loan Number/ CUSIP Number: 1006744/ 44016VAE2

EXECUTION VERSION

CONFORMED COPY OF SECOND AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of May 10, 2018

conformed through

~~THIRD~~FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of ~~November 5~~ June 11, 2020 2021

by and among

SERVICE PROPERTIES TRUST (f/k/a HOSPITALITY PROPERTIES TRUST),
as Borrower,

THE FINANCIAL INSTITUTIONS PARTY HERETO
AND THEIR ASSIGNEES UNDER SECTION 12.5.,
as Lenders,

WELLS FARGO Bank, National Association,
as Administrative Agent,

WELLS FARGO SECURITIES, LLC,
BOFA SECURITIES, INC.,
PNC CAPITAL MARKETS, LLC

and
RBC CAPITAL MARKETS¹,
as Joint Lead Arrangers
and
Joint Lead Bookrunners,

BANK OF AMERICA, N.A.,
PNC BANK, NATIONAL ASSOCIATION
and
ROYAL BANK OF CANADA,
as Syndication Agents

and

CITIBANK, N.A.,
COMPASS BANK,
MIZUHO BANK, LTD.,
REGIONS BANK,
SUMITOMO MITSUI BANKING CORPORATION
and
U.S. BANK NATIONAL ASSOCIATION,
as Documentation Agents

¹ RBC Capital Markets is the global brand name for the corporate and investment banking business of Royal Bank of Canada and its affiliates.

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THIS SECOND AMENDED AND RESTATED CREDIT AGREEMENT (this “Agreement”) dated as of May 10, 2018 (the “Agreement Date”), by and among **SERVICE PROPERTIES TRUST (f/k/a HOSPITALITY PROPERTIES TRUST)**, a real estate investment trust formed under the laws of the State of Maryland (the “Borrower”), each of the financial institutions initially a signatory hereto together with their successors and assignees under Section 12.5. (the “Lenders”), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as Administrative Agent (the “Administrative Agent”), with each of **WELLS FARGO SECURITIES, LLC**, **BOFA SECURITIES, INC.** (or its Affiliate), **PNC CAPITAL MARKETS, LLC** and **RBC CAPITAL MARKETS**, as Joint Lead Arrangers and Joint Bookrunners (each a “Lead Arranger”), each of **BANK OF AMERICA, N.A.**, **PNC BANK, NATIONAL ASSOCIATION** and **ROYAL BANK OF CANADA**, as Syndication Agents (each a “Syndication Agent”), and each of **CITIBANK, N.A.**, **COMPASS BANK**, **MIZUHO BANK, LTD.**, **REGIONS BANK**, **SUMITOMO MITSUI BANKING CORPORATION**, and **U.S. BANK NATIONAL ASSOCIATION**, as Documentation Agents (each a “Documentation Agent”).

WHEREAS, certain of the Lenders and other financial institutions have made available to the Borrower credit facilities in an aggregate initial amount of \$1,400,000,000, which include a \$400,000,000 term loan facility, a revolving credit facility in the amount of \$1,000,000,000, including a \$75,000,000 swingline subfacility and a \$50,000,000 letter of credit subfacility, on the terms and conditions contained in that certain Credit Agreement dated as of January 8, 2014 (as amended and in effect immediately prior to the date hereof, the “Existing Credit Agreement”) by and among the Borrower, such Lenders, certain other financial institutions, the Administrative Agent and the other parties thereto; and

WHEREAS, the Administrative Agent and the Lenders desire to amend and restate the Existing Credit Agreement on the terms and conditions contained herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto agree that the Existing Credit Agreement is amended and restated in its entirety as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions.

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

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

“**Additional Collateral Property Pledged Interests**” has the meaning given that term in Section 7.14.(b)(iii).

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

“**Adjusted EBITDA**” means, with respect to a Person for a given period, such Person’s EBITDA for such period determined on a consolidated basis less the sum, without duplication, of (a) any FF&E Reserves to the extent included in EBITDA, (b) the excess, if any, with respect to each Hotel or Hotel Pool (as applicable) of such Person, of (i) 4.0% of total gross room revenues of such Hotel or Hotel Pool for such period over (ii) the FF&E Reserve actually funded during such period or prefunded for such period by the Operator or the Borrower or its Subsidiaries with respect to such Hotel or Hotel Pool

pursuant to the applicable Lease, Management Agreement or any related Ancillary Agreement, (c) the excess, if any, with respect to each Travel Center of such Person, of (i) \$150,000 per annum for such Travel Center (such amount to be appropriately adjusted if such period is not a year in duration) over (ii) the FF&E Reserve actually funded or prefunded by the Operator or the Borrower during such period with respect to such Property pursuant to the applicable Lease or any related Ancillary Agreement, (d) Capital Expenditure Reserves for such period and (e) to the extent included in EBITDA, replacement reserves for any Other Properties.

“**Administrative Agent**” means Wells Fargo Bank, National Association as contractual representative of the Lenders under this Agreement, or any successor Administrative Agent appointed pursuant to Section 11.8.

“**Administrative Questionnaire**” means the Administrative Questionnaire completed by each Lender and delivered to the Administrative Agent in a form supplied by the Administrative Agent to the Lenders from time to time.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affected Lender**” has the meaning given that term in Section 4.6.

“**Affiliate**” means with respect to a specified Person, another Person that directly or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with the Person specified. In no event shall the Administrative Agent or any Lender be deemed to be an Affiliate of the Borrower.

“**Agreement Date**” means May 10, 2018.

“**Ancillary Agreement**” means, with respect to any Operating Agreement, any material incidental agreement with respect to such Operating Agreement (including, by way of example, guarantees, franchise agreements, and, in the case of Leases, management agreements not constituting Operating Agreements) to which the Borrower or any Subsidiary is a party.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder and the U.K. Bribery Act 2010 and the rules and regulations thereunder.

“**Anti-Money Laundering Laws**” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules related to terrorism financing, money laundering, any predicate crime to money laundering or any financial record keeping, including any applicable provision of the Patriot Act and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“**Applicable Facility Fee**” means the percentage set forth in the table below corresponding to the Level at which the “Applicable Margin” is determined in accordance with the definition thereof.

Level	Facility Fee
1	0.100%
2	0.125%
3	0.150%
4	0.200%
5	0.250%
6	0.300%

Any change in the applicable Level at which the Applicable Margin is determined shall result in a corresponding and simultaneous change in the Applicable Facility Fee. The provisions of this definition shall be subject to Section 2.5.(c).

“Applicable Law” means all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders, 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.

“Applicable Margin” means the percentage rate set forth in the table below corresponding to the level (each a “Level”) into which the Borrower’s Credit Rating then falls. Any change in the Borrower’s Credit Rating which would cause it to move to a different Level shall be effective as of the first day of the first calendar month immediately following receipt by the Administrative Agent of written notice delivered by the Borrower in accordance with Section 8.4.(l) that the Borrower’s Credit Rating has changed; provided, however, if the Borrower has not delivered the notice required by such Section but the Administrative Agent becomes aware that the Borrower’s Credit Rating has changed, then the Administrative Agent may, in its sole discretion, adjust the Level effective as of the first day of the first calendar month following the date the Administrative Agent becomes aware that the Borrower’s Credit Rating has changed. During any period that the Borrower has received two Credit Ratings that are not equivalent, then (x) the Applicable Margin shall be determined based on the Level corresponding to the higher of such two Credit Ratings if the higher of such two Credit Ratings is not more than one Level higher than the lower of such two Credit Ratings and (y) the Applicable Margin shall be determined based on the Level corresponding to the Level immediately below the higher of such two Credit Ratings if the higher of such two Credit Ratings is more than one Level higher than the lower of such two Credit Ratings. During any period for which the Borrower has received a Credit Rating from only one Rating Agency, then the Applicable Margin shall be determined based on such Credit Rating. During any period that the Borrower has not received a Credit Rating from any Rating Agency, the Applicable Margin shall be determined based on Level 6. The provisions of this definition shall be subject to Section 2.5.(c).

Level	Borrower's Credit Rating (S&P/Moody's)	Applicable Margin for Revolving Loans that are LIBOR Loans	Applicable Margin for Revolving Loans that are Base Rate Loans
1	A/A2 or better	1.575%	0.575%
2	A-/A3	1.625%	0.625%
3	BBB+/Baa1	1.675%	0.675%
4	BBB/Baa2	1.800%	0.800%
5	BBB-/Baa3	2.000%	1.000%
6	Lower than BBB-/Baa3 or not rated	2.350%	1.350%

“**Appraisal**” means, with respect to any Property, an M.A.I. appraisal commissioned by and addressed to the Administrative Agent (acceptable to the Administrative Agent as to form, substance and appraisal date), prepared by a professional appraiser acceptable to the Administrative Agent, having at least the minimum qualifications required under Applicable Law governing the Administrative Agent and the Lenders, including, without limitation, FIRREA, and determining both the “as-is” market value of such Property as between a willing buyer and a willing seller and the “as-stabilized value” of such Property.

“**Appraised Value**” means, with respect to any Property, the “as-is” or “as-stabilized”, as applicable, market value of such Property as reflected in the most recent Appraisal of such Property accepted by Administrative Agent, as the same may have been adjusted by the Administrative Agent based upon its internal review of such Appraisal which is based on criteria and factors then generally used and considered by the Administrative Agent, which review shall be conducted prior to acceptance of such Appraisal by the Administrative Agent.

“**Approved Budget**” means the forecast of the Borrower substantially in the form delivered in connection with the Third Amendment, as adjusted from time to time as approved by the Administrative Agent.

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

“**Asset Under Development**” means, as of any date of determination, any Property on which construction of new income-producing improvements has been commenced and is continuing. If such construction consists of the construction of tenant or comparable improvements, hotel renovations or construction to effect a change in use, as opposed to material expansion of such Property or any “ground up” development, such Property shall not be considered to be an Asset Under Development. In addition, to the extent any Property includes a revenuegenerating component (e.g. an existing Hotel) and a building under development, such revenuegenerating component shall not be considered to be an Asset Under Development but such building under development shall be considered to be an Asset Under Development. Further, (i) no Hotel or other Property shall be considered an Asset Under Development if the opening date with respect to such Hotel has occurred or the lease or leases for such other Property have commenced and (ii) real property under construction to be (but not yet) acquired by the Borrower or a Subsidiary upon completion of construction pursuant to a contract in which the seller of such real

property is required to complete construction prior to, and as a condition precedent to, such acquisition, shall be Assets Under Development.

“Assignment and Assumption” means an Assignment and Assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 12.5.), and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

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

“Bail-In Legislation” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“Bankruptcy Code” means the Bankruptcy Code of 1978, as amended.

“Base Payments” means the minimum base rent or owner’s priority payment that an Owner is entitled to receive under an Operating Agreement. The term excludes: (a) payments (such as real estate taxes, insurance premiums, and costs of maintenance) that the Operating Agreement requires the Operator to pay third parties; (b) any element of rent or owner’s priority payment that is conditional, contingent, or not yet capable of determination; and (c) FF&E Reserves. If Operating Agreement(s) for multiple Hotels do not separately allocate Base Payments to such Hotels, then Base Payments shall be reasonably allocated among such Hotels (where necessary) in a manner satisfactory to the Administrative Agent.

“Base Rate” means, at any time, the highest of (a) the Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) the LIBOR Market Index Rate plus 1.0%; each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or the LIBOR Market Index Rate (provided that clause (c) shall not be applicable during any period in which LIBOR is unavailable or unascertainable).

“Base Rate Loan” means a Revolving Loan or Term Loan (or any portion thereof) bearing interest at a rate based on the Base Rate.

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

“Beneficial Ownership Regulation” means 31 CFR § 1010.230.

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

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Blocked Account” means the Borrower’s account to be maintained with Wells Fargo and to be used for the purposes set forth herein, which Blocked Account shall be under the sole dominion and control of the Administrative Agent. The Blocked Account shall be a controlled account from which the Borrower shall have no right to withdraw or receive funds at any time except as such funds may be withdrawn or disbursed in accordance with the terms hereof.

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

“Borrower Information” has the meaning given that term in Section 2.5.(c).

“Borrower Letter” means that certain letter dated as of even date herewith from the Borrower to the Administrative Agent and the Lenders.

“Business Day” means (a) for all purposes other than as set forth in clause (b) below, any day (other than a Saturday, Sunday or legal holiday) on which banks in New York, New York, are open for the conduct of their commercial banking business, and (b) with respect to all notices and determinations in connection with, and payments of principal and interest on, any LIBOR Loan, or any Base Rate Loan as to which the interest rate is determined by reference to LIBOR, any day that is a Business Day described in clause (a) and that is also a day for trading by and between banks in Dollar deposits in the London interbank market. Unless specifically referenced in this Agreement as a Business Day, all references to “days” shall be to calendar days.

“Business Management Agreement” means that certain Second Amended and Restated Business Management Agreement dated as of June 5, 2015, as amended to date, by and among the Borrower and RMR.

“Capital Expenditure Reserves” means, (i) with respect to a Net Lease Retail Property and for a given period, an amount equal to (a) the aggregate rentable square footage of all completed space of such Property, times (b) \$0.10, times (c) the number of days in such period, divided by (d) 365, (ii) with respect to a Multifamily Property (other than senior and student housing) and for a given period, an amount equal to (a) the aggregate number of residential apartment units of such Property, times (b) \$250, times (c) the number of days in such period, divided by (d) 365, (iii) with respect to a Multifamily Property that constitutes senior housing, and for a given period, an amount equal to (a) the aggregate number of beds of such Property, times (b) \$300, times (c) the number of days in such period, divided by (d) 365, and (iv) with respect to a Multifamily Property that constitutes student housing, and for a given period, an amount equal to (a) the aggregate number of beds of such Property, times (b) \$200, times (c) the number of days in such period, divided by (d) 365; provided, however that no Capital Expenditure Reserves shall be required with respect to any portion of a Property which is leased to a third party obligated under such lease to pay all capital expenditures with respect to such portion of such Property.

“Capitalization Rate” means (a) 8.00% for Hotels, (b) 7.50% for Net Lease Retail Properties and Multifamily Properties, and (c) 8.75% for Travel Centers and Other Properties.

“Capitalized Lease Obligation” means obligations under a lease (to pay rent or other amounts under any lease or other arrangement conveying the right to use) that are required to be capitalized for financial reporting purposes in accordance with GAAP. The amount of a Capitalized Lease Obligation is the capitalized amount of such obligation as would be required to be reflected on a balance sheet of the applicable Person prepared in accordance with GAAP as of the applicable date.

“Cash Collateralize” means, to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Issuing Banks or the Lenders, as collateral for Letter of Credit Liabilities or obligations of Lenders to fund participations in respect of Letter of Credit Liabilities, cash or deposit account balances or, if the Administrative Agent and the applicable Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the applicable Issuing Bank. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means: (a) securities issued, guaranteed or insured by the United States of America or any of its agencies with maturities of not more than one year from the date acquired; (b) certificates of deposit with maturities of not more than one year from the date acquired issued by a United States federal or state chartered commercial bank of recognized standing, or a commercial bank organized under the laws of any other country which is a member of the Organisation for Economic Cooperation and Development, or a political subdivision of any such country, acting through a branch or agency, which bank has capital and unimpaired surplus in excess of \$500,000,000 and which bank or its holding company has a shortterm commercial paper rating of at least A2 or the equivalent by S&P or at least P2 or the equivalent by Moody’s; (c) reverse repurchase agreements with terms of not more than seven days from the date acquired, for securities of the type described in clause (a) above and entered into only with commercial banks having the qualifications described in clause (b) above; (d) commercial paper issued by any Person incorporated under the laws of the United States of America or any State thereof and rated at least A2 or the equivalent thereof by S&P or at least P2 or the equivalent thereof by Moody’s, in each case with maturities of not more than one year from the date acquired; and (e) investments in money market funds registered under the Investment Company Act of 1940, as amended, which have net assets of at least \$500,000,000 and at least 85% of whose assets consist of securities and other obligations of the type described in clauses (a) through (d) above.

“Casualty/Condemnation Event” means the occurrence of (i) any damage to a Collateral Property, in whole or in part, by fire or other casualty or (ii) any condemnation of any Collateral Property, in each case, equaling or exceeding ten percent (10)% of the as-is Appraised Value of such Property.

“Collateral” means any real or personal property directly or indirectly securing any of the Obligations or any other obligation of a Person under or in respect of any Loan Document and includes, without limitation, all Pledged Interests, all “Property,” “Improvements,” and “Collateral” (or other similar term) under and as defined in each Security Instrument, all “Management Agreements” (or other similar term) as defined in any Property Management Contract Assignment, and all other property subject to a Lien created by a Security Document. For the avoidance of doubt, the Collateral shall not secure any Specified Derivatives Obligations.

“Collateral Properties” means, collectively, (i) each Initial Collateral Property for which (a) a Security Instrument and each other applicable Security Document has been delivered to and accepted by the Administrative Agent and (b) each other condition set forth on Annex I has been satisfied or waived in writing by the Administrative Agent in respect of such Property (provided that any such condition requiring delivery of Security Documents that the Administrative Agent determines to be applicable, a Title Policy, flood hazard determinations or, to the extent applicable, evidence of flood insurance coverage as required by the Administrative Agent shall not be waived without the written consent of the Requisite Lenders), and (ii) each other Property added as a Collateral Property from time to time pursuant to Section 7.15(a); *provided that*, notwithstanding anything to the contrary herein or in any other Loan Document, solely for purposes of Sections 7.13(b), 9.2, 9.4, and 12.2, each Initial Collateral Property shall, at all times prior to the satisfaction of the Initial Mortgage Collateral Requirement, be deemed to be

a “Collateral Property” for all purposes thereunder regardless of whether or not the conditions specified in the foregoing clauses (i)(a) and (i)(b) shall have been satisfied.

“**Collateral Property Availability**” means, as determined with respect to the then Collateral Properties, the sum of (a) for Hotels, the lesser of (i) 50% of the as-stabilized Appraised Value of such Collateral Property and (ii) 65% of the as-is Appraised Value of such Collateral Property and (b) for Collateral Properties other than Hotels, the lesser of (i) 60% of the as-is Appraised Value of such Collateral Properties, in the aggregate, and (ii) the amount that would result in a 11% Collateral Property Debt Yield for such Collateral Properties, in the aggregate. If any Collateral Property shall cease to qualify as such pursuant to Section 7.15(c), such ineligible Property shall be excluded from the calculation of the Collateral Property Availability, and the Collateral Property Availability shall be recalculated immediately upon such exclusion.

“**Collateral Property Debt Yield**” means, on any date of determination, the ratio, expressed as a percentage, of Net Operating Income of the Collateral Properties (other than Hotels) for the fiscal quarter of the Borrower most recently ending and the three immediately preceding fiscal quarters to the aggregate outstanding principal balance of all Revolving Loans, Swingline Loans, Letter of Credit Liabilities and other extensions of credit hereunder as of such date.

“**Collateral Property Pledged Interests**” means, collectively, (i) the “Collateral Property Pledged Interests” as defined in the Third Amendment and (ii) any Additional Collateral Property Pledged Interests.

“**Collateral Value Percentage**” means, as of any date of determination, the ratio, expressed as a percentage, of (i) the aggregate outstanding amount of the Obligations to (ii) the sum of the undepreciated book values of the Properties that are Unencumbered Assets owned directly by the issuers of the Pledged Interests and which have not then been excluded by Administrative Agent pursuant to Section 7.14(b)(i)(4).

“**Commitment**” means, as to a Lender, such Lender’s Revolving Commitment or such Lender’s Term Loan Commitment, as the context may require.

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

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

“**Construction Budget**” means the fully budgeted costs for the acquisition and construction of a given piece of Property (including without limitation, the cost of acquiring such piece of Property (except to the extent any portion thereof is Unimproved Land), reserves for construction interest and operating deficits, tenant improvements, leasing commissions, and infrastructure costs), as reasonably determined by the Borrower in good faith.

“**Continue**”, “**Continuation**” and “**Continued**” each refers to the continuation of a LIBOR Loan from one Interest Period to another Interest Period pursuant to Section 2.9.

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

“**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

“**Convert**”, “**Conversion**” and “**Converted**” each refers to the conversion of a Loan of one Type into a Loan of another Type pursuant to Section 2.10.

“**Credit Event**” means any of the following: (a) the making (or deemed making) of any Loan, (b) the Conversion of a Base Rate Loan into a LIBOR Loan and (c) the issuance of a Letter of Credit or the amendment of a Letter of Credit that extends the maturity, or increases the Stated Amount, of such Letter of Credit.

“**Credit Rating**” means the rating assigned by a Rating Agency to the senior unsecured long term Indebtedness of a Person.

“**Debt Service**” means, for any period, the sum of: (a) Interest Expense of the Borrower and its Subsidiaries determined on a consolidated basis for such period and (b) all regularly scheduled principal payments made with respect to Indebtedness of the Borrower and its Subsidiaries during such period, in each case, other than any balloon, bullet or similar principal payment which repays such Indebtedness in full.

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

“**Default**” means any of the events specified in Section 10.1., whether or not there has been satisfied any requirement for the giving of notice, the lapse of time, or both.

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**Defaulting Lender**” means, subject to Section 3.9.(f), any Lender that (a) has failed to (i) fund all or any portion of its Loans within 2 Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Banks, the Swingline Lenders 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 Swingline Loans) within 2 Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, an Issuing Bank or a Swingline 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) in the case of a Revolving Lender, has failed, within 3 Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a

Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 3.9.(f)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank, each Swingline Lender and each Lender.

~~“Deposit Account Control Agreement” means a deposit account control agreement entered into among the Administrative Agent, a Guarantor and any depository institution from time to time, in form and substance satisfactory to the Administrative Agent.~~

“Derivatives Contract” means (a) any transaction (including any master agreement, confirmation or other agreement with respect to any such transaction) now existing or hereafter entered into by the Borrower or any of its Subsidiaries (i) which is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions) or (ii) which is a type of transaction that is similar to any transaction referred to in clause (i) above that is currently, or in the future becomes, recurrently entered into in the financial markets (including terms and conditions incorporated by reference in such agreement) and which is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made, and (b) any combination of these transactions.

“Derivatives Support Document” means (i) any credit support annex comprising part of (and as defined in) any Specified Derivatives Contract, and (ii) any document or agreement pursuant to which cash, deposit accounts, securities accounts or similar financial asset collateral are pledged to or made available for set-off by, a Specified Derivatives Provider, including any banker’s lien or similar right, securing or supporting Specified Derivatives Obligation.

“Derivatives Termination Value” means, in respect of any one or more Derivatives Contracts, after taking into account the effect of any legally enforceable netting agreement or provision relating thereto, (a) for any date on or after the date such Derivatives Contracts have been terminated or closed out, the termination amount or value determined in accordance therewith, and (b) for any date prior to the

date such Derivatives Contracts have been terminated or closed out, the then-current mark-to-market value for such Derivatives Contracts, determined based upon one or more mid-market quotations or estimates provided by any recognized dealer in Derivatives Contracts (which may include the Administrative Agent, any Lender, any Specified Derivatives Provider or any Affiliate of any thereof).

“Developable Property” means (a) any Property on which there are no improvements (excluding land which is leased under a net lease to a third party) or (b) any Property (or portion thereof) acquired by the Borrower or any Subsidiary for the purposes of being developed. Developable Property shall not include any Property that is an Asset Under Development.

“Disbursement Instruction Agreement” means an agreement substantially in the form of Exhibit K to be executed and delivered by the Borrower pursuant to Section 5.1.(a), as the same may be amended, restated or modified from time to time with the prior written approval of the Administrative Agent.

“Disclaimed Cash Proceeds” means any cash proceeds from the sale of a Collateral Property (including any personal property thereon) resulting from the Administrative Agent’s enforcement of the lien on such Collateral Property created by the applicable Security Instrument (including, but not limited to, a foreclosure sale or a sale in accordance with a Post-Foreclosure Plan) that has been disclaimed by any Lender pursuant to a side letter by and between such Lender (each such Lender, a “Disclaimed Lender”) and the Administrative Agent.

“Disclaimed Lender” has the meaning given that term in the definition of the term “Disclaimed Cash Proceeds.”

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

“EBITDA” means, with respect to a Person for a given period and without duplication, the sum of: (a) net income (or loss) of such Person for such period determined on a consolidated basis, in accordance with GAAP, exclusive of the following (but only to the extent included in the determination of such net income (loss) for such period): (i) depreciation and amortization expense; (ii) interest expense; (iii) income tax expense; (iv) extraordinary or non-recurring gains and losses (including asset impairment charges); (v) transaction costs of acquisitions not permitted to be capitalized pursuant to GAAP, (vi) fair value adjustments related to investments in equity securities pursuant to FASB ASC 321; and (vii) in the case of Borrower and its Subsidiaries, equity in the earnings (or loss) of Unconsolidated Affiliates and RMR Inc. (but only in the case of RMR Inc., if RMR Inc. would be an Unconsolidated Affiliate but for the last sentence of the definition of that term); plus (b) in the case of the Borrower and its Subsidiaries cash dividends (other than extraordinary cash dividends or distributions) received by the Borrower or its Subsidiaries from RMR Inc. during such period; plus (c) such Person’s Ownership Share of EBITDA of its Unconsolidated Affiliates. Straight line rent leveling adjustments, deferred percentage rent adjustments required under GAAP, and amortization of intangibles pursuant to FASB ASC 805 and the like, shall be disregarded in determinations of EBITDA.

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

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

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

“**Effective Date**” means the later of (a) the Agreement Date and (b) the date on which all of the conditions precedent set forth in Section 5.1. shall have been fulfilled or waived by all of the Lenders.

“**Eligible Assignee**” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (other than a natural person) (subject to such consents, if any, as may be required under Section 12.5.(b)(iii)); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include (i) the Borrower or any of the Borrower’s Affiliates or Subsidiaries or (ii) 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 (ii).

“**Eligible Property**” means a Property which satisfies all of the following requirements: (a) such Property is wholly-owned (i) in fee simple directly by a Guarantor (or, in the case of the Property located at 18118 International Blvd., Seattle, Washington, in which a Guarantor is the holder of the leasehold estate) and (ii) indirectly by the Borrower; (b) the Guarantor that owns such Property has the right to take the following actions without the need to obtain the consent of any Person (other than the Administrative Agent and Lenders): (i) to create Liens on such Property as security for Indebtedness of the Borrower or such Guarantor, as applicable, and (ii) to sell, transfer or otherwise dispose of such Property; (c) neither such Property, nor any of the Borrower’s direct or indirect ownership interest in such Guarantor, is subject to (i) any Lien other than Permitted Liens described in clauses (a), (c), (g) and (i) of the definition of that term or (ii) any Negative Pledge; provided, however, with respect to the Property located at 108 Ocean Road, Greenland, New Hampshire (the “Greenland NH Property”), such Property may be subject to that certain Mortgage dated July 2, 2008 in favor of City of Portsmouth, a New Hampshire municipal corporation, recorded on July 11, 2008 in the Rockingham County Registry of Deed at Book 4934, Page 0680 (the “NH City Mortgage”) so long as such NH City Mortgage remains fully subordinated to the Security Instrument encumbering the Greenland NH Property pursuant to a subordination agreement in form and substance satisfactory to the Administrative Agent; (d) any tax abatement or tax credit programs or affordability restrictions to which such Property is subject have been reviewed and approved by the Administrative Agent and acceptable mortgagee acknowledgements, estoppels and/or other agreements as required by the Administrative Agent have been obtained and the applicable Property and Guarantor shall be in compliance therewith; (e) such Property and related Collateral is encumbered by first priority mortgage Liens in favor of the Administrative Agent, for the benefit of the Lenders, as required pursuant to Section 7.15(a) (subject to the Administrative Agent having entered into a subordination, non-disturbance and attornment agreement with the applicable Manager or Tenant if required to provide the Administrative Agent with a first priority mortgage Lien), and the Lien of the Security Instrument on such Property is insured by a Title Policy as required pursuant hereto; (f) such Property is free of all structural defects and major architectural deficiencies, title defects, environmental conditions and other adverse matters, except for defects, deficiencies, conditions or other matters which, individually or collectively, are not materially adverse to the use, operation or value of such Property; and (g) no Casualty/Condemnation Event has occurred with respect to such Property which has not been fully restored and paid for in full.

“**Environmental Laws**” means any Applicable Law relating to environmental protection or the manufacture, storage, remediation, disposal or cleanup of Hazardous Materials including, without

limitation, the following: Clean Air Act, 42 U.S.C. § 7401 et seq.; Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; National Environmental Policy Act, 42 U.S.C. § 4321 et seq.; regulations of the Environmental Protection Agency, any applicable rule of common law and any judicial interpretation thereof relating primarily to the environment or Hazardous Materials, and any analogous or comparable state or local laws, regulations or ordinances that concern Hazardous Materials or protection of the environment.

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

“Equity Pledges” means all Liens in favor of the Administrative Agent (for the benefit of the Lenders) on the Pledged Interests pursuant to and as set forth in the Pledge Agreement.

“Equity Pledge Release Date” has the meaning given that term in Section 7.14(b)(i).

“ERISA” means the Employee Retirement Income Security Act of 1974, as in effect from time to time.

“ERISA Event” means, with respect to the ERISA Group, (a) any “reportable event” as defined in Section 4043 of ERISA with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the withdrawal of a member of the ERISA Group from a Plan subject to Section 4063 of ERISA during a plan year in which it 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) the incurrence by a member of the ERISA Group of any liability with respect to the withdrawal or partial withdrawal from any Multiemployer Plan; (d) the incurrence by any member of the ERISA Group of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (e) the institution of proceedings to terminate a Plan or Multiemployer Plan by the PBGC; (f) the failure by any member of the ERISA Group to make when due required contributions to a Multiemployer Plan or Plan unless such failure is cured within 30 days or the filing pursuant to Section 412(c) of the Internal Revenue Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard; (g) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan or the imposition of liability under Section 4069 or 4212(c) of ERISA; (h) the receipt by any member of the ERISA Group of any notice or the receipt by any Multiemployer Plan from any member of the ERISA Group of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent (within the meaning of Section 4245 of ERISA), in reorganization (within the meaning of Section 4241 of ERISA), or in “critical” status (within the meaning of Section 432 of the Internal Revenue Code or Section 305 of ERISA); (i) 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 member of the ERISA Group or the imposition of any Lien in favor of the PBGC under Title IV of ERISA; or (j) a determination that a Plan

is, or is reasonably expected to be, in “at risk” status (within the meaning of Section 430 of the Internal Revenue Code or Section 303 of ERISA).

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

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

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

~~“**Excluded Deposit Account**” means, (a) any deposit account the funds in which are used solely for the payment of salaries and wages, workers’ compensation and similar expenses in the ordinary course of business, (b) any deposit account that is a zero-balance disbursement account, (c) any deposit account the funds in which consist solely of funds held as part of escrow arrangements permitted under the terms of this Agreement and (d) for any Hotel, any deposit account in the name of the Borrower or a Subsidiary that is subject to the control of the Operator of such Hotel (other than Sonesta Hotels), but only to the extent the Borrower or such Subsidiary does not have the right to enter into a Deposit Account Control Agreement with respect to such deposit account under the terms of the applicable third-party Management Agreement.~~

“**Excluded Subsidiary**” means any Subsidiary (a) holding title to or beneficially owning assets which are or are intended to become collateral for any Secured Indebtedness of such Subsidiary, or being a beneficial owner of a Subsidiary holding title to or beneficially owning such assets (but having no material assets other than such beneficial ownership interests or the equity interests of a Subsidiary having no material assets other than such beneficial ownership interests) and (b) which (i) is, or is expected to be, prohibited from Guarantying the Indebtedness of any other Person pursuant to any document, instrument or agreement evidencing such Secured Indebtedness or (ii) is prohibited from Guarantying the Indebtedness of any other Person pursuant to a provision of such Subsidiary’s organizational documents which provision was included in such Subsidiary’s organizational documents as a condition or anticipated condition to the extension of such Secured Indebtedness.

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, 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 applicable 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 an Applicable Law in effect on the date on which (i) such Lender acquires such interest in such Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 4.6.) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 3.10., 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 3.10.(g) and (d) any U.S. federal withholding Taxes imposed under FATCA.

“Existing Credit Agreement” has the meaning given that term in the recitals to this Agreement.

“Existing Letters of Credit” means the letters of credit issued and outstanding under the Existing Credit Agreement and set forth on Schedule 1.1.(a).

“Extended Letter of Credit” has the meaning given that term in Section 2.3.(b).

“Fair Market Value” means, (a) with respect to a security listed on a national securities exchange or the NASDAQ Global Market, the price of such security as reported on such exchange or market by any widely recognized reporting method customarily relied upon by financial institutions and (b) with respect to any other property, the price which could be negotiated in an arm’s-length free market transaction, for cash, between a willing seller and a willing buyer, neither of which is under pressure or compulsion to complete the transaction.

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code.

“Federal Funds Rate” means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three Federal Funds brokers of recognized standing selected by the Administrative Agent. If the Federal Funds Rate determined as provided above would be less than fifty basis points (0.50%), then the Federal Funds Rate shall be deemed to be fifty basis points (0.50%).

“Fee Letter” means that certain fee letter dated as of April 23, 2018, by and among the Borrower, Wells Fargo, Wells Fargo Securities, LLC and the other parties thereto.

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

“FF&E Reserve” means, for any period and with respect to a given Property or Hotel Pool, an amount equal to the amount that the Operating Agreement or any Ancillary Agreement for such Property or Hotel Pool requires the Operator to reserve during such period for (i) replacements and renewals to such Property’s or Hotel Pool’s furnishings, fixtures and equipment, (ii) routine repairs and maintenance to buildings which are normally capitalized under GAAP and (iii) major repairs, alterations, improvements, renewals or replacements to building structures, roofs or exterior façade, or for mechanical, electrical, HVAC, plumbing or vertical transportation systems.

“FIRREA” means the Financial Institution Recovery, Reform and Enforcement Act of 1989.

“First Amendment Date” means September 17, 2019.

“**Fitch**” means Fitch, Inc. and its successors.

“**Fixed Charges**” means, for any period, the sum (without duplication) of (a) Debt Service for such period and (b) Preferred Dividends for such period.

“**Flood Laws**” has the meaning given that term in Section 11.12.

“**Foreign Lender**” means a Lender that is not a U.S. Person.

“**Foreign Subsidiary**” means a Subsidiary not formed under the laws of the United States of America, any state thereof or the District of Columbia.

“**Fourth Amendment**” means that certain Fourth Amendment to Second Amended and Restated Credit Agreement, dated as of June 11, 2021, among the Borrower, the Lenders party thereto and the Administrative Agent.

“**Fourth Amendment Effective Date**” has the meaning assigned to such term in the Fourth Amendment.

“**Fronting Exposure**” means, at any time there is a Defaulting Lender that is a Revolving Lender, (a) with respect to an Issuing Bank, such Defaulting Lender’s Revolving Commitment Percentage of the outstanding Letter of Credit Liabilities owed to such Issuing Bank other than Letter of Credit Liabilities as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to a Swingline Lender, such Defaulting Lender’s Revolving Commitment Percentage of outstanding Swingline Loans owed to such Swingline Lender other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders.

“**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 of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (including Statement of Financial Accounting Standards No. 168, “The FASB Accounting Standards Codification”) or in such other statements by such other entity as may be approved by a significant segment of the accounting profession in the United States of America, which are applicable to the circumstances as of the date of determination.

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

“**Governmental Authority**” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasigovernmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, bureau, commission, board, department or other entity (including, without limitation, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Federal Reserve Board, any central bank or any comparable authority) or any arbitrator with authority to bind a party at law.

“Ground Lease” means a ground lease containing the following terms and conditions: (a) either (i) a remaining term (taking into account extensions which may be effected by the lessee without the consent of the lessor) of no less than 30 years from the Agreement Date, or (ii) the right of the lessee to purchase the property on terms reasonably acceptable to the Administrative Agent; (b) the right of the lessee to mortgage and encumber its interest in the leased property without the consent of the lessor; (c) the obligation of the lessor to give the holder of any mortgage Lien on such leased property written notice of any defaults on the part of the lessee and that such lease will not be terminated until such holder has had a reasonable opportunity to cure or complete foreclosures, and fails to do so; and (d) free transferability of the lessee’s interest under such lease, including ability to sublease, subject to only reasonable consent provisions.

“Guarantor” means, collectively, (i) each direct owner of any Collateral Property and (ii) any Subsidiary that becomes a Guarantor pursuant to the terms of Section 7.13.

“Guaranteed Obligations” means, at any given time, the “Guaranteed Obligations” (as defined in the Guaranty) of each Guarantor that directly owns a Collateral Property at such time.

“Guaranty”, “Guaranteed” or to “Guarantee” as applied to any obligation means and includes: (a) a guaranty (other than by endorsement of negotiable instruments for collection in the ordinary course of business), directly or indirectly, in any manner, of any part or all of such obligation, or (b) an agreement, direct or indirect, contingent or otherwise, and whether or not constituting a guaranty, the practical effect of which is to assure the payment or performance (or payment of damages in the event of nonperformance) of any part or all of such obligation whether by: (i) the purchase of securities or obligations, (ii) the purchase, sale or lease (as lessee or lessor) of property or the purchase or sale of services primarily for the purpose of enabling the obligor with respect to such obligation to make any payment or performance (or payment of damages in the event of nonperformance) of or on account of any part or all of such obligation, or to assure the owner of such obligation against loss, (iii) the supplying of funds to or in any other manner investing in the obligor with respect to such obligation, (iv) repayment of amounts drawn down by beneficiaries of letters of credit (including Letters of Credit), or (v) the supplying of funds to or investing in a Person on account of all or any part of such Person’s obligation under a Guaranty of any obligation or indemnifying or holding harmless, in any way, such Person against any part or all of such obligation. As the context requires, “Guaranty” shall also mean the guaranty executed and delivered pursuant to Section 5.1. or 7.13., as applicable, and substantially in the form of Exhibit B.

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

“Hotel” means any Property, the improvements on which are operated as a hotel, inn or the providing of lodging or leisure services, together with any incidental improvements on such Property operated in connection with such hotel, inn, lodging or leisure facility.

“Hotel Net Cash Flow” means the net operating cash flow of a Hotel, after (a) all taxes (except income taxes), insurance, salaries, utilities, and other operating expenses, and all other sums that the applicable Operating Agreement or any related Ancillary Agreement requires the applicable Operator to pay from the cash flow of such Hotel (excluding (i) all items payable to such Operator that are subordinated to Base Payments and (ii) Base Payments), and (b) the greater of (a) FF&E Reserves, or (b) 4.0% of total gross room revenues for such period. Hotel Net Cash Flow shall be determined as of any date based on the last four completed fiscal quarters of the Person that owns such Hotel (subject to reasonable adjustment or interpolation to accommodate differences between such Person’s fiscal quarters and those of its Operator).

“Hotel Pool” means any group of two or more Properties, substantially all of the value of which is attributable to Hotels, that are leased to or managed by an Operator pursuant to a single Lease or other Operating Agreement, or multiple Leases or other Operating Agreements that are cross-defaulted (as to defaults by lessee or manager, as applicable).

“Indebtedness” means, with respect to a Person, at the time of computation thereof, all of the following (without duplication): (a) all obligations of such Person in respect of money borrowed or for the deferred purchase price of property or services (excluding trade debt incurred in the ordinary course of business); (b) all obligations of such Person, whether or not for money borrowed (i) represented by notes payable, or drafts accepted, in each case representing extensions of credit, (ii) evidenced by bonds, debentures, notes or similar instruments, or (iii) constituting purchase money indebtedness, conditional sales contracts, title retention debt instruments or other similar instruments, upon which interest charges are customarily paid or that are issued or assumed as full or partial payment for property or for services rendered; (c) Capitalized Lease Obligations of such Person; (d) all reimbursement obligations (contingent or otherwise) of such Person under or in respect of any letters of credit or acceptances (whether or not the same have been presented for payment); (e) all Off-Balance Sheet Obligations; (f) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Mandatorily Redeemable Stock issued by such Person or any other Person, valued at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (g) all obligations of such Person in respect of any purchase obligation, repurchase obligation, takeout commitment or forward equity commitment (excluding, in the case of the Borrower and its Subsidiaries, to the extent any such obligation can be satisfied solely by the issuance of Equity Interests (other than Mandatorily Redeemable Stock)); (h) all Indebtedness of other Persons which such Person has Guaranteed or is otherwise recourse to such Person, valued at the lesser of (x) the stated or determinable amount of the Indebtedness such Person Guaranteed or, if the amount of such Indebtedness is not stated or determinable, the maximum reasonably anticipated liability in respect thereof, and (y) the amount of any express limitation on such Guaranty; (i) all Indebtedness of another Person secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien (other than Permitted Liens of the types described in clauses (a) through (c) or (e) through (i) of the definition thereof) on property or assets owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness or other payment obligation, valued, in the case of any such Indebtedness as to which recourse for the payment thereof is expressly limited to the property or assets on which such Lien is granted, at the lesser of (x) the stated or determinable amount of the Indebtedness that is so secured or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) and (y) the Fair Market Value of such property or assets; and (j) such Person’s Ownership Share of the Indebtedness of any Unconsolidated Affiliate of such Person.

“Indemnified Party” has the meaning given that term in Section 12.9.(a).

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

“Initial Collateral Property” has the meaning given that term in the Third Amendment.

“Initial Mortgage Collateral Requirement” has the meaning given that term in the Third Amendment.

“Intellectual Property” has the meaning given that term in Section 6.1.(t).

“Interest Expense” means, with respect to a Person for any period of time (a) the interest expense whether paid, accrued or capitalized (without deduction of consolidated interest income) of such Person for such period plus (b) in the case of the Borrower, the Borrower’s Ownership Share of Interest Expense of its Unconsolidated Affiliates. Interest Expense shall exclude any amortization of (i) deferred financing fees and (ii) debt discounts (but only to the extent such discounts do not exceed 3.0% of the initial face principal amount of such debt).

“Interest Period” means, with respect to each LIBOR Loan, each period commencing on the date such LIBOR Loan is made, or in the case of the Continuation of a LIBOR Loan the last day of the preceding Interest Period for such Loan, and ending 7 days thereafter or on the numerically corresponding day in the first, third or sixth calendar month thereafter, as the Borrower may select in a Notice of Borrowing, Notice of Continuation or Notice of Conversion, as the case may be, except that each Interest Period (other than an Interest Period having a duration of 7 days) that commences on the last Business Day of a calendar month (or on any day for which there is no numerically corresponding day in the appropriate subsequent calendar month) shall end on the last Business Day of the appropriate subsequent calendar month. Notwithstanding the foregoing: (i) if any Interest Period for a Revolving Loan or Term Loan would otherwise end after the Revolving Termination Date or Term Loan Maturity Date, as applicable, such Interest Period shall end on the Revolving Termination Date or Term Loan Maturity Date, as applicable; and (ii) each Interest Period that would otherwise end on a day which is not a Business Day shall end on the immediately following Business Day (or, if such immediately following Business Day falls in the next calendar month, on the immediately preceding Business Day).

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

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

“Issuing Banks” means each of Wells Fargo, Bank of America, N.A., PNC and RBC, in its capacity as an issuer of Letters of Credit pursuant to Section 2.3. of the Credit Agreement.

“L/C Commitment Amount” has the meaning given to that term in Section 2.3.(a).

“L/C Disbursement” has the meaning given to that term in Section 3.9.(b).

“Lease” means a (sub)lease of a Property between the Borrower or a Subsidiary, as (sub)lessor, and an Operator, as (sub)lessee; provided that unless the Administrative Agent otherwise approves, a (sub)lease of a Property from the Borrower or a Subsidiary to a TRS or any other Subsidiary of the Borrower shall be deemed not to be a “Lease” for purposes of this Agreement.

“Lender” means each financial institution from time to time party hereto as a “Lender,” together with its respective successors and permitted assigns, and, as the context requires, includes each Swingline Lender. Except as expressly provided herein, the term “Lender” shall exclude any Lender (and its Affiliates) in its capacity as a Specified Derivatives Provider

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

“Lessee” means the (sub)lessee of a Property pursuant to a Lease, provided that (x) without the Administrative Agent’s approval or (y) unless such Lease shall be a transaction with an Affiliate permitted by Section 9.8., no such (sub)lessee shall be an Affiliate of the Borrower (including, without limitation, RMR, or any Managing Trustee), except during an interim period for Properties which are foreclosed upon or repossessed upon lease terminations or otherwise by or on behalf of the Borrower or a Subsidiary.

“Letter of Credit” has the meaning given that term in Section 2.3.(a).

“Letter of Credit Collateral Account” means a special deposit account maintained by the Administrative Agent, for the benefit of the Administrative Agent, one or more Issuing Banks and the Lenders, and under the sole dominion and control of the Administrative Agent.

“Letter of Credit Documents” means, with respect to any Letter of Credit, collectively, any application therefor, any certificate or other document presented in connection with a drawing under such Letter of Credit and any other agreement, instrument or other document governing or providing for (a) the rights and obligations of the parties concerned or at risk with respect to such Letter of Credit or (b) any collateral security for any of such obligations.

“Letter of Credit Liabilities” means, without duplication, at any time and in respect of any Letter of Credit, the sum of (a) the Stated Amount of such Letter of Credit plus (b) the aggregate unpaid principal amount of all Reimbursement Obligations of the Borrower at such time due and payable in respect of all drawings made under such Letter of Credit. For purposes of this Agreement, a Revolving Lender (other than the Revolving Lender then acting as Issuing Bank with respect to such related Letter of Credit) shall be deemed to hold a Letter of Credit Liability in an amount equal to its participation interest under Section 2.3. in the related Letter of Credit, and the Revolving Lender then acting as Issuing Bank with respect to such related Letter of Credit shall be deemed to hold a Letter of Credit Liability in an amount equal to its retained interest in the related Letter of Credit after giving effect to the acquisition

by the Revolving Lenders (other than the Revolving Lender then acting as Issuing Bank with respect to such related Letter of Credit) of their participation interests under such Section.

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

“**LIBOR**” means, subject to implementation of a Replacement Rate in accordance with Section 4.2.(b), with respect to any LIBOR Loan for any Interest Period, the rate of interest obtained by dividing (i) the rate of interest per annum determined on the basis of the rate for deposits in Dollars for a period equal to the applicable Interest Period as published by the ICE Benchmark Administration Limited, a United Kingdom Company, or a comparable or successor quoting service approved by the Administrative Agent, at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of the applicable Interest Period by (ii) a percentage equal to 1 minus the stated maximum rate (stated as a decimal) of all reserves, if any, required to be maintained with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”) as specified in Regulation D of the Board of Governors of the Federal Reserve System (or against any other category of liabilities which includes deposits by reference to which the interest rate on LIBOR Loans is determined or any applicable category of extensions of credit or other assets which includes loans by an office of any Lender outside of the United States of America). If, for any reason, the rate referred to in the preceding clause (i) is not so published, then the rate to be used for such clause (i) shall be determined by the Administrative Agent to be the arithmetic average of the rate per annum at which deposits in Dollars would be offered by first class banks in the London interbank market to the Administrative Agent at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of the applicable Interest Period for a period equal to such Interest Period. Any change in the maximum rate or reserves described in the preceding clause (ii) shall result in a change in LIBOR on the date on which such change in such maximum rate becomes effective. Notwithstanding the foregoing, (x) in no event shall LIBOR (including, without limitation, any Replacement Rate with respect thereto) be less than fifty basis points (0.50%) per annum and (y) unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 4.2.(b), in the event that a Replacement Rate with respect to LIBOR is implemented then all references herein to LIBOR shall be deemed references to such Replacement Rate.

“**LIBOR Loan**” means a Revolving Loan or Term Loan (or any portion thereof) (other than a Base Rate Loan) bearing interest at a rate based on LIBOR.

“**LIBOR Market Index Rate**” means, for any day, LIBOR as of that day that would be applicable for a LIBOR Loan having a one-month Interest Period determined at approximately 10:00 a.m. Central time on such day (rather than 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period as otherwise provided in the definition of “LIBOR”), or if such day is not a Business Day, the immediately preceding Business Day. The LIBOR Market Index Rate shall be determined on a daily basis. If the LIBOR Market Index Rate determined as provided above would be less than fifty basis points (0.50%), then the LIBOR Market Index Rate shall be deemed to be fifty basis points (0.50%).

“**Lien**” as applied to the property of any Person means: (a) any security interest, encumbrance, mortgage, deed to secure debt, deed of trust, assignment of leases and rents, pledge, lien, hypothecation, assignment, charge or lease constituting a Capitalized Lease Obligation, conditional sale or other title retention agreement, or other security title or encumbrance of any kind in respect of any property of such Person, or upon the income, rents or profits therefrom; (b) any arrangement, express or implied, under which any property of such Person is transferred, sequestered or otherwise identified for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to the payment of the general, unsecured creditors of such Person; (c) the filing of any financing statement

under the UCC or its equivalent in any jurisdiction, other than any precautionary filing not otherwise constituting or giving rise to a Lien, including a financing statement filed (i) in respect of a lease not constituting a Capitalized Lease Obligation pursuant to Section 9-505 (or a successor provision) of the UCC or its equivalent as in effect in an applicable jurisdiction or (ii) in connection with a sale or other disposition of accounts or other assets not prohibited by this Agreement in a transaction not otherwise constituting or giving rise to a Lien; and (d) any agreement by such Person to grant, give or otherwise convey any of the foregoing.

“Liquidity” means, at any time, the sum of (a) the aggregate Revolving Commitments of all Lenders as of such date minus the outstanding principal balance of all Revolving Loans, Swingline Loans and Letter of Credit Liabilities, plus (b) unrestricted and unencumbered cash, in Dollars, solely owned by the Borrower and held in the United States.

“Loan” means a Revolving Loan, a Term Loan or a Swingline Loan.

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

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

“Management Agreement” means an agreement pursuant to which the Borrower or a Subsidiary, as Owner, contracts for the management and operation of a Property by an Operator. In the event a Property is subject to both a Lease and an agreement that would otherwise constitute a Management Agreement under this definition, such agreement shall be treated as an Ancillary Agreement with respect to such Lease rather than as a Management Agreement for purposes of this Agreement.

“Managing Trustee” means either Mr. John G. Murray or Mr. Adam D. Portnoy, both having a business address c/o RMR, or any duly appointed successor thereto.

“Mandatorily Redeemable Stock” means, with respect to any Person, any Equity Interest of such Person which by the terms of such Equity Interest (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable), upon the happening of any event or otherwise, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than an Equity Interest to the extent redeemable in exchange for common stock or other equivalent common Equity Interests at the option of the issuer of such Equity Interest), (b) is convertible into or exchangeable or exercisable for Indebtedness or Mandatorily Redeemable Stock, or (c) is redeemable at the option of the holder thereof, in whole or part (other than an Equity Interest which is redeemable solely in exchange for common stock or other equivalent common Equity Interests); in the case of each of clauses (a) through (c), on or prior to the date that is ninety-one (91) days following the Term Loan Maturity Date.

“Material Acquisition” means any acquisition (whether by direct purchase, merger or otherwise and whether in one or more related transactions) by the Borrower or any Subsidiary in which the purchase price of the assets acquired exceeds 5.0% of the consolidated total assets of the Borrower and its Subsidiaries determined under GAAP as of the most recent fiscal quarter of the Borrower for which financial statements are available.

“Material Adverse Effect” means a materially adverse effect on (a) the business, assets, liabilities, condition (financial or otherwise) or results of operations of the Borrower and its Subsidiaries taken as a whole, (b) the ability of the Borrower or any other Loan Party to perform its obligations under any Loan Document to which it is a party, (c) the validity or enforceability of any of the Loan Documents, (d) the rights and remedies of the Lenders, the Issuing Banks and the Administrative Agent under any of the Loan Documents, (e) the timely payment of the principal of or interest on the Loans or other amounts payable in connection therewith or the timely payment of all Reimbursement Obligations, or (f) when used with respect to a Collateral Property, the use, value or operation of such Property.

“Material Contract” means any contract or other arrangement (other than Loan Documents and Specified Derivatives Contracts), whether written or oral, to which the Borrower, any Subsidiary or any other Loan Party is a party as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect, and in any event shall include the Business Management Agreement and Property Management Agreement.

“MIRE Event” means, any increase, extension or renewal of any of the Commitments or Loans (including any increase of Revolving Commitments pursuant to Section 2.16, or otherwise, but excluding (i) any continuation or conversion of Loans, (ii) the making of any Loan or (iii) the issuance, renewal or extension of Letters of Credit).

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

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

“Mortgage Note” means a promissory note satisfying all of the following requirements: (a) such promissory note is owned solely by the Borrower or a Subsidiary; (b) such promissory note is secured by a lien on real property and the improvements on which are of a type similar to improvements located on the Properties as of the Agreement Date; (c) such real property and related improvements are not subject to any environmental conditions or other matters which, individually or collectively, materially impair the value of such real property or related improvements; (d) the obligor in respect of such promissory note is not an Affiliate of the Borrower or RMR; and (e) if the Borrower or any Subsidiary were to acquire such real property and related improvements, no Default or Event of Default would result from such acquisition.

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

“Multifamily Property” means an income producing Property (a) the improvements on which consist primarily of residential rental apartment units (which may include senior and student housing), together with any incidental improvements on such Property operated in connection therewith and (b) that is leased primarily to residential tenants.

“Negative Pledge” means, with respect to a given asset, any provision of a document, instrument or agreement (other than any Loan Document, a Specified Derivatives Contract or a lease or related agreement between a TRS, as tenant, and the Borrower or another Subsidiary, as landlord) which prohibits or purports to prohibit the creation or assumption of any Lien on such asset as security for

Indebtedness of the Person owning such asset or any other Person; provided, however, that an agreement that conditions a Person's ability to encumber its assets upon the maintenance of one or more specified ratios that limit a Person's ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, shall not constitute a Negative Pledge.

"Net Cash Proceeds" means the aggregate cash or cash equivalent proceeds received by the Borrower or any of its Subsidiaries, or Borrower's Ownership Share of any cash or Cash Equivalents proceeds distributed to the Borrower or any of its Subsidiaries from amounts received by any Unconsolidated Affiliate, in respect of any sale, assignment, transfer or other disposition of any kind of any asset, any capital markets transaction (including the issuance of any Equity Interest, whether common, preferred or otherwise), any debt or debt refinancing (whether secured or unsecured), or any Stimulus Transaction, in each case, net of (a) customary direct costs incurred in connection therewith (including legal, accounting and investment banking fees, and underwriting discounts and commissions), and (b) taxes paid or payable as a result thereof; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash or cash equivalents received upon the sale or other disposition of any non-cash or non-cash equivalent consideration received by the Borrower or any of its Subsidiaries (or Borrower's Ownership Share of any cash or cash equivalents proceeds received by any Unconsolidated Affiliate upon the sale or other disposition of any such non-cash or non-cash equivalent consideration) in respect of any the foregoing transactions or events.

"Net Lease Retail Property" means an income producing Property (a) the improvements on which consist of service-oriented retail property, together with any incidental improvements on such Property operated in connection therewith and (b) that is leased to a commercial tenant pursuant to a Triple Net Lease.

"Net Operating Income" means, for any Collateral Property at any date of its determination (without duplication and determined on a consistent basis with prior periods): (a) rents and other revenues received in the ordinary course from such Collateral Property (including proceeds from rent loss or business interruption insurance (but not in excess of the actual rent otherwise payable), determined in accordance with GAAP, but excluding rents and other contractually due amounts not collected during the applicable period, minus (b) all expenses paid (excluding depreciation, amortization, other non-cash expenses, interest expense, income tax expense, capital expenses and real estate acquisition costs and expenses, but including appropriate adjustments to allocate property taxes and insurance premiums evenly over the applicable period) related to the ownership, operation or maintenance of such Collateral Property, including but not limited to, ground rents, property taxes, assessments and the like, insurance, utilities, payroll costs, maintenance, repair and landscaping expenses, marketing expenses, and general and administrative expenses, in each case, which are the responsibility of the applicable Subsidiary Guarantor that are not paid directly by the applicable tenant (including an appropriate allocation for legal, accounting, advertising, marketing and other expenses incurred by such Guarantor in connection with such Collateral Property, but specifically excluding any property management fees), minus (c) the Reserve for Replacements for such Collateral Property for the applicable period, minus (d) the actual management fee paid during such period with respect to such Collateral Property.

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

"Non-Domestic Property" means a Property located outside a state, territory or commonwealth of the United States of America (including without limitation Puerto Rico and the U.S. Virgin Islands) or the District of Columbia, but excluding the Staybridge Suites located at 225 South Park, Thornhill,

Ontario, Canada, and the Intercontinental Hotel located at 220 Bloor Street West, Toronto, Ontario, Canada.

“Nonrecourse Indebtedness” means, with respect to a Person, Indebtedness for borrowed money in respect of which recourse for payment (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability) is contractually limited to specific assets of such Person encumbered by a Lien securing such Indebtedness.

“Note” means a Revolving Note, a Term Note or a Swingline Note.

“Notice of Borrowing” means a notice substantially in the form of Exhibit C (or such other form reasonably acceptable to the Administrative Agent and containing the information required in such Exhibit) to be delivered to the Administrative Agent pursuant to Section 2.1.(b) evidencing the Borrower’s request for a borrowing of Revolving Loans.

“Notice of Continuation” means a notice substantially in the form of Exhibit D (or such other form reasonably acceptable to the Administrative Agent and containing the information required in such Exhibit) to be delivered to the Administrative Agent pursuant to Section 2.9. evidencing the Borrower’s request for the Continuation of a LIBOR Loan.

“Notice of Conversion” means a notice substantially in the form of Exhibit E (or such other form reasonably acceptable to the Administrative Agent and containing the information required in such Exhibit) to be delivered to the Administrative Agent pursuant to Section 2.10. evidencing the Borrower’s request for the Conversion of a Loan from one Type to another Type.

“Notice of Swingline Borrowing” means a notice substantially in the form of Exhibit F (or such other form reasonably acceptable to the Administrative Agent and containing the information required in such Exhibit) to be delivered to the applicable Swingline Lender pursuant to Section 2.4.(b) evidencing the Borrower’s request for a Swingline Loan.

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

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

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Operating Agreement” means any Lease or Management Agreement.

“Operator” means the (sub)lessee or manager of a Property pursuant to an Operating Agreement, provided that (x) unless the Administrative Agent otherwise approves or (y) such Operating Agreement is a transaction with an Affiliate permitted by Section 9.8., any such (sub)lessee or manager which is a TRS or other Subsidiary of the Borrower or an Affiliate of the Borrower (including, without limitation, RMR, or any Managing Trustee) shall be deemed not to be an “Operator” for purposes of this Agreement.

“Operator Deposits” means the following: (a) any cash or Cash Equivalent that secures the payment of Base Payments, an Operator’s obligations under such Operator’s Operating Agreement or the obligations of a manager or franchisor under an Ancillary Agreement (including, without limitation, any cash or Cash Equivalent deposited in connection with a Guaranty of an Operator’s obligations under an Operating Agreement or of the payment of Base Payments); or (b) the total amount of any deferred purchase price payable by the Borrower or any of its Subsidiaries to an Operator or an Operator’s Affiliates, against which purchase price the Borrower or such Subsidiary, as applicable, is entitled, pursuant to such Operator’s Operating Agreement, to offset Base Payments, damages resulting from such Operator’s default under its Operating Agreement or from a default by a manager or franchisor under an Ancillary Agreement.

“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 Property” means an income producing Property (a) that is not a Hotel, Travel Center, Net Lease Retail Property or Multifamily Property, (b) the improvements on which consist of industrial developments, office space and other commercial developments (but excluding residential developments), together with any incidental improvements on such Property operated in connection therewith and (c) that is leased to a commercial tenant pursuant to a Triple Net Lease.

“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 4.6.).

“Owner” means the Borrower or a Subsidiary in its capacity as (sub)lessor or owner pursuant to an Operating Agreement.

“Ownership Share” means, with respect to any Subsidiary of a Person (other than a Wholly Owned Subsidiary) or any Unconsolidated Affiliate of a Person, the greater of (a) such Person’s relative nominal direct and indirect ownership interest (expressed as a percentage) in such Subsidiary or Unconsolidated Affiliate or (b) subject to compliance with Section 8.4.(k), such Person’s relative direct and indirect economic interest (calculated as a percentage) in such Subsidiary or Unconsolidated Affiliate determined in accordance with the applicable provisions of the declaration of trust, articles or certificate of incorporation, articles of organization, partnership agreement, joint venture agreement or other applicable organizational document of such Subsidiary or Unconsolidated Affiliate.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

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

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

“**Patriot Act**” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

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

“**Permitted Capital Expenditures**” has the meaning given that term in Section 9.11(b).

“**Permitted Liens**” means, as to any Person: (a) Liens securing (x) taxes, assessments and other charges or levies imposed by any Governmental Authority (excluding any Lien imposed pursuant to any of the provisions of ERISA) or (y) the claims of materialmen, mechanics, carriers, warehousemen or landlords for labor, materials, supplies or rentals incurred in the ordinary course of business, in each case, (i) which are not at the time required to be paid or discharged under Section 7.6., or (ii) if such Lien is the responsibility of a financially responsible Operator to discharge; (b) Liens consisting of deposits or pledges made, in the ordinary course of business, in connection with, or to secure payment of, obligations under workers’ compensation, unemployment insurance or similar Applicable Laws; (c) Liens consisting of encumbrances in the nature of zoning restrictions, easements, and rights or restrictions of record on the use of real property, which do not materially detract from the value of such property or impair the use thereof in the business of such Person and, in the case of the Borrower or any Subsidiary, Liens granted by any tenant on its leasehold estate in a Property which are subordinate to the interest of the Borrower or a Subsidiary in such Property; (d) Liens in existence as of the Agreement Date and set forth in Part II of Item 6.1.(f) of the Borrower Letter; (e) deposits to secure trade contracts (other than for Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business; (f) the lessor’s interest in property leased to the Borrower or any of its Subsidiaries pursuant to a lease permitted by this Agreement; (g) the interests of tenants, operators or managers of Properties; (h) Liens on any assets of a TRS in favor of the Borrower or any other Subsidiary; (i) Liens in favor of the Administrative Agent for the benefit of the Lenders, the Issuing Banks and the Specified Derivatives Providers pursuant to the Loan Documents; (j) Liens which are also secured by restricted cash or Cash Equivalents of equal or greater value; (k) Liens securing judgments not constituting an Event of Default under Section 10.1.(h); (l) Liens (i) of a collection bank arising under Section 4210 of the UCC on items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business, and (iii) in favor of a banking or other financial institution arising as a matter of law or under customary general terms and conditions encumbering deposits (including the right of setoff) and which are within the general parameters customary in the banking industry; (m) Liens (i) on earnest money deposits in connection with purchases and sales of properties, (ii) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to this Agreement, or (iii) consisting of an agreement to dispose of any property; (n) Liens in favor of the Borrower or any of its Subsidiaries; and (o) Liens arising from precautionary UCC financing statement filings regarding operating leases entered into by the Borrower or any of its Subsidiaries in the ordinary course of business.

“**Person**” means any natural person, corporation, limited partnership, general partnership, joint stock company, limited liability company, limited liability partnership, joint venture, association,

company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, or any other nongovernmental entity, or any Governmental Authority.

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

“**Pledge Agreement**” means the Pledge Agreement, a form of which is attached as Exhibit M hereto, executed and delivered by the applicable Loan Parties on the Second Amendment Effective Date, together with each joinder agreement and supplement executed and delivered in connection therewith, as the same may be amended, restated, supplemented, or otherwise modified from time to time.

“**Pledged Interests**” has the meaning assigned to such term in the Pledge Agreement.

“**Pledgor**” means any Person that is party to the Pledge Agreement as a “Pledgor”.

“**PNC**” means PNC Bank, National Association.

“**Post-Default Rate**” means, in respect of any principal of any Loan, any Reimbursement Obligation or any other Obligation, a rate per annum equal to the Base Rate as in effect from time to time plus the Applicable Margin for Term Loans that are Base Rate Loans plus two percent (2.0%).

“**Post-Temporary Waiver Period Compliance Date**” means the date upon which the Borrower delivers to the Administrative Agent a Compliance Certificate in accordance with Section 8.3 evidencing compliance with Section 9.1 as of September 30, 2022.

“**Preferred Dividends**” means, for any given period and without duplication, all Restricted Payments accrued or paid (and in the case of Restricted Payments paid, which were not accrued during a prior period) during such period on Preferred Stock issued by the Borrower or a Subsidiary. Preferred Dividends shall not include dividends or distributions (a) paid or payable solely in Equity Interests (other than Mandatorily Redeemable Stock) payable to holders of such class of Equity Interests; (b) paid or payable to the Borrower or a Subsidiary; or (c) constituting or resulting in the redemption of Preferred Stock, other than scheduled redemptions not constituting balloon, bullet or similar redemptions in full.

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

“**Prime Rate**” means, at any time, the rate of interest per annum publicly announced from time to time by the Lender acting as the Administrative Agent as its prime rate. Each change in the Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The rate announced publicly by the Administrative Agent as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks. If the Prime Rate determined as provided above would be less than fifty basis points (0.50%), then the Prime Rate shall be deemed to be fifty basis points (0.50%).

“Principal Office” means the office of the Administrative Agent located at 600 South 4th St., 9th Floor, Minneapolis, Minnesota 55415, or any other subsequent office that the Administrative Agent shall have specified as the Principal Office by written notice to the Borrower and the Lenders.

“Pro Rata Share” means, as to each Lender, the ratio, expressed as a percentage of (a) (i) the amount of such Lender’s Commitments plus (ii) the amount of such Lender’s outstanding Term Loan to (b) (i) the aggregate amount of the Commitments of all Lenders plus (ii) the aggregate amount of all outstanding Term Loans; provided, however, that if at the time of determination the Revolving Commitments have terminated or been reduced to zero, the “Pro Rata Share” of each Lender shall be the ratio, expressed as a percentage of (A) the sum of the unpaid principal amount of all outstanding Revolving Loans, Term Loans, Swingline Loans and Letter of Credit Liabilities owing to such Lender as of such date to (B) the sum of the aggregate unpaid principal amount of all outstanding Revolving Loans, Term Loans, Swingline Loans and Letter of Credit Liabilities of all Lenders as of such date. For purposes of this definition, a Revolving Lender (other than the applicable Swingline Lender with respect to such Swingline Loan) shall be deemed to hold a Swingline Loan and a Revolving Lender (other than the applicable Issuing Bank with respect to such Letter of Credit) shall be deemed to hold a Letter of Credit Liability, in each case, to the extent such Revolving Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect of such participation. If at the time of determination the Commitments have terminated and there are no outstanding Loans or Letter of Credit Liabilities, then the Pro Rata Shares of the Lenders shall be determined as of the most recent date on which Commitments were in effect or Loans or Letters of Credit Liabilities were outstanding.

“Property” means any parcel of real property, together with all improvements thereon, owned or leased pursuant to a Ground Lease by the Borrower or any Subsidiary.

“Property Management Agreement” means that certain Second Amended and Restated Property Management Agreement dated as of June 5, 2015, as amended to date, by and among RMR and the Borrower, on behalf of itself and its Subsidiaries.

“Property Management Contract Assignment” means an Assignment and Subordination of Management Agreement executed by a Loan Party in favor of the Administrative Agent for its benefit and the benefit of the other Lenders, in form and substance reasonably satisfactory to the Administrative Agent. Such document may, at the Administrative Agent’s election, constitute a subordination of the Property Management Agreement rather than an assignment thereof.

“Protective Advance” means all sums expended as determined by the Administrative Agent to be necessary or appropriate after the Borrower or any other Loan Party fails to do so when required: (a) to protect the validity, enforceability, perfection or priority of the Liens in any of the Collateral and the instruments evidencing the Obligations; (b) to prevent the value of any Collateral from being materially diminished (assuming the lack of such a payment within the necessary time frame could potentially cause such Collateral to lose value); or (c) to protect any of the Collateral from being materially damaged, impaired, mismanaged or taken, including, without limitation, any amounts expended in connection therewith in accordance with Section 11.10 or 12.2.

“Qualified Collateral Property Sale” means a sale of any Collateral Property to an unaffiliated third party purchaser (excluding, for the avoidance of doubt, any Affiliate of the Borrower or any Subsidiary of the Borrower) on arms’-length terms, which sale and the terms thereof shall be reasonably acceptable to the Administrative Agent in all respects.

“Qualified Notes Issuance” means any issuance by the Borrower of unsecured notes with an initial term of at least three (3) years, and in respect of which no scheduled principal repayments or other mandatory prepayments are required to be paid, nor will be paid, by the Borrower within the first three (3) years following the date of issuance thereof.

“Qualified Refinancing Issuance” means an issuance by the Borrower of unsecured notes with an initial term extending at least three (3) years beyond the latest Revolving Termination Date as extended or proposed to be extended pursuant to Section 2.13, and in respect of which no scheduled principal repayments or other mandatory prepayments are required to be paid, nor will be paid, by the Borrower within such period.

“Qualified Plan” means a Benefit Arrangement that is intended to be tax-qualified under Section 401(a) of the Internal Revenue Code.

“Rating Agency” means S&P, Moody’s or any other nationally recognized securities rating agency selected by the Borrower and approved of by the Administrative Agent in writing.

“RBC” means Royal Bank of Canada.

“Recipient” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

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

“Regulatory Change” means, with respect to any Lender, any change effective after the Agreement Date in Applicable Law (including without limitation, Regulation D of the Board of Governors of the Federal Reserve System) or the adoption or making after such date of any interpretation, directive or request applying to a class of banks, including such Lender, of or under any Applicable Law (whether or not having the force of law and whether or not failure to comply therewith would be unlawful) by any Governmental Authority or monetary authority charged with the interpretation or administration thereof or compliance by any Lender with any request or directive regarding capital adequacy or liquidity. Notwithstanding anything herein to the contrary, (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (b) 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 United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Regulatory Change”, regardless of the date enacted, adopted, implemented, or issued.

“Reimbursement Obligation” means the absolute, unconditional and irrevocable obligation of the Borrower to reimburse an Issuing Bank for any drawing honored by such Issuing Bank under a Letter of Credit.

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

“RMR” means The RMR Group LLC, together with its successors and permitted assigns.

“RMR Inc.” means The RMR Group Inc., a Maryland corporation, together with its successors and permitted assigns.

“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.

“Replacement Rate” has the meaning assigned thereto in Section 4.2.(b).

“Requisite Lenders” means, as of any date, (a) Lenders having more than 50% of the aggregate amount of the Commitments and the outstanding Term Loans of all Lenders, or (b) if the Revolving Commitments have been terminated or reduced to zero, Lenders holding more than 50% of the principal amount of the aggregate outstanding Loans and Letter of Credit Liabilities; provided that (i) in determining such percentage at any given time, all then existing Defaulting Lenders will be disregarded and excluded and (ii) at all times when two or more Lenders (excluding Defaulting Lenders) are party to this Agreement, the term “Requisite Lenders” shall in no event mean less than two Lenders. For purposes of this definition, a Revolving Lender (other than the applicable Swingline Lender with respect to such Swingline Loan) shall be deemed to hold a Swingline Loan and a Revolving Lender (other than the applicable Issuing Bank with respect to such Letter of Credit Liability) shall be deemed to hold a Letter of Credit Liability, in each case, to the extent such Revolving Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect of such participation.

“Requisite Revolving Lenders” means, as of any date, (a) Revolving Lenders having more than 50% of the aggregate amount of the Revolving Commitments of all Revolving Lenders, or (b) if the Revolving Commitments have been terminated or reduced to zero, the Revolving Lenders holding more than 50% of the principal amount of the aggregate outstanding Revolving Loans, Swingline Loans and Letter of Credit Liabilities; provided that (i) in determining such percentage at any given time, all then existing Defaulting Lenders that are Revolving Lenders will be disregarded and excluded, and (ii) at all times when two or more Revolving Lenders (excluding Defaulting Lenders that are Revolving Lenders) are party to this Agreement, the term “Requisite Revolving Lenders” shall in no event mean less than two Revolving Lenders. For purposes of this definition, a Revolving Lender (other than the applicable Swingline Lender with respect to such Swingline Loan) shall be deemed to hold a Swingline Loan and a Revolving Lender (other than the applicable Issuing Bank with respect to such Letter of Credit Liability) shall be deemed to hold a Letter of Credit Liability, in each case, to the extent such Revolving Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect of such participation.

“Requisite Term Loan Lenders” means, as of any date, Term Loan Lenders having more than 50% of the aggregate outstanding principal amount of the Term Loans; provided that (a) in determining such percentage at any given time, all then existing Defaulting Lenders that are Term Loan Lenders will be disregarded and excluded, and (b) at all times when two or more Term Loan Lenders (excluding Defaulting Lenders that are Term Loan Lenders) are party to this Agreement, the term “Requisite Term Loan Lenders” shall in no event mean less than two Term Loan Lenders.

“Reserve for Replacement” means (i) with respect to each Travel Center, the FF&E Reserve actually funded or prefunded by the Operator or the Borrower during such period with respect to such Property pursuant to the applicable Lease or any related Ancillary Agreement, and (ii) for each other Property, replacement reserves actually funded or prefunded by the Operator or the Borrower during such period with respect to such Property.

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

“Responsible Officer” means (a) with respect to the Borrower, the Borrower’s President or Treasurer or any Managing Trustee of the Borrower and (b) with respect to any other Loan Party, such Loan Party’s chief executive officer or chief financial officer.

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

“Revolving Commitment” means, as to each Lender (other than the Swingline Lenders), such Lender’s obligation to make Revolving Loans pursuant to Section 2.1., to issue (in the case of the Issuing Banks) and to participate (in the case of the other Lenders) in Letters of Credit pursuant to Section 2.3.(i), and to participate in Swingline Loans pursuant to Section 2.4.(e), in an amount up to, but not exceeding the amount set forth for such Lender on Schedule I as such Lender’s “Revolving Commitment Amount” or as set forth in any applicable Assignment and Assumption or agreement executed by a Person becoming a Revolving Lender in accordance with Section 2.16., as the same may be reduced from time to time pursuant to Section 2.12. or increased or reduced as appropriate to reflect any assignments to or by such Lender effected in accordance with Section 12.5. or increased as appropriate to reflect any increase effected in accordance with Section 2.16.

“Revolving Commitment Percentage” means, as to each Revolving Lender, the ratio, expressed as a percentage, of (a) the amount of such Lender’s Revolving Commitment to (b) the aggregate amount of the Revolving Commitments of all Revolving Lenders; provided, however, that if at the time of determination the Revolving Commitments have been terminated or been reduced to zero, the “Revolving Commitment Percentage” of each Revolving Lender shall be the “Revolving Commitment Percentage” of such Revolving Lender in effect immediately prior to such termination or reduction.

“Revolving Credit Exposure” means, as to any Revolving Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Revolving Lender’s participation in Letter of Credit Liabilities and Swingline Loans at such time.

“Revolving Lender” means a Lender having a Revolving Commitment or, if the Revolving Commitments have terminated, holding any Revolving Loans.

“Revolving Loan” means a loan made by a Revolving Lender to the Borrower pursuant to Section 2.1.(a).

“Revolving Note” means a promissory note of the Borrower substantially in the form of Exhibit G, payable to the order of a Revolving Lender in a principal amount equal to the amount of such Revolving Lender’s Revolving Commitment.

“Revolving Termination Date” means July 15, 2022, or such later date to which the Revolving Termination Date may be extended pursuant to Section 2.13.

“Sanctioned Country” means, at any time, a country, region or territory which is itself (or whose government is) the subject or target of any Sanctions (including, as of the Effective Date, Cuba, Iran, North Korea, Syria and Crimea).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC (including OFAC’s Specially Designated Nationals and Blocked Persons List and OFAC’s Consolidated Non-SDN List), the U.S. Department of State, the United Nations Security Council, the European Union, any European member state, Her Majesty’s Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any such Person or Persons described in clauses (a) and (b), including a Person that is deemed by OFAC to be a Sanctions target based on the ownership of such legal entity by Sanctioned Person(s) or (d) any Person otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

“Sanctions” means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions and anti-terrorism laws, including but not limited to those imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, any European member state, Her Majesty’s Treasury, or other relevant sanctions authority in any jurisdiction (a) in which the Borrower or any of its Subsidiaries or Affiliates is located or conducts business, (b) in which any of the proceeds of the Loans will be used, or (c) from which repayment of the Loans will be derived.

“Second Amendment” means that certain Second Amendment to Second Amended and Restated Credit Agreement, dated as of May 8, 2020, among the Borrower, the Lenders party thereto and the Administrative Agent.

“Second Amendment Effective Date” has the meaning assigned to such term in the Second Amendment.

“Secured Indebtedness” means, with respect to a Person as of any given date, the aggregate principal amount of all Indebtedness of such Person outstanding on such date and that is secured in any manner by any Lien on any property and, in the case of the Borrower and its Subsidiaries, shall include (without duplication) the Borrower’s Ownership Share of the Secured Indebtedness of its Unconsolidated Affiliates. For the avoidance of doubt, at all times following the delivery of any Security Instrument and for so long as any Security Instrument is required to secure any Guaranteed Obligations in accordance with the terms of this Agreement, all Indebtedness under the Loan Documents shall constitute Secured Indebtedness.

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

“Security Documents” means, collectively, the Pledge Agreement, any Security Instrument, any Property Management Contract Assignment, ~~any Deposit Account Control Agreement~~ and any other security agreement, pledge agreement, financing statement, or other document, instrument or agreement creating, evidencing or perfecting the Administrative Agent’s Liens in any of the Collateral, including, without limitation, any assignment of leases and rents and any collateral assignment of reciprocal easement agreements, architectural and construction related contracts, permits, or licenses, in each case, to the extent applicable.

“Security Instrument” means a mortgage, deed of trust, deed to secure debt, or equivalent instrument executed by a Subsidiary of the Borrower in favor of the Administrative Agent, for its benefit and the benefit of the other Lenders, in form and substance satisfactory to the Administrative Agent.

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

“Sonesta Hotels” means the Hotels listed on Schedule 1.1(d), as updated from time to time to reflect the Sonesta managed Hotels listed by the Borrower in an Unencumbered Asset Certificate.

“Specified Derivatives Contract” means any Derivatives Contract, together with any Derivatives Support Document relating thereto, that is made or entered into at any time, or in effect at any time now or hereafter, whether as a result of an assignment or transfer or otherwise, between the Borrower or any Subsidiary of the Borrower and any Specified Derivatives Provider.

“Specified Derivatives Obligations” means all indebtedness, liabilities, obligations, covenants and duties of the Borrower or its Subsidiaries under or in respect of any Specified Derivatives Contract, whether direct or indirect, absolute or contingent, due or not due, liquidated or unliquidated, and whether or not evidenced by any written confirmation.

“Specified Derivatives Provider” means any Lender, or any Affiliate of a Lender that is a party to a Derivatives Contract at the time the Derivatives Contract is entered into.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, or any successors.

“Stated Amount” means the amount available to be drawn by a beneficiary under a Letter of Credit from time to time, as such amount may be increased or reduced from time to time in accordance with the terms of such Letter of Credit; provided, however, with respect to any Letter of Credit that, by its terms or the terms of any application related thereto, provides for one or more automatic increases in the Stated Amount thereof, the Stated 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.

“Stimulus Transaction” means any loans, equity investments, grants or other transactions pursuant to which the Borrower, any of its Subsidiaries or any Unconsolidated Affiliate thereof receives funds in connection with any federal COVID-19 stimulus legislation, including, without limitation, any loan made pursuant any program implemented by the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”, or any similar program now or hereafter in effect.

“Subsidiary” means, for any Person, any corporation, partnership, limited liability company or other entity of which at least a majority of the Equity Interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other individuals performing similar functions of such corporation, partnership, limited liability company or other entity (without regard to the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or

more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, and shall include all Persons the accounts of which are consolidated with those of such Person pursuant to GAAP.

“Swingline Commitment” means, with respect to a Swingline Lender, such Swingline Lender’s obligation to make Swingline Loans pursuant to Section 2.4. in an amount up to, but not exceeding, the amount provided for such Swingline Lender in the first sentence of Section 2.4.(a), as such amount may be reduced from time to time in accordance with the terms hereof.

“Swingline Lender” means each of Wells Fargo, Bank of America, N.A., PNC and RBC, each in its capacity as a Lender to make Swingline Loans pursuant to Section 2.4., together with its respective successors and assigns. Any reference to “the Swingline Lender” herein shall be deemed to refer to each Swingline Lender, any Swingline Lender, the applicable Swingline Lender or all Swingline Lenders, as the context may require.

“Swingline Loan” means a loan made by a Swingline Lender to the Borrower pursuant to Section 2.4.

“Swingline Maturity Date” means the date which is five (5) Business Days prior to the Revolving Termination Date.

“Swingline Note” means a promissory note of the Borrower substantially in the form of Exhibit H, payable to the order of each Swingline Lender in a principal amount equal to the amount of the Swingline Commitment as originally in effect and otherwise duly completed.

“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.

“Temporary Waiver Period” means the period beginning on the Second Amendment Effective Date and ending on the Temporary Waiver Period Termination Date.

“Temporary Waiver Period Incurrence Conditions” means, collectively, (i) the aggregate principal amount of all outstanding Debt of the Borrower and its Subsidiaries on a consolidated basis determined in accordance with GAAP is not greater than 60% of the Adjusted Total Assets of the Borrower and its Subsidiaries, (ii) the aggregate principal amount of all outstanding Secured Debt of the Borrower and its Subsidiaries on a consolidated basis determined in accordance with GAAP is not greater than 40% of Adjusted Total Assets, (iii) the ratio of Consolidated Income Available for Debt Service to the Annual Debt Service for the four consecutive fiscal quarters most recently ended is not less than 1.5 to 1.0, and (iv) the Borrower is in compliance with each other indebtedness incurrence test applicable under any Material Indebtedness; *provided* that, the foregoing clause (iii) shall be calculated on the assumptions that: (A) such Debt and any other Debt incurred by the Borrower and its Subsidiaries on a consolidated basis since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Debt, had occurred at the beginning of such period, (B) the repayment, retirement or other discharge of any other Debt by the Borrower and its Subsidiaries on a consolidated basis since the first day of such four-quarter period had occurred at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility shall be computed based upon the average daily balance of such Debt during such period), (C) in the case of Acquired Debt or Debt incurred in connection with or in contemplation of any acquisition, including any Person becoming a Subsidiary, since the first day of such four-quarter period, the related acquisition had

occurred as of the first day of such period with appropriate adjustments with respect to such acquisition being included in such pro forma calculation, and (D) in the case of any acquisition or disposition by the Borrower and its Subsidiaries of any asset or group of assets since the first day of such four-quarter period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such pro forma calculation. If the Debt giving rise to the need to make the foregoing calculation or any other Debt incurred after the first day of the relevant four-quarter period bears interest at a floating interest rate, then, for purposes of calculating the Annual Debt Service, the interest rate on such Debt shall be computed on a pro forma basis as if the average interest rate which would have been in effect during the entirety of such four-quarter period had been the applicable rate for the entirety of such period. As used herein, the following terms shall have the following meanings:

“Acquired Debt” means Debt of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

“Adjusted Total Assets” means the sum of (A) the Total Assets of the Borrower and its Subsidiaries as of the end of the fiscal quarter covered in the Borrower’s annual report on Form 10-K, or its quarterly report on Form 10-Q, as the case may be, most recently filed with the Securities and Exchange Commission (or, if such filing is not permitted or required under the Exchange Act, with the Administrative Agent) prior to the incurrence of such additional Debt, and (B) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent that such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by the Borrower or any Subsidiary since the end of such fiscal quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

“Annual Debt Service” as of any date means the maximum amount which is expensed in any 12-month period for interest on Debt of the Borrower and its Subsidiaries, excluding amortization of debt discounts and deferred financing costs.

“Consolidated Income Available for Debt Service” for any period means Earnings from Operations of the Borrower and its Subsidiaries plus amounts which have been deducted, and minus amounts which have been added, for the following (without duplication): (i) interest on Debt of the Borrower and its Subsidiaries, (ii) cash reserves made by lessees as required by the Borrower’s leases for periodic replacement and refurbishment of the Borrower’s assets, (iii) provision for taxes of the Borrower and its Subsidiaries based on income, (iv) amortization of debt premiums/discounts and deferred debt issuance costs, (v) provisions for gains and losses on properties and property depreciation and amortization, (vi) the effect of any noncash charge resulting from a change in accounting principles in determining Earnings from Operations for such period and (vii) amortization of deferred charges.

“Debt” of the Borrower or any Subsidiary means, without duplication, any indebtedness of the Borrower or any Subsidiary, whether or not contingent, in respect of:

- (i) borrowed money or evidenced by bonds, notes, debentures or similar instruments;

(ii) borrowed money secured by any Lien existing on property owned by the Borrower or any Subsidiary, to the extent of the lesser of (x) the amount of indebtedness so secured or (y) the fair market value of the property subject to such Lien;

(iii) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued (other than letters of credit issued to provide credit enhancement or support with respect to other indebtedness of the Borrower or any Subsidiary otherwise reflected as Debt hereunder) or amounts representing the balance deferred and unpaid of the purchase price of any property or services, except any such balance that constitutes an accrued expense or trade payable, or all conditional sale obligations or obligations under any title retention agreement;

(iv) the principal amount of all obligations of the Borrower or any Subsidiary with respect to redemption, repayment or other repurchase of any Mandatorily Redeemable Stock; or

(v) any lease of property by the Borrower or any Subsidiary as lessee which is reflected on the Borrower's consolidated balance sheet as a capitalized lease in accordance with generally accepted accounting principles,

to the extent, in the case of items of indebtedness under (i) through (v) above, that any such items (other than letters of credit) would be properly classified as a liability on the Borrower's consolidated balance sheet in accordance with generally accepted accounting principles. Debt also (1) excludes any indebtedness (A) with respect to which a defeasance or covenant defeasance or discharge has been effected (or an irrevocable deposit is made with a trustee in an amount at least equal to the outstanding principal amount of such indebtedness, the remaining scheduled payments of interest thereon to, but not including, the applicable maturity date or redemption date, and any premium or otherwise as provided in the terms of such indebtedness) in accordance with the terms thereof or which has been repurchased, retired, repaid, redeemed, irrevocably called for redemption (and an irrevocable deposit is made with a trustee in an amount at least equal to the outstanding principal amount of such indebtedness, the remaining scheduled payments of interest thereon to, but not including, such redemption date, and any premium) or otherwise satisfied or (B) that is secured by cash or Cash Equivalents irrevocably deposited with a trustee in an amount, in the case of this clause (B), at least equal to the outstanding principal amount of such indebtedness and the remaining scheduled payments of interest thereon and (2) includes, to the extent not otherwise included, any obligation by the Borrower or any Subsidiary to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), Debt of another Person (other than the Borrower or any Subsidiary) (it being understood that Debt shall be deemed to be incurred by the Borrower or any Subsidiary whenever the Borrower or such Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof).

"Earnings from Operations" for any period means net earnings excluding gains and losses on sales of investments, extraordinary items, gains and losses from early extinguishment of debt and property valuation losses, in each case as reflected in the financial statements of the Borrower and its Subsidiaries for such period, determined on a consolidated basis in accordance with generally accepted accounting principles.

"Secured Debt" means Debt of the Borrower or its Subsidiaries secured by a Lien on the property of the Borrower or its Subsidiaries.

“Total Assets” as of any date means the sum of (i) the Undepreciated Real Estate Assets and (ii) all other assets of the Borrower and its Subsidiaries determined in accordance with GAAP (but excluding accounts receivable and intangibles).

“Undepreciated Real Estate Assets” as of any date means the cost (original cost plus capital improvements) of real estate and associated personal property used in connection with the real estate assets of the Borrower and its Subsidiaries on such date, before depreciation and amortization determined on a consolidated basis in accordance with GAAP.

“Temporary Waiver Period Termination Date” means July 15, 2022.

“Term Loan” means a loan made by a Term Loan Lender to the Borrower pursuant to Section 2.2.

“Term Loan Commitment” means, as to each Term Loan Lender, such Lender’s obligation to make a Term Loan on the Effective Date pursuant to Section 2.2., in an amount up to, but not exceeding, the amount set forth for such Lender on Schedule I as such Lender’s “Term Loan Commitment Amount”.

“Term Loan Lender” means a Lender having a Term Loan Commitment, or if the Term Loan Commitments have terminated, a Lender holding a Term Loan.

“Term Loan Maturity Date” means July 15, 2023.

“Term Loan Percentage” means, as to each Term Loan Lender, the ratio, expressed as a percentage, of (a) the amount of such Lender’s Term Loan Commitment to (b) the aggregate amount of the Term Loan Commitments of all Term Lenders; provided, however, that if at the time of determination the Term Loan Commitments have been terminated or been reduced to zero, the “Term Loan Percentage” of each Term Lender shall be the ratio, expressed as a percentage, of (i) the unpaid principal amount of the Term Loan owing to such Lender as of such date to (ii) the aggregate unpaid principal amount of all outstanding Term Loans as of such date.

“Term Note” means a promissory note of the Borrower substantially in the form of Exhibit I, payable to the order of a Term Loan Lender in a principal amount equal to the amount of such Term Loan Lender’s Term Loan.

“Third Amendment” means that certain Third Amendment to Second Amended and Restated Credit Agreement, dated as of November 5, 2020, among the Borrower, the Guarantors party thereto, the Pledgors party thereto, the Lenders party thereto and the Administrative Agent.

“Third Amendment Effective Date” has the meaning given that term in the Third Amendment.

“Title Insurance Company” means (i) Fidelity/Chicago Title Insurance Company, or (ii) any other title company reasonably acceptable to the Administrative Agent.

“Title Policy” means, with respect to each Collateral Property, an ALTA standard form title insurance policy (or, if such form is not available, an equivalent, legally promulgated form of mortgagee title insurance policy reasonably acceptable to the Administrative Agent) issued by a Title Insurance Company (with such co-insurance or reinsurance as the Administrative Agent may require) in an amount as the Administrative Agent may reasonably require based on the Appraised Value of such Collateral Property insuring the priority of the Security Instrument thereon and that the Borrower or a Loan Party, as

applicable, holds marketable or indefeasible (with respect to Texas) fee simple (or leasehold, if applicable) title to such parcel, subject only to encumbrances reasonably acceptable to the Administrative Agent and which shall not contain standard exceptions for mechanics liens, persons in occupancy (other than tenants as tenants only under Tenant Leases with no rights of purchase) or matters which would be shown by a survey, shall not insure over any matter except to the extent that any such affirmative insurance is acceptable to the Administrative Agent in its reasonable discretion, and shall contain such endorsements and affirmative insurance as the Administrative Agent may reasonably require to the extent available in the jurisdiction in which such Collateral Property is located, including, but not limited to, an aggregation endorsement to the extent available in the jurisdiction in which such Collateral Property is located, but may exclude, in any event, affirmative coverage for preferential transfers.

“**Titled Agent**” has the meaning given in Section 11.9.

“**Total Asset Value**” means, on any date of determination, the sum of the following (without duplication) of the Borrower and its Subsidiaries for the four fiscal quarters most recently ended: (a)(i) with respect to all Properties owned (or leased pursuant to a Ground Lease) by the Borrower or any Subsidiary for one or more fiscal quarters, Adjusted EBITDA attributable to such Properties for such period divided by (ii) the applicable Capitalization Rate; (b) the purchase price paid for any Property acquired during such period (less any amounts paid as a purchase price adjustment, held in escrow, retained as a contingency reserve, or other similar arrangements but including amounts retained as Operator Deposits and prior to allocations of property purchase prices pursuant to FASB ASC 805 and the like); provided that (x) once any such Property is included in the determination of Total Asset Value pursuant to the preceding clause (a) it may not thereafter be included under this clause (b) and (y) any Property the value of which was determined under clause (a) of this definition in the Existing Credit Agreement may not be valued under this clause (b); (c) the value of the Borrower’s equity Investments in RMR Inc. as of the end of such period, such value determined at Fair Market Value; (d) all cash and cash equivalents as of the end of such period; (e) accounts receivable that are not (i) owing in excess of 90 days as of the end of such period or (ii) being contested in writing by the obligor in respect thereof (in which case only such portion being contested shall be excluded from Total Asset Value); (f) prepaid taxes and operating expenses as of the end of such period; (g) the book value of all Developable Property and Assets Under Development as of the end of such period; (h) the book value of all other tangible assets (excluding land or other real property) as of the end of such period; (i) the book value of all Mortgage Notes as of the end of such period; and (j) the Borrower’s Ownership Share of the preceding items (other than those referred to in clause (c)) of any Unconsolidated Affiliate of the Borrower. For purposes of determining Total Asset Value, to the extent the amount of Total Asset Value attributable to (u) Unconsolidated Affiliates would exceed 10.0% of Total Asset Value, (v) Assets Under Development (determined as the aggregate Construction Budget for all such Assets Under Development) would exceed 15.0% of Total Asset Value, (w) Properties subject to a ground lease would exceed 15.0% of Total Asset Value, (x) Mortgage Notes would exceed 5.0% of Total Asset Value, (y) Unimproved Land would exceed 5.0% of Total Asset Value, and (z) Multifamily Properties would exceed 20.0% of Total Asset Value, in each case, such excess shall be excluded. For purposes of determining Total Asset Value, to the extent the aggregate value of the items described in the immediately preceding clauses (u), (v), (w), (x), (y) and (z) would account for more than 30% of Total Asset Value, such excess shall be excluded. To the extent that the value of the Borrower’s equity Investments in RMR Inc. would in the aggregate account for more than 3.0% of Total Asset Value, such excess shall be excluded. Notwithstanding the foregoing, for purposes of determining Total Asset Value at any time, (i) the Borrower may, in addition to the Properties referred to in the immediately preceding clause (b), include the purchase price paid for any Property acquired during the period following the end of the fiscal quarter most recently ended through the time of such determination (less any amounts paid as a purchase price adjustment, held in escrow, retained as a contingency reserve, or other similar arrangements at the time of such determination, but including

amounts retained as Operator Deposits and prior to allocations of property purchase prices pursuant to FASB ASC 805 and the like, each at the time of such determination); provided, that if the Borrower elects to include the purchase price paid for any Property acquired during the period following the end of the fiscal quarter most recently ended through the time of such determination as permitted by this clause (i), then the Borrower must exclude from the determination of Total Asset Value the Adjusted EBITDA, the purchase price or the book value, as applicable, of any Property disposed of by the Borrower during such period and (ii) for purposes of the immediately preceding clause (d), the amount of cash and cash equivalents shall be calculated as of such date of determination rather than as of the end of the fiscal quarter most recently ended.

“Total Indebtedness” means, as of a given date, all liabilities of the Borrower and its Subsidiaries which would, in conformity with GAAP, be properly classified as a liability on a consolidated balance sheet of the Borrower and its Subsidiaries as of such date (excluding allocations of property purchase prices pursuant to FASB ASC 805 and the like), and in any event shall include (without duplication): (a) all Indebtedness of the Borrower and its Subsidiaries, (b) the Borrower’s Ownership Share of Indebtedness of its Unconsolidated Affiliates, (c) the aggregate amount of all Operator Deposits (other than those Operator Deposits held by the Borrower or a Wholly Owned Subsidiary in connection with Operating Agreements for which a monetary default exists and has existed for a period of 30 days or more) and (d) net obligations of the Borrower and its Subsidiaries under any Derivatives Contracts not entered into as a hedge against existing Indebtedness, in an amount equal to the Derivatives Termination Value thereof.

“Total Unencumbered Assets” as of any date means the sum of (i) Undepreciated Real Estate Assets not securing any portion of Secured Debt and (ii) the amount of all other assets of the Borrower and its Subsidiaries not securing any portion of Secured Debt, in each case on such date determined on a consolidated basis in accordance with GAAP (but excluding accounts receivable and intangibles); *provided* that, any joint venture interests shall be excluded from the calculation of Total Unencumbered Assets. For purposes of this definition, “Undepreciated Real Estate Assets” and “Secured Debt” shall have the meanings assigned thereto in the definition of “Temporary Waiver Period Incurrence Conditions”.

“Trading with the Enemy Act” has the meaning given to that term in Section 6.1 (y).

“Travel Center” means a Property that is (a) developed as a travel related facility and, with respect to any Property acquired after the Agreement Date, conforms with, and is of a type consistent with, the Travel Centers owned by the Borrower and its Subsidiaries as of the Agreement Date, and (b) leased to an Operator pursuant to a Triple Net Lease.

“Triple Net Lease” means a Lease under which a single tenant leases all or substantially all of the rentable area of a Property where the tenant is responsible for payment of real estate taxes and assessments, repairs and maintenance, insurance, capital expenditures and other expenses relating to the operation of such Property customary for such Leases.

“TRS” means any direct or indirect Subsidiary of the Borrower that is classified as a “taxable REIT subsidiary” under Section 856(l) of the Internal Revenue Code.

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

“UCC” means the Uniform Commercial Code as in effect in any applicable jurisdiction.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unconsolidated Affiliate” means, with respect to any Person, any other Person in whom such Person holds an Investment, which Investment is accounted for in the financial statements of such Person on an equity basis of accounting and whose financial results would not be consolidated under GAAP with the financial results of such Person on the consolidated financial statements of such Person. Notwithstanding the foregoing, neither RMR Inc. nor Sonesta Holdco Corporation shall be considered to be an Unconsolidated Affiliate of the Borrower or any of its Subsidiaries.

“Unencumbered Asset” means each Property, whether Hotel, Travel Center, Net Lease Retail Property, Multifamily Property or Other Property, that satisfies all of the following requirements: (a) such Property is (i) owned in fee simple solely by the Borrower or a Wholly Owned Subsidiary or (ii) leased solely by the Borrower or a Wholly Owned Subsidiary pursuant to a Ground Lease; (b) such Property is not an Asset Under Development and is in service; (c) neither such Property, nor any interest of the Borrower or such Wholly Owned Subsidiary therein, is subject to any Lien (other than Permitted Liens of the types described in clauses (a) through (c) and (e) through (j) of the definition thereof) or to any Negative Pledge, other than Negative Pledges permitted pursuant to Section 9.2.(b)(iii) and Section 9.2.(b)(iv); (d) neither such Property, nor if such Property is owned or leased by a Subsidiary, any of the Borrower’s direct or indirect ownership interest in such Subsidiary, is subject to (i) any Lien (other than Permitted Liens of the types described in clauses (a) through (c) or (e) through (j) of the definition thereof) or (ii) any Negative Pledge, other than Negative Pledges permitted pursuant to Section 9.2.(b)(iii) and Section 9.2.(b)(iv); (e) if such Property is owned or leased by a Subsidiary, such Subsidiary has not directly or indirectly guaranteed or assumed liability for any Indebtedness of any Subsidiary except lessee deposits for which a Subsidiary is responsible; (f) such Property is free of structural defects or major architectural deficiencies, title defects, environmental conditions or other adverse matters which, individually or collectively, materially impair the value of such Property; (g) such Property shall be subject to agreements containing terms and conditions which provide the Borrower or a Subsidiary with substantially the same benefits and risks as Operating Agreements and Ancillary Agreements of Unencumbered Assets as of the Agreement Date, or otherwise on commercially reasonable terms and conditions; (h) the lessee or operator is not more than 60 days past due with respect to any payment obligations under any Lease or Operating Agreement for such Property (after taking into account application of any security deposit); and (i) regardless of whether such Property is owned or leased by the Borrower or a Wholly Owned Subsidiary, the Borrower has the right, directly or indirectly through a Subsidiary, to take the following actions without the need to obtain the consent of any Person (in each case, other than the consent of any Person required pursuant to the terms of any applicable Operating Agreement): (i) to create Liens on such Property (or its leasehold interest therein, as applicable) as security for Indebtedness of the Borrower or such Subsidiary, as applicable, and (ii) to sell, transfer or otherwise dispose of such Property (or its leasehold interest therein, as applicable). Notwithstanding the immediately preceding sentence, a Property owned by a Foreign Subsidiary that is a Wholly Owned Subsidiary will be considered to be an Unencumbered Asset so long as: (1) such Property is (i) owned in fee simple (or the legal equivalent in the jurisdiction where such Property is located) by such Foreign Subsidiary or (ii) leased solely by such Foreign Subsidiary pursuant to a long-term lease having terms and

conditions reasonably acceptable to the Administrative Agent; (2) all of the issued and outstanding Equity Interests of such Foreign Subsidiary are legally and beneficially owned by one or more of the Borrower and Wholly Owned Subsidiaries; (3) such Foreign Subsidiary has no Indebtedness other than (x) Nonrecourse Indebtedness and (y) other Indebtedness in an aggregate outstanding principal amount of less than 2.0% of the value of the assets of such Foreign Subsidiary (such value to be determined in a manner consistent with the definition of Total Asset Value or, if not contemplated under the definition of Total Asset Value, in a manner acceptable to the Administrative Agent); (4) neither such Property, nor any interest of such Foreign Subsidiary therein, is subject to any Lien (other than Permitted Liens of the types described in clauses (a) through (c) or (e) through (j) of the definition thereof) or to any Negative Pledge, other than Negative Pledges permitted pursuant to Section 9.2.(b)(iii) and Section 9.2.(b)(iv); and (5) such Property satisfies the requirements set forth in the immediately preceding clauses (b), (c), (d), (e), (f), (g) and (h).

“Unencumbered Asset Certificate” has the meaning given that term in Section 8.3.

“Unimproved Land” means land on which no development (other than improvements that are not material and are temporary in nature) has occurred.

“Unsecured Debt” means any Debt of the Borrower or its Subsidiaries which is not Secured Debt (as such terms are defined in the definition of “Temporary Waiver Period Incurrence Conditions”).

“Unsecured Indebtedness” means, with respect to a Person as of any given date, the aggregate principal amount of all Indebtedness of such Person outstanding at such date that is not Secured Indebtedness (excluding Indebtedness associated with Unconsolidated Affiliates that is not Guaranteed by the Borrower or any of its Subsidiaries) and in the case of the Borrower shall include (without duplication) Indebtedness that does not constitute Secured Indebtedness. Indebtedness secured solely by a pledge of Equity Interests in a Subsidiary owning one or more Properties which is also recourse to the Borrower or a Subsidiary shall not be treated as Secured Indebtedness.

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

“Wells Fargo” means Wells Fargo Bank, National Association, and its successors and assigns.

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

“Withdrawal Liability” means any liability as a result of a complete or partial withdrawal from a Multiemployer Plan as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means (a) the Borrower, (b) any other Loan Party and (c) the Administrative Agent, as applicable.

“Write-Down and Conversion Powers” means (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify

or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.2. General; References to Eastern Time.

Unless otherwise indicated, all accounting terms, ratios and measurements shall be interpreted or determined in accordance with GAAP in effect as of the Agreement Date. Notwithstanding the preceding sentence, (x) the calculation of liabilities shall not include any fair value adjustments to the carrying value of liabilities to record such liabilities at fair value pursuant to electing the fair value option election under FASB ASC 825-10-25 (formerly known as FAS 159, The Fair Value Option for Financial Assets and Financial Liabilities) or other standards of the Financial Accounting Standards Board allowing entities to elect fair value option for financial liabilities and (y) for purposes of calculating the covenants under this Agreement or any other Loan Document, any obligations of a Person under a lease (whether existing on the Agreement Date or entered into thereafter) that is not (or would not be) required to be classified and accounted for as a capitalized lease on a balance sheet of such Person prepared in accordance with GAAP as in effect on the Agreement Date shall not be treated as a capitalized lease pursuant to this Agreement or the other Loan Documents solely as a result of (1) the adoption of changes in GAAP after the Agreement Date (including, for the avoidance of doubt, any changes in GAAP as set forth in FASB ASC 842 (as the same may be amended from time to time)) or (2) changes in the application of GAAP after the Agreement Date (including the avoidance of doubt, any changes as set forth in FASB ASC 842 (as the same may be amended from time to time)); provided, however, that upon the request of the Administrative Agent or any Lender the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to any such adoption of changes in, or the application of, GAAP. References in this Agreement to “Sections”, “Articles”, “Exhibits” and “Schedules” are to sections, articles, exhibits and schedules herein and hereto unless otherwise indicated. references in this Agreement to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, to the extent permitted hereby and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, supplemented, restated or otherwise modified from time to time to the extent not otherwise stated herein or prohibited hereby and in effect at any given time. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter. Unless explicitly set forth to the contrary, a reference to “Subsidiary” means a Subsidiary of the Borrower or a Subsidiary of such Subsidiary and a reference to an “Affiliate” means a reference to an Affiliate of the Borrower. Titles and captions of Articles, Sections, subsections and clauses in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement. Unless otherwise indicated, all references to time are references to Eastern time, daylight or standard, as applicable.

Section 1.3. Rates.

The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “LIBOR” or with respect to any rate that is an alternative or replacement for or successor to any such rate or the effect of any of the foregoing.

Section 1.4. Divisions.

For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II. CREDIT FACILITY

Section 2.1. Revolving Loans.

(a) Making of Revolving Loans. Subject to the terms and conditions set forth in this Agreement, including without limitation, Section 2.15., each Revolving Lender severally and not jointly agrees to make Revolving Loans in Dollars to the Borrower during the period from and including the Effective Date to but excluding the Revolving Termination Date, in an aggregate principal amount at any one time outstanding up to, but not exceeding, (i) at any time prior to the satisfaction of the Initial Mortgage Collateral Requirement, such Lender's Revolving Commitment, and (ii) upon and following satisfaction of the Initial Mortgage Collateral Requirement, the lesser of (A) the amount of such Lender's Revolving Commitment and (B) such Lender's Revolving Commitment Percentage of the then Collateral Property Availability. Each borrowing of Revolving Loans that are to be Base Rate Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof. Each borrowing and Continuation under Section 2.9. of Revolving Loans that are LIBOR Loans, and each Conversion under Section 2.10. of Revolving Loans that are Base Rate Loans into LIBOR Loans, shall be in an aggregate minimum of \$1,000,000 and integral multiples of \$1,000,000 in excess of that amount. Notwithstanding the immediately preceding two sentences but subject to Section 2.15., a borrowing of Revolving Loans may be in the aggregate amount of the unused Revolving Commitments or the aggregate amount of the unused Collateral Property Availability, as then applicable pursuant to the terms of this Agreement. Within the foregoing limits and subject to the terms and conditions of this Agreement, the Borrower may borrow, repay and reborrow Revolving Loans.

(b) Requests for Revolving Loans. Not later than 11:00 a.m. Eastern time at least one (1) Business Day prior to a borrowing of Revolving Loans that are to be Base Rate Loans and not later than 11:00 a.m. Eastern time at least three (3) Business Days prior to a borrowing of Revolving Loans that are to be LIBOR Loans, the Borrower shall deliver to the Administrative Agent a Notice of Borrowing. Each Notice of Borrowing shall specify the aggregate principal amount of the Revolving Loans to be borrowed, the date such Revolving Loans are to be borrowed (which must be a Business Day), the use of the proceeds of such Revolving Loans, the Type of the requested Revolving Loans, and if such Revolving Loans are to be LIBOR Loans, the initial Interest Period for such Revolving Loans. Each Notice of Borrowing shall be irrevocable once given and binding on the Borrower. Prior to delivering a Notice of Borrowing, the Borrower may (without specifying whether a Revolving Loan will be a Base Rate Loan or a LIBOR Loan) request that the Administrative Agent provide the Borrower with the most recent LIBOR available to the Administrative Agent. The Administrative Agent shall provide such quoted rate to the Borrower on the date of such request or as soon as possible thereafter.

(c) Funding of Revolving Loans. Promptly after receipt of a Notice of Borrowing under the immediately preceding subsection (b), the Administrative Agent shall notify each Revolving Lender of the proposed borrowing. Each Revolving Lender shall deposit an amount equal to the Revolving Loan to be made by such Revolving Lender to the Borrower with the Administrative Agent at the Principal

Office, in immediately available funds not later than 12:00 p.m. Eastern time on the date of such proposed Revolving Loans. Subject to fulfillment of all applicable conditions set forth herein, the Administrative Agent shall make available to the Borrower in the account specified in the Disbursement Instruction Agreement, not later than 2:00 p.m. Eastern time on the date of the requested borrowing of Revolving Loans, the proceeds of such amounts received by the Administrative Agent.

(d) Assumptions Regarding Funding by Revolving Lenders. With respect to Revolving Loans to be made after the Effective Date, unless the Administrative Agent shall have been notified by any Revolving Lender that such Lender will not make available to the Administrative Agent a Revolving Loan to be made by such Lender in connection with any borrowing, the Administrative Agent may assume that such Lender will make the proceeds of such Revolving Loan available to the Administrative Agent in accordance with this Section, and the Administrative Agent may (but shall not be obligated to), in reliance upon such assumption, make available to the Borrower the amount of such Revolving Loan to be provided by such Lender. In such event, if such Lender does not make available to the Administrative Agent the proceeds of such Revolving Loan on the date and at the time specified in Section 2.1.(c), then such Lender and the Borrower severally agree to pay to the Administrative Agent on demand the amount of such Revolving Loan with interest thereon, for each day from and including the date such Revolving Loan is made available to the Borrower but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. Notwithstanding the prior sentence, if any Revolving Lender shall fail to make available to the Administrative Agent the proceeds of a Revolving Loan on the date and at the time specified in Section 2.1.(c) but shall make such proceeds available to the Administrative Agent at a later time on such date, such Lender shall pay to the Administrative Agent one day's worth of interest computed in accordance with clause (i) of the immediately preceding sentence, unless such Lender can provide evidence reasonably satisfactory to the Administrative Agent that such Lender has timely made such proceeds available to the Administrative Agent, including, without limitation, a Fed Reference Number screen shot evidencing the date and time such Lender's wire was sent. If the Borrower and such Lender shall pay the amount of such interest to the Administrative Agent for the same or overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays to the Administrative Agent the amount of such Revolving Loan, the amount so paid shall constitute such Lender's Revolving Loan included in the borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Revolving Lender that shall have failed to make available the proceeds of a Revolving Loan to be made by such Lender.

Section 2.2. Term Loans.

Pursuant to the Existing Credit Agreement, certain of the Term Loan Lenders made Term Loans denominated in Dollars to the Borrower. The Borrower hereby agrees and acknowledges that as of the Third Amendment Effective Date, the outstanding principal balance of the Term Loans is \$0.00 and all Term Loan Commitments in respect thereof have been terminated and are no longer available for disbursement.

Section 2.3. Letters of Credit.

(a) Letters of Credit. Subject to the terms and conditions of this Agreement, including without limitation, Section 2.15., each Issuing Bank, on behalf of the Revolving Lenders, agrees to issue for the account of the Borrower (which may be issued in support of obligations of any Subsidiary of the

Borrower) during the period from and including the Effective Date to, but excluding, the date 30 days prior to the Revolving Termination Date, one or more standby letters of credit (each a “**Letter of Credit**”) up to a maximum aggregate Stated Amount at any one time outstanding not to exceed \$50,000,000 as such amount may be reduced from time to time in accordance with the terms hereof (the “**L/C Commitment Amount**”); provided, that an Issuing Bank shall not be obligated to issue any Letter of Credit if, after giving effect to such issuance, the aggregate Stated Amount of the outstanding Letters of Credit issued by such Issuing Bank would exceed (i) at any time prior to the satisfaction of the Initial Mortgage Collateral Requirement, the lesser of (A) 25.0% of the L/C Commitment Amount and (B) the Revolving Commitment of such Issuing Bank in its capacity as a Revolving Lender, and (ii) upon and following satisfaction of the Initial Mortgage Collateral Requirement, the lesser of (A) 25.0% of the L/C Commitment Amount, (B) the Revolving Commitment of such Issuing Bank in its capacity as a Revolving Lender, and (C) such Issuing Bank’s Revolving Commitment Percentage of the then Collateral Property Availability (in its capacity as a Revolving Lender). The parties hereto agree that the Existing Letters of Credit shall be deemed to be Letters of Credit for all purposes of this Agreement.

(b) Terms of Letters of Credit. At the time of issuance, the amount, form, terms and conditions of each Letter of Credit, and of any drafts or acceptances thereunder, shall be subject to approval by the applicable Issuing Bank and the Borrower. Notwithstanding the foregoing, in no event may (i) the expiration date of any Letter of Credit extend beyond the Revolving Termination Date, or (ii) any Letter of Credit have an initial duration in excess of one year; provided, however, a Letter of Credit may contain a provision providing for the automatic extension of the expiration date in the absence of a notice of non-renewal from the applicable Issuing Bank but in no event shall any such provision permit the extension of the expiration date of such Letter of Credit beyond the Revolving Termination Date. Notwithstanding the foregoing, a Letter of Credit may, as a result of its express terms or as the result of the effect of an automatic extension provision, have an expiration date of not more than one year beyond the Revolving Termination Date (any such Letter of Credit being referred to as an “Extended Letter of Credit”) so long as the Borrower delivers to the Administrative Agent for the benefit of the applicable Issuing Bank and the Revolving Lenders no later than 30 days prior to the Revolving Termination Date, Cash Collateral for such Letter of Credit for deposit into the Letter of Credit Collateral Account in an amount equal to the Stated Amount of such Letter of Credit; provided, that the obligations of the Borrower under this Section in respect of Extended Letters of Credit shall survive the termination of this Agreement and shall remain in effect until no Extended Letters of Credit remain outstanding. If the Borrower fails to provide Cash Collateral with respect to any Extended Letter of Credit by the date 30 days prior to the Revolving Termination Date, such failure shall be treated as a drawing under such Extended Letter of Credit (in an amount equal to the maximum Stated Amount of such Letter of Credit), which shall be reimbursed (or participations therein funded) by the Revolving Lenders in accordance with the immediately following subsections (i) and (j), with the proceeds being utilized to provide Cash Collateral for such Letter of Credit. The initial Stated Amount of each Letter of Credit shall be at least \$500,000 (or such lesser amount as may be acceptable to the applicable Issuing Bank, the Administrative Agent and the Borrower).

(c) Requests for Issuance of Letters of Credit. The Borrower shall give an Issuing Bank and the Administrative Agent written notice at least five (5) Business Days prior to the requested date of issuance of a Letter of Credit, such notice to describe in reasonable detail the proposed terms of such Letter of Credit and the nature of the transactions or obligations proposed to be supported by such Letter of Credit, and in any event shall set forth with respect to such Letter of Credit the proposed (i) initial Stated Amount, (ii) beneficiary, and (iii) expiration date. The Borrower shall also execute and deliver such customary applications and agreements for standby letters of credit, and other forms as requested from time to time by the applicable Issuing Bank. Provided the Borrower has given the notice prescribed by the first sentence of this subsection and delivered such applications and agreements referred to in the

preceding sentence, subject to the other terms and conditions of this Agreement, including the satisfaction of any applicable conditions precedent set forth in Article V., the applicable Issuing Bank shall issue the requested Letter of Credit on the requested date of issuance for the benefit of the stipulated beneficiary but in no event shall such Issuing Bank be required to issue the requested Letter of Credit prior to the date five (5) Business Days (or such shorter time period as may be acceptable to the applicable Issuing Bank) following the date after which such Issuing Bank has received all of the items, if any, required to be delivered to it under this subsection. An Issuing Bank shall not at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause such Issuing Bank or any Revolving Lender to exceed any limits imposed by, any Applicable Law. References herein to “issue” and derivations thereof with respect to Letters of Credit shall also include extensions or modifications of any outstanding Letters of Credit, unless the context otherwise requires. Upon the written request of the Borrower, the applicable Issuing Bank shall deliver to the Borrower a copy of each issued Letter of Credit issued by it within a reasonable time after the date of issuance thereof. To the extent any term of a Letter of Credit Document is inconsistent with a term of any Loan Document, the term of such Loan Document shall control.

(d) Reimbursement Obligations. Upon receipt by an Issuing Bank from the beneficiary of a Letter of Credit issued by such Issuing Bank of any demand for payment under such Letter of Credit and such Issuing Bank’s determination that such demand for payment complies with the requirements of such Letter of Credit, such Issuing Bank shall promptly notify the Borrower and the Administrative Agent of the amount to be paid by such Issuing Bank as a result of such demand and the date on which payment is to be made by such Issuing Bank to such beneficiary in respect of such demand; provided, however, that an Issuing Bank’s failure to give, or delay in giving, such notice shall not discharge the Borrower in any respect from the applicable Reimbursement Obligation. The Borrower hereby absolutely, unconditionally and irrevocably agrees to pay and reimburse each Issuing Bank for the amount of each demand for payment under each Letter of Credit issued by such Issuing Bank at or prior to the date on which payment is to be made by such Issuing Bank to the beneficiary thereunder, without presentment, demand, protest or other formalities of any kind. Upon receipt by an Issuing Bank of any payment in respect of any Reimbursement Obligation, such Issuing Bank shall promptly pay to the Administrative Agent for the account of each Revolving Lender that has acquired a participation therein under the second sentence of the immediately following subsection (i) such Lender’s Revolving Commitment Percentage of such payment.

(e) Manner of Reimbursement. Upon its receipt of a notice referred to in the immediately preceding subsection (d), the Borrower shall advise the Administrative Agent and the applicable Issuing Bank whether or not the Borrower intends to borrow hereunder to finance its obligation to reimburse such Issuing Bank for the amount of the related demand for payment and, if it does, the Borrower shall submit a timely request for such borrowing as provided in the applicable provisions of this Agreement. If the Borrower fails to so advise the Administrative Agent and the applicable Issuing Bank, or if the Borrower fails to reimburse the applicable Issuing Bank for a demand for payment under a Letter of Credit by the date of such payment, the failure of which the applicable Issuing Bank shall promptly notify the Administrative Agent, then (i) if the applicable conditions contained in Article V. would permit the making of Revolving Loans, the Borrower shall be deemed to have requested a borrowing of Revolving Loans (which shall be Base Rate Loans) in an amount equal to the unpaid Reimbursement Obligation and the Administrative Agent shall give each Revolving Lender prompt notice of the amount of the Revolving Loan to be made available to the Administrative Agent not later than 12:00 p.m. Eastern time and (ii) if such conditions would not permit the making of Revolving Loans, the provisions of subsection (j) of this Section shall apply. The limitations set forth in the second sentence of Section 2.1.(a) shall not apply to any borrowing of Base Rate Loans under this subsection.

(f) Effect of Letters of Credit on Revolving Commitments. Upon the issuance by an Issuing Bank of a Letter of Credit and until such Letter of Credit shall have expired or been cancelled, the Revolving Commitment of each Revolving Lender shall be deemed to be utilized for all purposes of this Agreement in an amount equal to the product of (i) such Revolving Lender's Revolving Commitment Percentage and (ii) the sum of (A) the Stated Amount of such Letter of Credit plus (B) any related Reimbursement Obligations then outstanding.

(g) Issuing Banks' Duties Regarding Letters of Credit; Unconditional Nature of Reimbursement Obligations. In examining documents presented in connection with drawings under Letters of Credit and making payments under Letters of Credit issued by an Issuing Bank against such documents, such Issuing Bank shall only be required to use the same standard of care as it uses in connection with examining documents presented in connection with drawings under letters of credit in which it has not sold participations and making payments under such letters of credit. The Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, none of the Issuing Banks, the Administrative Agent or any of the Lenders shall be responsible for, and the Borrower's obligations in respect of Letters of Credit shall not be affected in any manner by, (i) the form, validity, sufficiency, accuracy, genuineness or legal effects of any document submitted by any party in connection with the application for and issuance of or any drawing honored under any Letter of Credit even if such document should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any 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; (iii) failure of the beneficiary of any Letter of Credit to comply fully with conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, electronic mail, telecopy or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any Letter of Credit, or of the proceeds thereof; (vii) the misapplication by the beneficiary of any Letter of Credit, or of the proceeds of any drawing under any Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Issuing Banks, the Administrative Agent or the Lenders. None of the above shall affect, impair or prevent the vesting of any of the Issuing Banks', the Administrative Agent's or any Lender's rights or powers hereunder. Any action taken or omitted to be taken by an Issuing Bank under or in connection with any Letter of Credit issued by such Issuing Bank, if taken or omitted in the absence of gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment), shall not create against such Issuing Bank any liability to the Borrower, the Administrative Agent or any Lender. In this connection, the obligation of the Borrower to reimburse an Issuing Bank for any drawing made under any Letter of Credit issued by such Issuing Bank, and to repay any Revolving Loan made pursuant to the second sentence of the immediately preceding subsection (e), shall be absolute, unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement and any other applicable Letter of Credit Document under all circumstances whatsoever, including without limitation, the following circumstances: (A) any lack of validity or enforceability of any Letter of Credit Document or any term or provisions therein; (B) any amendment or waiver of or any consent to departure from all or any of the Letter of Credit Documents; (C) the existence of any claim, setoff, defense or other right which the Borrower may have at any time against such Issuing Bank, any other Issuing Bank, the Administrative Agent, any Lender, any beneficiary of a Letter of Credit or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or in the Letter of Credit Documents or any unrelated transaction; (D) any breach of contract or dispute between the Borrower, such Issuing Bank, any other Issuing Bank, the Administrative Agent, any Lender or any

other Person; (E) any demand, statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein or made in connection therewith being untrue or inaccurate in any respect whatsoever; (F) any nonapplication or misapplication by the beneficiary of a Letter of Credit or of the proceeds of any drawing under such Letter of Credit; (G) payment by such Issuing Bank under any Letter of Credit against presentation of a draft or certificate which does not strictly comply with the terms of such Letter of Credit; and (H) any other act, omission to act, delay or circumstance whatsoever that might, but for the provisions of this Section, constitute a legal or equitable defense to or discharge of the Borrower's Reimbursement Obligations. Notwithstanding anything to the contrary contained in this Section or Section 12.9., but not in limitation of the Borrower's unconditional obligation to reimburse an Issuing Bank for any drawing made under a Letter of Credit as provided in this Section and to repay any Revolving Loan made pursuant to the second sentence of the immediately preceding subsection (e), the Borrower shall have no obligation to indemnify the Administrative Agent, an Issuing Bank or any Lender in respect of any liability incurred by the Administrative Agent, an Issuing Bank or such Lender arising solely out of the gross negligence or willful misconduct of the Administrative Agent, such Issuing Bank or such Lender in respect of a Letter of Credit as determined by a court of competent jurisdiction in a final, non-appealable judgment. Except as otherwise provided in this Section, nothing in this Section shall affect any rights the Borrower may have with respect to the gross negligence or willful misconduct of the Administrative Agent, an Issuing Bank or any Lender with respect to any Letter of Credit.

(h) Amendments, Etc. The issuance by an Issuing Bank of any amendment, supplement or other modification to any Letter of Credit issued by such Issuing Bank shall be subject to the same conditions applicable under this Agreement to the issuance of new Letters of Credit (including, without limitation, that the request therefor be made through the applicable Issuing Bank and the Administrative Agent), and no such amendment, supplement or other modification shall be issued unless either (i) the respective Letter of Credit affected thereby would have complied with such conditions had it originally been issued hereunder in such amended, supplemented or modified form or (ii) the Administrative Agent and the applicable Revolving Lenders, if any, required by Section 12.6. shall have consented thereto. In connection with any such amendment, supplement or other modification, the Borrower shall pay the fees, if any, payable under the last sentence of Section 3.5.(c).

(i) Revolving Lenders' Participation in Letters of Credit. Immediately upon (i) the Effective Date with respect to all Existing Letters of Credit and (ii) the date of issuance by an Issuing Bank of any Letter of Credit, each Revolving Lender shall be deemed to have absolutely, irrevocably and unconditionally purchased and received from the applicable Issuing Bank, without recourse or warranty, an undivided interest and participation to the extent of such Lender's Revolving Commitment Percentage of the liability of such Issuing Bank with respect to such Letter of Credit and each Revolving Lender thereby shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and shall be unconditionally obligated to such Issuing Bank to pay and discharge when due, to the extent and in the manner set forth in the immediately following subsection (j) below, such Lender's Revolving Commitment Percentage of such Issuing Bank's liability under such Letter of Credit. In addition, upon the making of each payment by a Revolving Lender to the Administrative Agent for the account of an Issuing Bank in respect of any Letter of Credit issued by it pursuant to the immediately following subsection (j), such Lender shall, automatically and without any further action on the part of such Issuing Bank, the Administrative Agent or such Lender, acquire (i) a participation in an amount equal to such payment in the Reimbursement Obligation owing to such Issuing Bank by the Borrower in respect of such Letter of Credit and (ii) a participation in a percentage equal to such Lender's Revolving Commitment Percentage in any interest or other amounts payable by the Borrower in respect of such Reimbursement Obligation (other than the Fees payable to such Issuing Bank pursuant to the second and the last sentences of Section 3.5.(c)).

(j) Payment Obligation of Revolving Lenders. Each Revolving Lender severally agrees to pay to the Administrative Agent, for the account of each Issuing Bank, on demand in immediately available funds in Dollars the amount of such Lender's Revolving Commitment Percentage of each drawing paid by such Issuing Bank under each Letter of Credit issued by it to the extent such amount is not reimbursed by the Borrower pursuant to the immediately preceding subsection (d); provided, however, that in respect of any drawing under any Letter of Credit, the maximum amount that any Revolving Lender shall be required to fund, whether as a Revolving Loan or as a participation, shall not exceed such Lender's Revolving Commitment Percentage of such drawing except as otherwise provided in Section 3.9.(d). If the notice referenced in the second sentence of Section 2.3.(e) is received by a Revolving Lender not later than 12:00 p.m. Eastern time, then such Lender shall make such payment available to the Administrative Agent not later than 2:00 p.m. Eastern time on the date of demand therefor; otherwise, such payment shall be made available to the Administrative Agent not later than 12:00 p.m. Eastern time on the next succeeding Business Day. Each Revolving Lender's obligation to make such payments to the Administrative Agent under this subsection, and the Administrative Agent's right to receive the same for the account of the applicable Issuing Bank, shall be absolute, irrevocable and unconditional and shall not be affected in any way by any circumstance whatsoever, including without limitation, (i) the failure of any other Revolving Lender to make its payment under this subsection, (ii) the financial condition of the Borrower or any other Loan Party, (iii) the existence of any Default or Event of Default, including any Event of Default described in Section 10.1.(e) or (f), (iv) the termination of the Commitments or (v) the delivery of Cash Collateral in respect of any Extended Letter of Credit. Each such payment to the Administrative Agent for the account of the applicable Issuing Bank shall be made without any offset, abatement, withholding or deduction whatsoever.

(k) Information to Revolving Lenders. Promptly following any change in Letters of Credit outstanding, the applicable Issuing Bank shall deliver to the Administrative Agent, which shall promptly deliver the same to each Revolving Lender and the Borrower, a notice describing the aggregate amount of all Letters of Credit issued by such Issuing Bank outstanding at such time. Upon the request of any Revolving Lender from time to time, an Issuing Bank shall deliver any other information reasonably requested by such Lender with respect to such Letter of Credit then outstanding. Other than as set forth in this subsection, the Issuing Banks and the Administrative Agent shall have no duty to notify the Lenders regarding the issuance or other matters regarding Letters of Credit issued hereunder. The failure of any Issuing Bank or the Administrative Agent to perform its requirements under this subsection shall not relieve any Revolving Lender from its obligations under the immediately preceding subsection (j).

(l) Extended Letters of Credit. Each Revolving Lender confirms that its obligations under the immediately preceding subsections (i) and (j) shall be reinstated in full and apply if the delivery of any Cash Collateral in respect of an Extended Letter of Credit is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise.

Section 2.4. Swingline Loans.

(a) Swingline Loans. Subject to the terms and conditions hereof, including without limitation Section 2.15., each Swingline Lender severally and not jointly agrees to make Swingline Loans to the Borrower, during the period from the Effective Date to but excluding the Swingline Maturity Date, in an aggregate principal amount at any one time outstanding up to, but not exceeding, the lesser (such lesser amount being referred to as the "Swingline Availability" of a given Swingline Lender) of (i) \$18,750,000, (ii) the difference of (A) the commitment of such Swingline Lender in its capacity as a Revolving Lender minus (B) the aggregate outstanding principal amount of the Revolving Loans and outstanding Swingline Loans, in each such case, made by such Swingline Lender and the Letter of Credit

Liabilities of such Swingline Lender in its capacity as a Revolving Lender, and (iii) upon and following satisfaction of the Initial Mortgage Collateral Requirement, the difference of (A) such Swingline Lender's Revolving Commitment Percentage of the then Collateral Property Availability (in its capacity as a Revolving Lender) minus (B) the aggregate outstanding principal amount of the Revolving Loans and outstanding Swingline Loans, in each such case, made by such Swingline Lender and the Letter of Credit Liabilities of such Swingline Lender in its capacity as a Revolving Lender. If at any time the aggregate principal amount of the Swingline Loans made by a Swingline Lender outstanding at such time exceeds the Swingline Availability of such Swingline Lender at such time, the Borrower shall immediately pay the Administrative Agent for the account of such Swingline Lender the amount of such excess. The borrowing of a Swingline Loan shall constitute usage of the Revolving Commitments, in an amount equal to (i) for each Revolving Lender other than the Swingline Lender making such Swingline Loan, each such Revolving Lender's Revolving Commitment Percentage, multiplied by the outstanding amount of such Swingline Loan and (ii) for the applicable Swingline Lender making such Swingline Loan, the outstanding amount of such Swingline Loan. Subject to the terms and conditions of this Agreement, the Borrower may borrow, repay and reborrow Swingline Loans hereunder.

(b) Procedure for Borrowing Swingline Loans. The Borrower shall give the Administrative Agent and the Swingline Lender selected by the Borrower to make a Swingline Loan notice pursuant to a Notice of Swingline Borrowing or telephonic notice of each borrowing of a Swingline Loan. Each Notice of Swingline Borrowing shall be delivered to the applicable Swingline Lender and the Administrative Agent no later than 2:00 p.m. Eastern time on the proposed date of such borrowing. Any telephonic notice shall include all information to be specified in a written Notice of Swingline Borrowing and shall be promptly confirmed in writing by the Borrower pursuant to a Notice of Swingline Borrowing sent to such Swingline Lender and the Administrative Agent by telecopy on the same day of the giving of such telephonic notice. On the date of the requested Swingline Loan and subject to satisfaction of the applicable conditions set forth in Section 5.2. for such borrowing, the applicable Swingline Lender will make the proceeds of such Swingline Loan available to the Administrative Agent at its Principal Office in Dollars, in immediately available funds, for the account of the Borrower. The amount so received by the Administrative Agent shall, subject to satisfaction of the applicable conditions set forth in Section 5.2. for such borrowing, be made available to the Borrower not later than 11:00 a.m. on such date if the applicable Swingline Lender and the Administrative Agent received such Notice of Swingline Borrowing by 9:00 a.m. on such date, and otherwise not later than 4:00 p.m. on such date, at the account specified by the Borrower in the Notice of Swingline Borrowing.

(c) Interest. Swingline Loans shall bear interest at a per annum rate equal to the Base Rate as in effect from time to time plus the Applicable Margin for Revolving Loans or at such other rate or rates as the Borrower and the applicable Swingline Lender may agree (with written notice thereof to the Administrative Agent) from time to time in writing. Interest on a Swingline Loan is solely for the account of the Swingline Lender that made such Swingline Loan (except to the extent a Revolving Lender acquires a participating interest in such Swingline Loan pursuant to the immediately following subsection (e)). All accrued and unpaid interest on Swingline Loans shall be payable on the dates and in the manner provided in Section 2.5. with respect to interest on Base Rate Loans (except as the applicable Swingline Lender and the Borrower may otherwise agree in writing (with written notice thereof to the Administrative Agent) in connection with any particular Swingline Loan made by such Swingline Lender).

(d) Swingline Loan Amounts, Etc. Each Swingline Loan shall be in the minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof, or such other minimum amounts agreed to by a Swingline Lender and the Borrower. Any voluntary prepayment of a Swingline Loan must be in integral multiples of \$100,000 or the aggregate principal amount of all outstanding Swingline Loans (or

such other minimum amounts upon which the Swingline Lender that made such Swingline Loan and the Borrower may agree) and in connection with any such prepayment, the Borrower must give the Swingline Lender that made such Swingline Loan and the Administrative Agent prior written notice thereof no later than 10:00 a.m. Eastern time on the date of such prepayment. The Swingline Loans owing to a Swingline Lender shall, in addition to this Agreement, be evidenced by a Swingline Note in favor of such Swingline Lender (unless such Swingline Lender shall have notified the Borrower and the Administrative Agent that such Swingline Lender does not want to receive a Swingline Note).

(e) Repayment and Participations of Swingline Loans. The Borrower agrees to repay each Swingline Loan within one Business Day of demand therefor by the Swingline Lender that made such Swingline Loan and, in any event, within five (5) Business Days after the date such Swingline Loan was made; provided, that the proceeds of a Swingline Loan may not be used to pay a Swingline Loan. Any Swingline Lender making demand for repayment of a Swingline Loan made by such Swingline Lender shall notify the Administrative Agent of such demand on the date on such demand is made. Notwithstanding the foregoing, the Borrower shall repay the entire outstanding principal amount of, and all accrued but unpaid interest on, the Swingline Loans on the Swingline Maturity Date (or such earlier date as the Swingline Lender that made such Swingline Loan and the Borrower may agree in writing (with notice thereof to the Administrative Agent)). In lieu of demanding repayment of any outstanding Swingline Loan from the Borrower, the Swingline Lender that made such Swingline Loan may, on behalf of the Borrower (which hereby irrevocably directs each applicable Swingline Lender to act on its behalf for such purpose), request a borrowing of Revolving Loans that are Base Rate Loans from the Revolving Lenders in an amount equal to the principal balance of such Swingline Loan. The amount limitations contained in the second sentence of Section 2.1.(a) shall not apply to any borrowing of such Revolving Loans made pursuant to this subsection. Such Swingline Lender shall give notice to the Administrative Agent of any such borrowing of Revolving Loans not later than 12:00 p.m. Eastern time on the proposed date of such borrowing. Promptly after receipt of such notice of borrowing of Revolving Loans from the Swingline Lender under the immediately preceding sentence, the Administrative Agent shall notify each Revolving Lender of the proposed borrowing. Not later than 2:00 p.m. Eastern time on the proposed date of such borrowing, each Revolving Lender will make available to the Administrative Agent at the Principal Office for the account of the applicable Swingline Lender, in immediately available funds, the proceeds of the Revolving Loan to be made by such Lender. The Administrative Agent shall pay the proceeds of such Revolving Loans to the applicable Swingline Lender, which shall apply such proceeds to repay such Swingline Loan. If the Revolving Lenders are prohibited from making Revolving Loans required to be made under this subsection for any reason whatsoever, including without limitation, the existence of any of the Defaults or Events of Default described in Sections 10.1.(e) or (f), each Revolving Lender shall purchase from the applicable Swingline Lender, without recourse or warranty, an undivided interest and participation to the extent of such Lender's Revolving Commitment Percentage of such Swingline Loan, by directly purchasing a participation in such Swingline Loan in such amount and paying the proceeds thereof to the Administrative Agent for the account of the applicable Swingline Lender in Dollars and in immediately available funds. A Revolving Lender's obligation to purchase such a participation in a Swingline Loan shall be absolute and unconditional and shall not be affected by any circumstance whatsoever, including without limitation, (i) any claim of setoff, counterclaim, recoupment, defense or other right which such Lender or any other Person may have or claim against the Administrative Agent, any Swingline Lender or any other Person whatsoever, (ii) the occurrence or continuation of a Default or Event of Default (including without limitation, any of the Defaults or Events of Default described in Sections 10.1.(e) or (f)), or the termination of any Revolving Lender's Revolving Commitment, (iii) the existence (or alleged existence) of an event or condition which has had or could have a Material Adverse Effect, (iv) any breach of any Loan Document by the Administrative Agent, any Lender, the Borrower or any other Loan Party, or (v) any other circumstance, happening or event

whatsoever, whether or not similar to any of the foregoing. If such amount is not in fact made available to the applicable Swingline Lender by any Revolving Lender, such Swingline Lender shall be entitled to recover such amount on demand from such Lender, together with accrued interest thereon for each day from the date of demand thereof, at the Federal Funds Rate. If such Lender does not pay such amount forthwith upon the applicable Swingline Lender's demand therefor, and until such time as such Lender makes the required payment, applicable Swingline Lender shall be deemed to continue to have outstanding Swingline Loans in the amount of such unpaid participation obligation for all purposes of the Loan Documents (other than those provisions requiring the other Revolving Lenders to purchase a participation therein). Further, such Lender shall be deemed to have assigned any and all payments made of principal and interest on its Revolving Loans, and any other amounts due it hereunder, to the applicable Swingline Lender to fund Swingline Loans in the amount of the participation in Swingline Loans that such Lender failed to purchase pursuant to this Section until such amount has been purchased (as a result of such assignment or otherwise).

Section 2.5. Rates and Payment of Interest on Loans.

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

(i) during such periods a Revolving Loan is a Base Rate Loan, at the Base Rate (as in effect from time to time), plus the Applicable Margin for Revolving Loans that are Base Rate Loans;

(ii) during such periods a Revolving Loan is a LIBOR Loan, at LIBOR for such Loan for the Interest Period therefor, plus the Applicable Margin for Revolving Loans that are LIBOR Loans;

(iii) during such periods a Term Loan is a Base Rate Loan, at the Base Rate (as in effect from time to time), plus the Applicable Margin for Term Loans that are Base Rate Loans; and

(iv) during such periods a Term Loan is a LIBOR Loan, at LIBOR for such Loan for the Interest Period therefor, plus the Applicable Margin for Term Loans that are LIBOR Loans.

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

(b) Payment of Interest. All accrued and unpaid interest on the outstanding principal amount of each Loan shall be payable (i) monthly in arrears on the first day of each month, commencing with the first full calendar month occurring after the Effective Date and (ii) on any date on which the principal balance of such Loan is due and payable in full (whether at maturity, due to acceleration or otherwise). Interest payable at the Post-Default Rate shall be payable from time to time on demand. All determinations by the Administrative Agent of an interest rate hereunder shall be conclusive and binding on the Lenders and the Borrower for all purposes, absent manifest error.

(c) Borrower Information Used to Determine Applicable Interest Rates. The parties understand that the applicable interest rate for the Obligations and certain fees set forth herein may be determined and/or adjusted from time to time based upon certain financial ratios and/or other information to be provided or certified to the Lenders by the Borrower (the "Borrower Information"). If it is subsequently determined that any such Borrower Information was incorrect (for whatever reason, including without limitation because of a subsequent restatement of earnings by the Borrower) at the time it was delivered to the Administrative Agent, and if the applicable interest rate or fees calculated for any period were lower than they should have been had the correct information been timely provided, then, such interest rate and such fees for such period shall be automatically recalculated using correct Borrower Information. The Administrative Agent shall promptly notify the Borrower in writing of any additional interest and fees due because of such recalculation, and the Borrower shall pay such additional interest or fees due to the Administrative Agent, for the account of each Lender, within five (5) Business Days of receipt of such written notice. Any recalculation of interest or fees required by this provision shall survive the termination of this Agreement, and this provision shall not in any way limit any of the Administrative Agent's, any Issuing Bank's, or any Lender's other rights under this Agreement.

(d) Changes in Credit Rating.

(i) If a change in the Borrower's Credit Rating (a "Credit Rating Change") causes the Applicable Margin to increase and, within 90 days of the date of such Credit Rating Change the applicable Rating Agencies restore the Borrower's original Credit Rating (and, as a result, the Applicable Margin is reduced to the level that existed on the date of such Credit Rating Change), the Borrower shall receive a credit for any increased interest and fees incurred by the Borrower under this Agreement during such 90 day period as a result of such Credit Rating Change, which such credit shall be applied against accrued interest and/or fees hereunder in a manner as may be satisfactory to the Borrower and the Administrative Agent.

(ii) If a Credit Rating Change causes the Applicable Margin to decrease and, within 90 days of the date of such Credit Rating Change the applicable Rating Agencies restore the Borrower's original Credit Rating (and, as a result, the Applicable Margin is increased to the level that existed on the date of such Credit Rating Change), the Borrower shall, within 5 Business Days of the restoration of the Borrower's original Credit Rating, pay to the Administrative Agent for the account of the Lenders, the amount of interest and fees that would have been payable during such 90 day period had the Credit Rating Change not occurred.

Section 2.6. Number of Interest Periods.

There may be no more than 6 different Interest Periods for (a) Revolving Loans outstanding at the same time and (b) Term Loans outstanding at the same time.

Section 2.7. Repayment of Loans.

(a) Revolving Loans. The Borrower shall repay the entire outstanding principal amount of, and all accrued but unpaid interest on, the Revolving Loans on the Revolving Termination Date.

(b) Term Loans. The Borrower shall repay the entire outstanding principal amount of, and all accrued but unpaid interest on, the Term Loans on the Term Loan Maturity Date.

Section 2.8. Prepayments.

(a) Optional. Subject to Section 4.4., the Borrower may prepay any Loan at any time without premium or penalty. The Borrower shall give the Administrative Agent at least three (3) Business Days prior written notice of the prepayment of any Loan. Each voluntary prepayment of Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$500,000 in excess thereof.

(b) Mandatory.

(i) Revolving Commitment Overadvance. If at any time the aggregate principal amount of all outstanding Revolving Loans and Swingline Loans, together with the aggregate amount of all Letter of Credit Liabilities, exceeds the aggregate amount of the Revolving Commitments, the Borrower shall immediately upon demand pay to the Administrative Agent for the account of the Revolving Lenders, the amount of such excess.

(ii) Collateral Property Availability Overadvance. If at any time following the satisfaction of the Initial Mortgage Collateral Requirement the aggregate principal amount of all outstanding Revolving Loans and Swingline Loans, together with the aggregate amount of all Letter of Credit Liabilities, exceeds the Collateral Property Availability, then the Borrower shall within three (3) Business Days following a written request for repayment from the Administrative Agent, pay to the Administrative Agent, for the account of the Lenders, the amount of such excess.

(iii) Temporary Waiver Period. Subject to Section 2.8(b)(iv), no later than the third Business Day following the date of receipt by the Borrower, any of its Subsidiaries or, to the extent the Borrower or any of its Subsidiaries has the power to cause or otherwise compel distribution of such Net Cash Proceeds therefrom, any of its Unconsolidated Affiliates of any Net Cash Proceeds at any time during the Temporary Waiver Period and continuing thereafter until the Post-Temporary Waiver Period Compliance Date, the Borrower shall (to the extent any Obligations remain outstanding) (A) give the Administrative Agent written notice of the receipt of such Net Cash Proceeds and (B) pay to the Administrative Agent one hundred percent (100%) of all such Net Cash Proceeds, which prepayment shall be applied in accordance with Section 2.8(b)(v)(B).

(iv) Qualified Collateral Property Sale. If the Borrower or any Guarantor consummates a Qualified Collateral Property Sale and in connection therewith requests a Property Release in accordance with Section 7.15(b), then, no later than the third Business Day following the date of receipt by the Borrower of the Net Cash Proceeds from such sale the Borrower or the applicable Guarantor shall (to the extent any Obligations remain outstanding) (1) give the Administrative Agent written notice of the receipt of such Net Cash Proceeds and (2) pay to the Administrative Agent the greater of (x) one hundred percent (100%) of all such Net Cash Proceeds and (y) the amount required to maintain compliance with the Collateral Property Availability (recalculated to exclude the Collateral Property that is the subject of such Qualified Collateral Property Sale), which prepayment shall be applied in accordance with Section 2.8(b)(v)(B).

(v) Application of Mandatory Prepayments.

(A) Generally. Amounts paid under the preceding subsections (i) and (ii) shall be applied to pay all amounts of principal outstanding on the Revolving Loans and Swingline Loans and any Reimbursement Obligations pro rata in accordance with Section 3.2. and if any Letters of Credit are outstanding at such time, the remainder, if any, shall be deposited into the Letter of Credit Collateral Account for application to any Reimbursement Obligations.

(B) Temporary Waiver Period. So long as no Event of Default has occurred and is continuing, amounts paid under the preceding subsections (iii) and (iv) shall be applied as follows: (1) first, to repay the principal outstanding on Swingline Loans, from nearest Swingline Maturity Date to latest Swingline Maturity Date, to the full extent thereof, (2) second, to repay the principal outstanding on the Revolving Loans and any Reimbursement Obligations pro rata in accordance with Section 3.2. and then if any Letters of Credit are outstanding at such time, the undrawn amount thereof deposited into the Letter of Credit Collateral Account for application to any Reimbursement Obligations, in each such case, to the full extent thereof, (3) third, to repay all other outstanding Obligations hereunder, in the order and manner provided in Section 10.5, to the full extent thereof, and (4) fourth, after all Obligations have been repaid in full, to the Borrower either, at the Borrower's discretion, (i) (x) first, to repay the unsecured notes issued by Borrower then outstanding and coming due in 2021, 2022 and 2023, in order from nearest term maturity to latest term maturity, and (y) second, to repay any other unsecured notes issued by Borrower then outstanding, solely to the extent the Revolving Commitments are permanently reduced in accordance with Section 2.12 by an amount equal to or greater than the amount of such repayment pursuant to this clause (y), or (ii) to be retained by the Borrower (provided that any amounts so retained by the Borrower may not be applied to repay any Indebtedness (other than amounts subsequently due under the Loan Documents or as permitted pursuant to the foregoing clauses (B)(1) through (B)(4)) or in a manner that violates this Agreement). Notwithstanding the immediately preceding sentence, if at any time during the Temporary Waiver Period and continuing thereafter until the Post-Temporary Waiver Period Compliance Date, the Borrower fails to satisfy the conditions precedent set forth in Section 5.2 solely as a result of its failure to satisfy the Temporary Waiver Period Incurrence Conditions, then any amounts paid under the preceding subsections (b)(iii) and (b)(iv) during such time shall instead be applied as follows: (1) first, to repay the principal outstanding on Swingline Loans, from nearest Swingline Maturity Date to latest Swingline Maturity Date, to the full extent thereof, (2) second, solely in the case of amounts paid under the preceding subsection (iv), to repay the principal outstanding on the Revolving Loans and any Reimbursement Obligations pro rata in accordance with Section 3.2 in the amount necessary to maintain compliance with the Collateral Property Availability (recalculated to exclude the Collateral Property that is the subject of such Qualified Collateral Property Sale), and (3) third, to be deposited in ~~a cash collateral account pledged to the Administrative Agent as collateral for the Obligations pursuant to documentation in form and substance satisfactory to the Administrative Agent, which cash collateral may be used, so long as all conditions precedent set forth in Section 5.2 (other than Section 5.2(f) and any other condition precedent set forth in Section 5.2 which would not be satisfied as a result of any such failure specified in Section 5.2(f)) are satisfied, to repay Indebtedness and for working capital purposes of the Borrower and its Subsidiaries, in each such case, in a manner consistent with the then-applicable Approved~~

~~Budget; provided, however, that if any Default or Event of Default, other than as a result of the Borrower's failure to satisfy the Temporary Waiver Period Incurrence Conditions, shall exist, then the Administrative Agent may, in its sole and absolute discretion, apply the amount of such cash collateral to repay the Obligations in the order and manner provided in Section 10.5; the Blocked Account for application in accordance with Section 10.6(b).~~

If the Borrower is required to pay any outstanding LIBOR Loans by reason of this Section prior to the end of the applicable Interest Period therefor, the Borrower shall pay all amounts due under Section 4.4.

(c) No Effect on Derivatives Contracts. No repayment or prepayment of the Loans pursuant to this Section or otherwise shall affect any of the Borrower's obligations under any Derivatives Contract entered into with respect to any of the Loans.

Section 2.9. Continuation.

So long as no Default or Event of Default exists, the Borrower may on any Business Day, with respect to any LIBOR Loan, elect to maintain such LIBOR Loan or any portion thereof as a LIBOR Loan by selecting a new Interest Period for such LIBOR Loan. Each Continuation of a LIBOR Loan shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$1,000,000 in excess of that amount, and each new Interest Period selected under this Section shall commence on the last day of the immediately preceding Interest Period. Each selection of a new Interest Period shall be made by the Borrower giving to the Administrative Agent a Notice of Continuation not later than 10:00 a.m. Eastern time on the third Business Day prior to the date of any such Continuation. Such notice by the Borrower of a Continuation shall be by telecopy, electronic mail or other similar form of communication in the form of a Notice of Continuation, specifying (a) whether the Loans being Continued are Revolving Loans or Term Loans, (b) the proposed date of such Continuation, (c) the LIBOR Loans and portions thereof subject to such Continuation and (d) the duration of the selected Interest Period, all of which shall be specified in such manner as is necessary to comply with all limitations on Loans outstanding hereunder. Each Notice of Continuation shall be irrevocable by and binding on the Borrower once given. Promptly after receipt of a Notice of Continuation, the Administrative Agent shall notify each Revolving Lender, in the case of a Continuation of Revolving Loans, and each Term Loan Lender, in the case of a Continuation of Term Loans, of the proposed Continuation. If the Borrower shall fail to select in a timely manner a new Interest Period for any LIBOR Loan in accordance with this Section, such Loan will automatically, on the last day of the current Interest Period therefor, continue as a LIBOR Loan with an Interest Period of one month; provided, however that if a Default or Event of Default exists, such Loan will automatically, on the last day of the current Interest Period therefor, Convert into a Base Rate Loan notwithstanding the first sentence of Section 2.10. or the Borrower's failure to comply with any of the terms of such Section.

Section 2.10. Conversion.

The Borrower may on any Business Day, upon the Borrower's giving of a Notice of Conversion to the Administrative Agent by telecopy, electronic mail or other similar form of communication, Convert all or a portion of a Revolving Loan or Term Loan of one Type into a Revolving Loan or Term Loan, as applicable, of another Type; provided, however, a Base Rate Loan may not be Converted into a LIBOR Loan if a Default or Event of Default exists. Each Conversion of Base Rate Loans into LIBOR Loans shall be in an aggregate minimum amount of \$1,000,000 and integral multiples of \$1,000,000 in excess of that amount. Each such Notice of Conversion shall be given not later than 10:00 a.m. Eastern time 3 Business Days prior to the date of any proposed Conversion. Promptly after receipt of a Notice of

Conversion, the Administrative Agent shall notify each Revolving Lender, in the case of a Conversion of Revolving Loans, and each Term Loan Lender, in the case of a Conversion of Term Loans, of the proposed Conversion. Subject to the restrictions specified above, each Notice of Conversion shall be by telecopy, electronic mail or other similar form of communication in the form of a Notice of Conversion specifying (a) whether the Loans being Converted are Revolving Loans or Term Loans, (b) the requested date of such Conversion, (c) the Type of Loan to be Converted, (d) the portion of such Type of Loan to be Converted, (e) the Type of Loan such Loan is to be Converted into and (f) if such Conversion is into a LIBOR Loan, the requested duration of the Interest Period of such Loan. Each Notice of Conversion shall be irrevocable by and binding on the Borrower once given.

Section 2.11. Notes.

(a) Notes. Except in the case of a Revolving Lender that has notified the Administrative Agent in writing that it elects not to receive a Revolving Note, the Revolving Loans made by each Revolving Lender shall, in addition to this Agreement, also be evidenced by a Revolving Note, payable to the order of such Revolving Lender in a principal amount equal to the amount of its Revolving Commitment as originally in effect and otherwise duly completed. The Swingline Loans made by a Swingline Lender to the Borrower shall, in addition to this Agreement, also be evidenced by a Swingline Note payable to the order of such Swingline Lender. Except in the case of a Term Loan Lender that has notified the Administrative Agent in writing that it elects not to receive a Term Note, the Term Loan made by a Term Loan Lender shall, in addition to this Agreement, also be evidenced by a Term Note, payable to the order of such Term Loan Lender in a principal amount equal to the amount of its Term Loan and otherwise duly completed. After the date hereof, to the extent a Lender which has notified the Administrative Agent that it elects not to receive a Revolving Note or Term Note, as applicable, elects to receive a Revolving Note or Term Note, as applicable, the Borrower shall at its own expense execute and deliver to such Lender a new Note dated as of the date hereof.

(b) Records. The date, amount, interest rate, Type and duration of Interest Periods (if applicable) of each Loan made by each Lender to the Borrower, and each payment made on account of the principal thereof, shall be recorded by such Lender on its books and such entries shall be binding on the Borrower absent manifest error; provided, however, that (i) the failure of a Lender to make any such record shall not affect the obligations of the Borrower under any of the Loan Documents and (ii) if there is a discrepancy between such records of a Lender and the statements of accounts maintained by the Administrative Agent pursuant to Section 3.8., in the absence of manifest error, the statements of account maintained by the Administrative Agent pursuant to Section 3.8. shall be controlling.

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

Section 2.12. Voluntary Reductions of the Revolving Commitment.

The Borrower shall have the right to terminate or reduce the aggregate unused amount of the Revolving Commitments (for which purpose use of the Revolving Commitments shall be deemed to include the aggregate amount of all Letter of Credit Liabilities and the aggregate principal amount of all outstanding Swingline Loans) at any time and from time to time without penalty or premium upon not less than five Business Days prior written notice to the Administrative Agent of each such termination or

reduction, which notice shall specify the effective date thereof and the amount of any such reduction (which in the case of any partial reduction of the Revolving Commitments shall not be less than \$10,000,000 and integral multiples of \$5,000,000 in excess of that amount in the aggregate) and shall be irrevocable once given and effective only upon receipt by the Administrative Agent (“Commitment Reduction Notice”); provided that any such notice may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly after receipt of a Commitment Reduction Notice the Administrative Agent shall notify each Lender of the proposed termination or Revolving Commitment reduction. The Revolving Commitments may not be reduced below \$200,000,000 in the aggregate unless the Borrower terminates the Revolving Commitments in their entirety, and, once terminated or reduced, the Revolving Commitments may not be increased or reinstated. The Borrower shall pay all interest on the Loans, and the Fees under Section 3.5.(b) with respect to the amount of the Revolving Commitment being reduced, accrued to the date of such reduction or termination of the Revolving Commitments to the Administrative Agent for the account of the Lenders, including but not limited to any applicable compensation due to each Lender in accordance with Section 4.4.

Section 2.13. Extension of Revolving Termination Date.

The Borrower shall have the right, exercisable two times, to extend the current Revolving Termination Date in effect as of the date each such right is exercised by six months. The Borrower may exercise such right only by executing and delivering to the Administrative Agent at least 30 days but not more than 90 days prior to the current Revolving Termination Date, a written request for such extension (an “Extension Request”). The Administrative Agent shall notify the Revolving Lenders if it receives an Extension Request promptly upon receipt thereof. Subject to satisfaction of the following conditions, the Revolving Termination Date shall be extended for six months effective upon receipt by the Administrative Agent of the Extension Request and payment of the fee referred to in the following clause (ii): (i) immediately prior to such extension and immediately after giving effect thereto, (x) no Default or Event of Default shall exist and (y) the representations and warranties made or deemed made by the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of the date of such extension with the same force and effect as if made on and as of such date except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of such earlier date) and except for changes in factual circumstances specifically and expressly permitted under the Loan Documents, (ii) the Borrower shall have paid the Fees payable under Section 3.5.(d), (iii) in the case of the first extension to the current Revolving Termination Date pursuant to this Section 2.13, (x) the Borrower shall be in compliance with the financial covenants set forth in Sections 9.1(a) through (c) (notwithstanding the Temporary Waiver Period) calculated using pro forma projections for the fiscal quarter of the Borrower ending June 30, 2022 based on actual results for such period, annualized, and (y) the existing “5.00% Senior Notes due 2022” issued by the Borrower, in the original principal amount of \$500,000,000 with a stated maturity date of August 15, 2022, shall have been paid in full or refinanced pursuant to a Qualified Refinancing Issuance and (iv) in the case of the second extension to the current Revolving Termination Date pursuant to this Section 2.13, the existing “4.50% Senior Notes due 2023” issued by the Borrower, in the original principal amount of \$500,000,000 with a stated maturity date of June 15, 2023, shall have been paid in full or refinanced pursuant to a Qualified Refinancing Issuance. At any time prior to the effectiveness of any such extension, upon the Administrative Agent’s request, the Borrower shall deliver to the

Administrative Agent a certificate from the chief executive officer or chief financial officer certifying the matters referred to in the immediately preceding clauses (i)(x) and (i)(y).

Section 2.14. Expiration Date of Letters of Credit Past Revolving Commitment Termination.

If on the date the Revolving Commitments are terminated or reduced to zero (whether voluntarily, by reason of the occurrence of an Event of Default or otherwise) there are any Letters of Credit outstanding hereunder and the aggregate Stated Amount of such Letters of Credit exceeds the balance of available funds on deposit in the Letter of Credit Collateral Account, then the Borrower shall, on such date, pay to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, for deposit into the Letter of Credit Collateral Account, an amount of money equal to the amount of such excess.

Section 2.15. Amount Limitations.

Notwithstanding any other term of this Agreement or any other Loan Document, no Lender shall be required to make a Loan, the Issuing Banks shall not be required to issue a Letter of Credit and no reduction of the Revolving Commitments pursuant to Section 2.12. shall take effect, if immediately after the making of such Loan, the issuance of such Letter of Credit or such reduction in the Revolving Commitments the aggregate principal amount of all outstanding Revolving Loans and Swingline Loans, together with the aggregate amount of all Letter of Credit Liabilities, would exceed the aggregate amount of the Revolving Commitments at such time.

Section 2.16. Increase in Commitments and Loans.

The Borrower shall have the right (a) at any time and from time to time during the period beginning on the Effective Date to but excluding the Revolving Termination Date to request increases in the aggregate amount of the Revolving Commitments and (b) at any time and from time to time during the period beginning on the Effective Date to but excluding the Term Loan Maturity Date to request additional Term Loans, in each case, by providing written notice to the Administrative Agent, which notice shall be irrevocable once given; provided, however, that after giving effect to any such increase in the Revolving Commitments and any new Term Loans, the aggregate amount of Revolving Commitments (less the aggregate amount of reductions of Revolving Commitments effected pursuant to Section 2.12.) and Term Loans shall not exceed \$2,300,000,000. Each such increase in the Term Loans and the Revolving Commitments must be an aggregate minimum amount of \$50,000,000 and integral multiples of \$10,000,000 in excess thereof. The Administrative Agent, in consultation with the Borrower, shall manage all aspects of the syndication of such increase in the Term Loans and the Revolving Commitments, including decisions as to the selection of the existing Lenders and/or other banks, financial institutions and other institutional lenders to be approached with respect to such increase and the allocations of the increase in the Term Loans and the Revolving Commitments among such existing Lenders and/or other banks, financial institutions and other institutional lenders. No Lender shall be obligated in any way whatsoever to increase its Term Loan or Revolving Commitment or provide a new Term Loan or Revolving Commitment, and any new Lender becoming a party to this Agreement in connection with any such requested increase must be an Eligible Assignee. If a new Revolving Lender becomes a party to this Agreement, or if any existing Revolving Lender is increasing its Revolving Commitment, such Lender shall on the date it becomes a Revolving Lender hereunder (or in the case of an existing Lender, increases its Revolving Commitment) (and as a condition thereto) purchase from the other Revolving Lenders its Revolving Commitment Percentage (determined with respect to the Revolving Lenders' respective Revolving Commitments and after giving effect to the increase of Revolving Commitments) of any outstanding Revolving Loans, by making available to the

Administrative Agent for the account of such other Revolving Lenders, in same day funds, an amount equal to the sum of (A) the portion of the outstanding principal amount of such Revolving Loans to be purchased by such Lender, plus (B) the aggregate amount of payments previously made by the other Revolving Lenders under Section 2.3.(j) that have not been repaid, plus (C) interest accrued and unpaid to and as of such date on such portion of the outstanding principal amount of such Revolving Loans. The Borrower shall pay to the Revolving Lenders amounts payable, if any, to such Revolving Lenders under Section 4.4. as a result of such purchase as if such purchase were a prepayment of any such Revolving Loans. Effecting the increase of the Term Loans and Revolving Commitments under this Section is subject to the following conditions precedent: (x) no Default or Event of Default shall be in existence on the effective date of such increase, (y) the representations and warranties made or deemed made by the Borrower or any other Loan Party in any Loan Document to which such Loan Party is a party shall be true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on the effective date of such increase except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of such earlier date) and except for changes in factual circumstances specifically and expressly permitted hereunder, and (z) the Administrative Agent shall have received each of the following, in form and substance satisfactory to the Administrative Agent: (i) if not previously delivered to the Administrative Agent, copies certified by the Secretary or Assistant Secretary of (A) all corporate and other necessary action taken by the Borrower to authorize such increase and (B) all corporate, partnership, member and other necessary action taken by each Guarantor authorizing the guaranty of such increase; (ii) an opinion of counsel to the Borrower and the Guarantors, and addressed to the Administrative Agent and the Lenders covering such matters as reasonably requested by the Administrative Agent; and (iii) except in the case of a Lender that has elected not to receive a Note, new Notes executed by the Borrower, payable to any new Lenders and replacement Notes executed by the Borrower, payable to any existing Lenders increasing the principal amount of their Term Loans or increasing their Revolving Commitments, in the principal amount of such Lender's Term Loan or Revolving Commitment, as applicable, at the time of the effectiveness of the applicable increase in the aggregate principal amount of the Term Loans or Revolving Commitments. In connection with any increase in the aggregate principal amount of the Term Loans or Revolving Commitments, as applicable, pursuant to this Section 2.16. any Lender becoming a party hereto shall (1) execute such documents and agreements as the Administrative Agent may reasonably request and (2) in the case of any Lender that is organized under the laws of a jurisdiction outside of the United States of America, provide to the Administrative Agent, its name, address, tax identification number and/or such other information as shall be necessary for the Administrative Agent to comply with "know your customer" and anti-money laundering rules and regulations, including without limitation, the Patriot Act.

Section 2.17. Funds Transfer Disbursements.

The Borrower hereby authorizes the Administrative Agent to disburse the proceeds of any Loan made by the Lenders or any of their Affiliates pursuant to the Loan Documents as requested by an authorized representative of the Borrower to any of the accounts designated in the Disbursement Instruction Agreement.

Section 2.18. Reallocations on Effective Date.

(a) Revolving Commitment Reallocation. Simultaneously with the effectiveness of this Agreement, the "Revolving Commitments" (as defined in the Existing Credit Agreement) of each of the

“Revolving Lenders” (as defined in the Existing Credit Agreement) as existing immediately prior to the Effective Date, shall be reallocated among the Revolving Lenders so that the Revolving Commitments are held by the Revolving Lenders as set forth on Schedule I attached hereto. To effect such reallocations each Revolving Lender who either had no “Revolving Commitment” under the Existing Credit Agreement immediately prior to the Effective Date or whose Revolving Commitment upon the effectiveness of this Agreement exceeds its “Revolving Commitment” under the Existing Credit Agreement immediately prior to the effectiveness of this Agreement (each an “Assignee Revolving Lender”) shall be deemed to have purchased all right, title and interest in, and all obligations in respect of, the Revolving Commitments from the “Revolving Lenders” under the Existing Credit Agreement who will not have a Revolving Commitment on and as of the Effective Date or whose Revolving Commitments upon the effectiveness of this Agreement are less than their respective “Revolving Commitment” under the Existing Credit Agreement immediately prior to the effectiveness of this Agreement (each an “Assignor Revolving Lender”), so that the Revolving Commitments of the Revolving Lenders will be held by the Revolving Lenders as set forth on Schedule I. Such purchases shall be deemed to have been effected by way of, and subject to the terms and conditions of, an Assignment and Assumption without the payment of any related assignment fee, and, except for Revolving Notes to be provided to the Assignor Revolving Lenders and Assignee Revolving Lenders in the principal amount of their respective Revolving Commitments, no other documents or instruments shall be, or shall be required to be, executed in connection with such assignments (all of which are hereby waived). The Assignor Revolving Lenders, the Assignee Revolving Lenders and the other Revolving Lenders shall make such cash settlements among themselves, through the Administrative Agent, as the Administrative Agent may direct (after giving effect to the making of any Revolving Loans to be made on the Effective Date and any netting transactions effected by the Administrative Agent) with respect to such reallocations and assignments so that the aggregate outstanding principal amount of Revolving Loans shall be held by the Revolving Lenders pro rata in accordance with the amount of the Revolving Commitments set forth on Schedule I.

(b) Term Loan Reallocation. Simultaneously with the effectiveness of this Agreement, the principal amount of all outstanding “Term Loans” (as defined in the Existing Credit Agreement) of each of the “Term Loan Lenders” (as defined in the Existing Credit Agreement) as existing immediately prior to the Effective Date, shall be reallocated among the Term Loan Lenders so that the Term Loans are held by the Term Loan Lenders as set forth on Schedule I attached hereto. To effect such reallocations each Term Loan Lender who either was not a “Term Loan Lender” under the Existing Credit Agreement immediately prior to the Effective Date or whose Term Loan upon the effectiveness of this Agreement exceeds its “Term Loan” under the Existing Credit Agreement immediately prior to the effectiveness of this Agreement (each an “Assignee Term Loan Lender”) shall be deemed to have purchased such right, title and interest in, and such obligations in respect of, the “Term Loans” under the Existing Credit Agreement from the “Term Loan Lenders” under the Existing Credit Agreement who will not have a Term Loan on and as of the Effective Date or whose Term Loans upon the effectiveness of this Agreement are less than their respective “Term Loans” under the Existing Credit Agreement (each an “Assignor Term Loan Lender”), so that the Term Loans of the Term Loan Lenders will be held by the Term Loan Lenders as set forth on Schedule I. Such purchases shall be deemed to have been effected by way of, and subject to the terms and conditions of, an Assignment and Assumption without the payment of any related assignment fee, and, except for Term Notes to be provided to the Assignor Term Loan Lenders and Assignee Term Loan Lenders in the principal amount of their respective Term Loans, no other documents or instruments shall be, or shall be required to be, executed in connection with such assignments (all of which are hereby waived). The Assignor Term Loan Lenders, the Assignee Term Loan Lenders and the other Term Loan Lenders shall make such cash settlements among themselves, through the Administrative Agent, as the Administrative Agent may direct with respect to such

reallocations and assignments so that the aggregate outstanding principal amount of Term Loans shall be held by the Term Loan Lenders pro rata in accordance with the amount of the "Term Loan Amounts" set forth on Schedule I.

Section 2.19. Additional Amount Limitations for Issuing Banks and Swingline Lenders.

Notwithstanding any other term of this Agreement or any other Loan Document, no Revolving Lender then acting as an Issuing Bank or Swingline Lender shall be required to make a Revolving Loan, issue a Letter of Credit, or make a Swingline Loan and no reduction of the Commitments pursuant to Section 2.12 shall take effect, if immediately after the making of such Revolving Loan, issuing of such Letter of Credit, making of such Swingline Loan or such reduction in the Commitments (i) the sum of (a) the aggregate principal amount of all outstanding Revolving Loans and Swingline Loans made by such Revolving Lender, plus (b) such Revolving Lender's Letter of Credit Liabilities, plus (c) the aggregate amount of such Revolving Lender's Revolving Commitment Percentage of outstanding Swingline Loans by other Swingline Lenders, would exceed (ii) the aggregate amount of such Revolving Lender's Revolving Commitments at such time.

Section 2.20. Collateral Property Amount Limitations.

Notwithstanding any other term of this Agreement or any other Loan Document, at any time following the satisfaction of the Initial Mortgage Collateral Requirement, no Lender shall be required to make a Loan, the Issuing Banks shall not be required to issue a Letter of Credit and no reduction of the Revolving Commitments pursuant to Section 2.12. shall take effect, if immediately after the making of such Loan, the issuance of such Letter of Credit or such reduction in the Revolving Commitments the aggregate principal amount of all outstanding Revolving Loans and Swingline Loans, together with aggregate amount of all Letter of Credit Liabilities, would exceed the Collateral Property Availability at such time. Notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, the consent of all Lenders shall be required to amend or otherwise modify the provisions of this Section 2.20.

ARTICLE III. PAYMENTS, FEES AND OTHER GENERAL PROVISIONS

Section 3.1. Payments.

(a) Payments by Borrower. Except to the extent otherwise provided herein, all payments of principal, interest, Fees and other amounts to be made by the Borrower under this Agreement, the Notes or any other Loan Document shall be made in Dollars, in immediately available funds, without setoff, deduction or counterclaim, to the Administrative Agent at the Principal Office, not later than 12:00 p.m. Eastern time on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day). Subject to Section 10.5., the Borrower shall, at the time of making each payment under this Agreement or any other Loan Document, specify to the Administrative Agent the amounts payable by the Borrower hereunder to which such payment is to be applied. Each payment received by the Administrative Agent for the account of a Lender under this Agreement or any Note shall be paid to such Lender by wire transfer of immediately available funds in accordance with the wiring instructions provided by such Lender to the Administrative Agent from time to time, for the account of such Lender at the applicable Lending Office of such Lender. Each payment received by the Administrative Agent for the account of an Issuing Bank under this Agreement shall be paid to such Issuing Bank by wire transfer of immediately available funds in accordance with the wiring instructions provided by such Issuing Bank to the Administrative Agent from time to time, for the account of such Issuing Bank. In the event the Administrative Agent fails to

pay such amounts to such Lender or such Issuing Bank, as the case may be, (i) by 5:00 p.m. Eastern time on the Business Day such funds are received by the Administrative Agent, if such amounts are received by 12:00 p.m. Eastern time on such date or (ii) by 5:00 p.m. Eastern time on the Business Day following the date such funds are received by the Administrative Agent, if such amounts are received after 12:00 p.m. Eastern time on any Business Day, the Administrative Agent shall pay interest on such amount until paid at a rate per annum equal to the Federal Funds Rate from time to time in effect. If the due date of any payment under this Agreement or any other Loan Document would otherwise fall on a day which is not a Business Day such date shall be extended to the next succeeding Business Day and interest shall continue to accrue at the rate, if any, applicable to such payment for the period of such extension.

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

Section 3.2. Pro Rata Treatment.

Except to the extent otherwise provided herein: (a) each borrowing from the Revolving Lenders under Sections 2.1.(a), 2.3.(e) and 2.4.(e) shall be made from the Revolving Lenders, each payment of the fees under Sections 3.5.(b), the first sentence of 3.5.(c), and 3.5.(d) shall be made for the account of the Revolving Lenders, and each termination or reduction of the amount of the Revolving Commitments under Section 2.12. shall be applied to the respective Revolving Commitments of the Revolving Lenders, pro rata according to the amounts of their respective Revolving Commitments; (b) each payment or prepayment of principal of Revolving Loans shall be made for the account of the Revolving Lenders pro rata in accordance with the respective unpaid principal amounts of the Revolving Loans held by them, provided that, subject to Section 3.9., if immediately prior to giving effect to any such payment in respect of any Revolving Loans the outstanding principal amount of the Revolving Loans shall not be held by the Revolving Lenders pro rata in accordance with their respective Revolving Commitments in effect at the time such Revolving Loans were made, then such payment shall be applied to the Revolving Loans in such manner as shall result, as nearly as is practicable, in the outstanding principal amount of the Revolving Loans being held by the Revolving Lenders pro rata in accordance with their respective Revolving Commitments; (c) the making of Term Loans under Section 2.2.(a) shall be made from the Term Loan Lenders, pro rata according to the amounts of their respective Term Loan Commitments; (d) each payment or prepayment of principal of Term Loans shall be made for the account of the Term Loan Lenders pro rata in accordance with the respective unpaid principal amounts of the Term Loans held by them; (e) each payment of interest on Revolving Loans or Term Loans shall be made for the account of the Revolving Lenders or Term Loan Lenders, as applicable, pro rata in accordance with the amounts of interest on such Revolving Loans or Term Loans, as applicable, then due and payable to the respective Lenders; (f) the Conversion and Continuation of Revolving Loans or Term Loans of a particular Type (other than Conversions provided for by Sections 4.1.(c) and 4.5.) shall be made pro rata among the Revolving Lenders or Term Loan Lenders, as applicable, according to the amounts of their respective Revolving Loans or Term Loans, as applicable, and the then current Interest Period for each Lender's

portion of each such Loan of such Type shall be coterminous; (g) the Revolving Lenders' participation in, and payment obligations in respect of, Swingline Loans under Section 2.4., shall be in accordance with their respective Revolving Commitment Percentages; and (h) the Revolving Lenders' participation in, and payment obligations in respect of, Letters of Credit under Section 2.3., shall be in accordance with their respective Revolving Commitment Percentages. All payments of principal, interest, fees and other amounts in respect of the Swingline Loans shall be for the account of the applicable Swingline Lender only (except to the extent any Lender shall have acquired a participating interest in any such Swingline Loan pursuant to Section 2.4.(e), in which case such payments shall be pro rata in accordance with such participating interests). Any payment or prepayment of principal or interest made during the existence of a Default or Event of Default shall be made for the account of the Lenders and the Issuing Banks in accordance with the order set forth in Section 10.5.

Section 3.3. Sharing of Payments, Etc.

If a Lender shall obtain payment of any principal of, or interest on, any Loan made by it to the Borrower under this Agreement or shall obtain payment on any other Obligation owing by the Borrower or any other Loan Party through the exercise of any right of set-off, banker's lien, counterclaim or similar right or otherwise or through voluntary prepayments directly to a Lender or other payments made by or on behalf of the Borrower or any other Loan Party to a Lender (other than any payment in respect of Specified Derivatives Obligations) not in accordance with the terms of this Agreement and such payment should be distributed to the Lenders in accordance with Section 3.2. or Section 10.5., as applicable, such Lender shall promptly purchase from the other Lenders participations in (or, if and to the extent specified by such Lender, direct interests in) the Loans made by the other Lenders or other Obligations owed to such other Lenders in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all the Lenders shall share the benefit of such payment (net of any reasonable expenses which may actually be incurred by such Lender in obtaining or preserving such benefit) in accordance with the requirements of Section 3.2. or Section 10.5., as applicable. To such end, all the Lenders shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored. The Borrower agrees that any Lender so purchasing a participation (or direct interest) in the Loans or other Obligations owed to such other Lenders may exercise all rights of set-off, banker's lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans in the amount of such participation. Nothing contained herein shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of the Borrower.

Section 3.4. Several Obligations.

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

Section 3.5. Fees.

(a) Closing Fee. On the Effective Date, the Borrower agrees to pay to the Administrative Agent and each Lender all loan fees as have been agreed to in writing by the Borrower and the Administrative Agent.

(b) Facility Fees. During the period from the Effective Date to but excluding the Revolving Termination Date, the Borrower agrees to pay to the Administrative Agent for the account of the Revolving Lenders a facility fee equal to the daily aggregate amount of the Revolving Commitments (whether or not utilized) times a rate per annum equal to the Applicable Facility Fee. Such fee shall be payable quarterly in arrears on the first day of each January, April, July and October during the term of this Agreement and on the Revolving Termination Date or any earlier date of termination of the Revolving Commitments or reduction of the Revolving Commitments to zero. The Borrower acknowledges that the fee payable hereunder is a bona fide commitment fee and is intended as reasonable compensation to the Revolving Lenders for committing to make funds available to the Borrower as described herein and for no other purposes.

(c) Letter of Credit Fees. The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a letter of credit fee at a rate per annum equal to the Applicable Margin for Revolving Loans that are LIBOR Loans times the daily average Stated Amount of each Letter of Credit for the period from and including the date of issuance of such Letter of Credit (x) to and including the date such Letter of Credit expires or is cancelled or terminated or (y) to but excluding the date such Letter of Credit is drawn in full. In addition to such fees, the Borrower shall pay to the applicable Issuing Bank solely for its own account, a fronting fee in respect of each Letter of Credit issued by such Issuing Bank equal to one-eighth of one percent (0.125%) of the initial Stated Amount of such Letter of Credit; provided, however, in no event shall the aggregate amount of such fee in respect of any Letter of Credit be less than \$1,000. The fees provided for in this subsection shall be nonrefundable and payable, in the case of the fee provided for in the first sentence, in arrears (i) quarterly on the first day of January, April, July and October, (ii) on the Revolving Termination Date, (iii) on the date the Revolving Commitments are terminated or reduced to zero and (iv) thereafter from time to time on demand of the Administrative Agent and in the case of the fee provided for in the second sentence, at the time of issuance of such Letter of Credit. The Borrower shall pay directly to the applicable Issuing Bank from time to time on demand all commissions, charges, costs and expenses in the amounts customarily charged or incurred by the applicable Issuing Bank from time to time in like circumstances with respect to the issuance, amendment, renewal or extension of any Letter of Credit issued by such Issuing Bank or any other transaction relating thereto.

(d) Revolving Credit Extension Fee. If the Borrower exercises its right to extend the Revolving Termination Date in accordance with Section 2.13., the Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a fee equal to 0.075% of the amount of such Lender's Revolving Commitment (whether or not utilized) for any such extension. Such fee shall be due and payable in full on the date the Administrative Agent receives the Extension Request pursuant to such Section.

(e) Administrative and Other Fees. The Borrower agrees to pay the administrative and other fees of the Administrative Agent as provided in the Fee Letter and as may be otherwise agreed to in writing from time to time by the Borrower and the Administrative Agent.

Section 3.6. Computations.

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

Section 3.7. Usury.

In no event shall the amount of interest due or payable on the Loans or other Obligations exceed the maximum rate of interest allowed by Applicable Law and, if any such payment is paid by the Borrower or any other Loan Party or received by any Lender, then such excess sum shall be credited as a payment of principal, unless the Borrower shall notify the respective Lender in writing that the Borrower elects to have such excess sum returned to it forthwith. It is the express intent of the parties hereto that the Borrower not pay and the Lenders not receive, directly or indirectly, in any manner whatsoever, interest in excess of that which may be lawfully paid by the Borrower under Applicable Law. The parties hereto hereby agree and stipulate that the only charge imposed upon the Borrower for the use of money in connection with this Agreement is and shall be the interest specifically described in Section 2.5.(a)(i) through (iv) and, with respect to Swingline Loans, in Section 2.4.(c). Notwithstanding the foregoing, the parties hereto further agree and stipulate that all agency fees, syndication fees, arrangement fees, facility fees, closing fees, letter of credit fees, underwriting fees, default charges, late charges, funding or “breakage” charges, increased cost charges, attorneys’ fees and reimbursement for costs and expenses paid by the Administrative Agent or any Lender to third parties or for damages incurred by the Administrative Agent or any Lender, in each case, in connection with the transactions contemplated by this Agreement and the other Loan Documents, are charges made to compensate the Administrative Agent or any such Lender for underwriting or administrative services and costs or losses performed or incurred, and to be performed or incurred, by the Administrative Agent and the Lenders in connection with this Agreement and shall under no circumstances be deemed to be charges for the use of money. All charges other than charges for the use of money shall be fully earned and nonrefundable when due.

Section 3.8. Statements of Account.

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

Section 3.9. Defaulting Lenders.

Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(a) 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 Requisite Lenders.

(b) Defaulting Lender Waterfall. Any payment of principal, interest, Fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article X. or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 12.3 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, in the case of a Defaulting Lender that is a Revolving Lender, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Banks or the Swingline Lenders hereunder; third, in the case of a Defaulting Lender that is a Revolving Lender, to Cash Collateralize the Issuing Banks’ Fronting Exposure with respect to such

Defaulting Lender in accordance with subsection (e) below; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, in the case of a Defaulting Lender that is a Revolving Lender, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Revolving Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with subsection (e) below; sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or the Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or any Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or amounts owing by such Defaulting Lender under Section 2.3.(j) in respect of Letters of Credit (such amounts "L/C Disbursements"), 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 Article V. were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Disbursements 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 Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Liabilities and Swingline Loans are held by the Lenders pro rata in accordance with their respective Revolving Commitment Percentages (determined without giving effect to the immediately following subsection (d)) and Term Loan Percentages, as applicable. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this subsection shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) Certain Fees.

(i) No Revolving Lender that is a Defaulting Lender shall be entitled to receive any Fee payable under Section 3.5.(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(ii) Each Revolving Lender that is a Defaulting Lender shall be entitled to receive any Fee payable under Section 3.5.(c) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Revolving Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to the immediately following subsection (e).

(iii) With respect to any Fee not required to be paid to any Defaulting Lender pursuant to the immediately preceding clauses (i) or (ii), the Borrower shall (x) pay to each Revolving Lender that is a NonDefaulting Lender that portion of any such Fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Liabilities or Swingline Loans that has been reallocated to such NonDefaulting Lender pursuant to the immediately following subsection (d), (y) pay to each Issuing Bank and

each Swingline Lender, as applicable, the amount of any such Fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's or such Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such Fee.

(d) Reallocation of Participations to Reduce Fronting Exposure. In the case of a Revolving Lender that is a Defaulting Lender, all or any part of such Defaulting Lender's participation in Letter of Credit Liabilities and Swingline Loans shall be reallocated among the Revolving Lenders that are Non-Defaulting Lenders in accordance with their respective Revolving Commitment Percentages (determined without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Revolving Lender that is a Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Revolving 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.

(e) Cash Collateral, Repayment of Swingline Loans.

(i) If the reallocation described in the immediately preceding subsection (d) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, Cash Collateralize the Issuing Banks' Fronting Exposure in accordance with the procedures set forth in this subsection.

(ii) At any time that there shall exist a Revolving Lender that is a Defaulting Lender, within 1 Business Day following the written request of the Administrative Agent or the applicable Issuing Bank (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize such Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to the immediately preceding subsection (d) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the aggregate Fronting Exposure of such Issuing Bank with respect to Letters of Credit issued and outstanding at such time.

(iii) The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grant to the Administrative Agent, for the benefit of the Issuing Banks, and agree to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letter of Credit Liabilities, to be applied pursuant to the immediately following clause (iv). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Banks as herein provided, or that the total amount of such Cash Collateral is less than the aggregate Fronting Exposure of the Issuing Banks with respect to Letters of Credit issued and outstanding at such time, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(iv) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Liabilities (including, as to Cash Collateral provided by a Defaulting Lender, any interest

accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(v) Cash Collateral (or the appropriate portion thereof) provided to reduce an Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this subsection following (x) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Revolving Lender), or (y) the determination by the Administrative Agent and the applicable Issuing Bank that there exists excess Cash Collateral; provided that, subject to the immediately preceding subsection (b), the Person providing Cash Collateral and the applicable Issuing Bank may (but shall not be obligated to) agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(f) Defaulting Lender Cure. If the Borrower and the Administrative Agent (and in the case of the Defaulting Lender that is a Revolving Lender, the Swingline Lenders and the Issuing Banks) agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which, in the case of a Revolving Lender, may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans, and in the case of a Defaulting Lender that is a Revolving Lender, funded and unfunded participations in Letters of Credit and Swingline Loans, to be held pro rata by the Lenders in accordance with their respective Revolving Commitment Percentages (determined without giving effect to the immediately preceding subsection (d)) and Term Loan Percentages, as applicable, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to Fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-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.

(g) New Swingline Loans/Letters of Credit. So long as any Revolving Lender is a Defaulting Lender, (i) each Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan and (ii) each Issuing Bank shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(h) Purchase of Defaulting Lender's Commitment. During any period that a Revolving Lender is a Defaulting Lender, the Borrower may, by the Borrower giving written notice thereof to the Administrative Agent, such Defaulting Lender and the other Lenders, demand that such Defaulting Lender assign its Revolving Commitment to an Eligible Assignee subject to and in accordance with the provisions of Section 12.5(b). No party hereto shall have any obligation whatsoever to initiate any such replacement or to assist in finding an Eligible Assignee. In addition, any Revolving Lender which is not a Defaulting Lender may, but shall not be obligated, in its sole discretion, to acquire the face amount of all or a portion of such Defaulting Lender's Revolving Commitment via an assignment subject to and in accordance with the provisions of Section 12.5(b). In connection with any such assignment, such Defaulting Lender shall promptly execute all documents reasonably requested to effect such assignment, including an appropriate Assignment and Assumption Agreement and, notwithstanding Section 12.5(b),

shall pay to the Administrative Agent an assignment fee in the amount of \$7,500. The exercise by the Borrower of its rights under this Section shall be at the Borrower's sole cost and expense and at no cost or expense to the Administrative Agent or any of the Lenders.

Section 3.10. Taxes.

(a) Issuing Banks. For purposes of this Section, the term "Lender" includes the Issuing Banks and the term "Applicable Law" includes FATCA.

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

(c) Payment of Other Taxes by the Borrower. The Borrower and the other Loan Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower. The Borrower and the other Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient (whether directly or pursuant to Section 3.10.(e)(i)) or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that neither the Borrower nor any other Loan Party shall be liable to indemnify any Lender or Participant for any Taxes attributable to Lender's failure to comply with the provisions of Section 12.5. relating to the maintenance of a Participant Register. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower or another Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower and the other Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.5. relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby

authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this subsection.

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower or any other Loan Party to a Governmental Authority pursuant to this Section, the Borrower or such other Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in the immediately following clauses (ii)(A), (ii)(B) and (ii)(D)) shall not be required if in the applicable 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:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of an executed IRS Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of an

executed IRS Form W-8BEN or IRS Form 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 IRS Form 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;

(II) an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of an executed IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit L-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of an IRS Form W-8BEN or IRS Form W-8BEN-E, applicable; or

(IV) to the extent a Foreign Lender is not the beneficial owner, an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of an executed IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit L-2 or Exhibit L-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 L-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an electronic copy (or an original if requested by the Borrower or the Administrative Agent) of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or

times prescribed by Applicable Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

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

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this subsection (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will an indemnified party be required to pay any amount to an indemnifying party pursuant to this subsection the payment of which would place such indemnified party in a less favorable net after-Tax position than such indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to, or apply for or seek any refund for or on behalf of, any indemnifying party or any other Person.

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

(j) FATCA Determination. For purposes of determining withholding Taxes imposed under FATCA, from and after the Effective Date, the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) this Agreement as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

ARTICLE IV. YIELD PROTECTION, ETC.

Section 4.1. Additional Costs; Capital Adequacy.

(a) Capital Adequacy. If any Lender determines that any Regulatory Change affecting such Lender or any lending office of such Lender or such Lender'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 capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, any Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Regulatory Change (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(b) Additional Costs. In addition to, and not in limitation of the immediately preceding subsection, the Borrower shall promptly pay to the Administrative Agent for the account of a Lender from time to time such amounts as such Lender may determine to be necessary to compensate such Lender for any costs incurred by such Lender that it determines are attributable to its making, maintaining, continuing or converting of any Loans or its obligation to make any Loans hereunder, any reduction in any amount receivable by such Lender under this Agreement or any of the other Loan Documents in respect of any of such Loans or such obligation or the maintenance by such Lender of capital in respect of its Loans or its Commitments (such increases in costs and reductions in amounts receivable being herein called "Additional Costs"), resulting from any Regulatory Change that: (i) changes the basis of taxation of any amounts payable to such Lender under this Agreement or any of the other Loan Documents in respect of any of such Loans or its Commitments (other than Indemnified Taxes, Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and Connection Income Taxes), or (ii) imposes or modifies any reserve, special deposit, compulsory loan insurance charge, or similar requirements (other than Regulation D of the Board of Governors of the Federal Reserve System or other similar reserve requirement applicable to any other category of liabilities or category of extensions of credit or other assets by reference to which the interest rate on Loans is determined to the extent utilized when determining for such Loans) relating to any extensions of credit or other assets of, or any deposits with or other liabilities of, or other credit extended by, or any other acquisition of funds by such Lender (or its parent corporation), or any commitment of such Lender (including, without limitation, the Commitments of such Lender hereunder) or (iii) imposes on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or the Loans made by such Lender.

(c) Lender's Suspension of LIBOR Loans. Without limiting the effect of the provisions of the immediately preceding subsections (a) and (b), if by reason of any Regulatory Change, any Lender either (i) incurs Additional Costs based on or measured by the excess above a specified level of the amount of a category of deposits or other liabilities of such Lender that includes deposits by reference to which the interest rate on LIBOR Loans is determined as provided in this Agreement or a category of extensions of credit or other assets of such Lender that includes LIBOR Loans or (ii) becomes subject to restrictions on the amount of such a category of liabilities or assets that it may hold, then, if such Lender so elects by notice to the Borrower (with a copy to the Administrative Agent), the obligation of such Lender to make or Continue, or to Convert Base Rate Loans into, LIBOR Loans shall be suspended until such Regulatory Change ceases to be in effect (in which case the provisions of Section 4.5. shall apply).

(d) Additional Costs in Respect of Letters of Credit. Without limiting the obligations of the Borrower under the preceding subsections of this Section (but without duplication), if as a result of any Regulatory Change or any risk-based capital guideline or other requirement heretofore or hereafter issued by any Governmental Authority there shall be imposed, modified or deemed applicable any Tax (other than Indemnified Taxes, Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and Connection Income Taxes), reserve, special deposit, capital adequacy or similar requirement against or with respect to or measured by reference to Letters of Credit and the result shall be to increase the cost to the applicable Issuing Bank of issuing (or any Lender of purchasing participations in) or maintaining its obligation hereunder to issue (or purchase participations in) any Letter of Credit or reduce any amount receivable by any Issuing Bank or any Lender hereunder in respect of any Letter of Credit, then, upon demand by such Issuing Bank or such Lender, the Borrower shall pay promptly, and in any event within 3 Business Days of demand, to such Issuing Bank or, in the case of such Lender, to the Administrative Agent for the account of such Lender, from time to time as specified by such Issuing Bank or such Lender, such additional amounts as shall be sufficient to compensate such Issuing Bank or such Lender for such increased costs or reductions in amount.

(e) Notification and Determination of Additional Costs. Each of the Administrative Agent, each Issuing Bank and each Lender, as the case may be, agrees to notify the Borrower (and in the case of an Issuing Bank or a Lender, to notify the Administrative Agent) of any event occurring after the Agreement Date entitling the Administrative Agent, such Issuing Bank or such Lender to compensation under any of the preceding subsections of this Section as promptly as practicable; provided, however, that the failure of the Administrative Agent, any Issuing Bank or any Lender to give such notice shall not release the Borrower from any of its obligations hereunder (and in the case of a Lender, to the Administrative Agent); provided, further, that notwithstanding the foregoing provisions of this Section, the Administrative Agent or a Lender, as the case may be, shall not be entitled to compensation for any such amount relating to any period ending more than six months prior to the date that the Administrative Agent or such Lender, as applicable, first notifies the Borrower in writing thereof or for any amounts resulting from a change by any Lender of its Lending Office (other than changes required by Applicable Law). The Administrative Agent, each Issuing Bank and each Lender, as the case may be, agrees to furnish to the Borrower (and in the case of an Issuing Bank or a Lender to the Administrative Agent as well) a certificate setting forth the basis and amount of each request for compensation under this Section. Determinations by the Administrative Agent, such Issuing Bank or such Lender, as the case may be, of the effect of any Regulatory Change shall be conclusive and binding for all purposes, absent manifest error. The Borrower shall pay the Administrative Agent, any such Issuing Bank and or any such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 4.2. Suspension of LIBOR Loans.

(a) Anything herein to the contrary notwithstanding and unless and until a Replacement Rate is implemented in accordance with Section 4.2.(b) below, if, on or prior to the determination of LIBOR for any Interest Period:

(i) the Administrative Agent shall determine (which determination shall be conclusive absent manifest error) that reasonable and adequate means do not exist for the ascertaining LIBOR for such Interest Period;

(ii) the Administrative Agent reasonably determines (which determination shall be conclusive absent manifest error) that quotations of interest rates for the relevant deposits referred to in the definition of LIBOR are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for LIBOR Loans as provided herein; or

(iii) the Administrative Agent reasonably determines (which determination shall be conclusive absent manifest error) that the relevant rates of interest referred to in the definition of LIBOR upon the basis of which the rate of interest for LIBOR Loans for such Interest Period is to be determined are not likely to adequately cover the cost to any Lender of making or maintaining LIBOR Loans for such Interest Period,

then the Administrative Agent shall give the Borrower and each Lender prompt notice thereof and, so long as such condition remains in effect, all of the Lenders, in the case of the immediately preceding clauses (i) and (ii), and any Lender affected thereby, in the case of the immediately preceding clause (iii), shall be under no obligation to, and shall not, make additional LIBOR Loans, Continue LIBOR Loans or Convert Loans into LIBOR Loans, unless and until such Lender gives notice as provided in Section 4.5. that such condition no longer exists, and, so long as such condition remains in effect, such Lender's LIBOR Loans shall be treated in accordance with Section 4.5.

(b) Alternative Rate of Interest. Notwithstanding anything to the contrary in Section 4.2(a) above, if the Administrative Agent has made the determination (such determination to be conclusive absent manifest error) that (i) the circumstances described in Section 4.2(a)(i) or (a)(ii) have arisen and that such circumstances are unlikely to be temporary, (ii) any applicable interest rate specified herein is no longer a widely recognized benchmark rate for newly originated loans in the U.S. syndicated loan market in the applicable currency or (iii) the applicable supervisor or administrator (if any) of any applicable interest rate specified herein or any Governmental Authority having, or purporting to have, jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which any applicable interest rate specified herein shall no longer be used for determining interest rates for loans in the U.S. syndicated loan market in the applicable currency, then the Administrative Agent may, to the extent practicable (in consultation with the Borrower and as determined by the Administrative Agent to be generally in accordance with similar situations in other transactions in which it is serving as administrative agent or otherwise consistent with market practice generally), establish a replacement interest rate (the "**Replacement Rate**"), in which case, the Replacement Rate shall, subject to the next two sentences, replace such applicable interest rate for all purposes under the Loan Documents unless and until (A) an event described in Section 4.2(a)(i), (a)(ii), (b)(i), (b)(ii) or (b)(iii) occurs with respect to the Replacement Rate or (B) the Administrative Agent (or the Requisite Lenders through the Administrative Agent) notifies the Borrower that the Replacement Rate does not adequately and fairly reflect the cost to the Lenders of funding the Loans bearing interest at the Replacement Rate, and in which case, the provisions of the last paragraph of Section 4.2(a) shall apply to any Loans accruing interest at the Replacement Rate in the same manner as would apply to LIBOR Loans affected by the same circumstances. In connection with the establishment and application of the Replacement Rate, this Agreement and the other Loan Documents shall be amended solely with the consent of the Administrative Agent and the Borrower, as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 4.2(b). Notwithstanding anything to the contrary in this Agreement or the other Loan Documents (including, without limitation, Section 12.6), such amendment shall become effective without any further action or consent of any party other than the Administrative Agent and the Borrower so long as the Administrative Agent shall not have received, within five (5) Business Days of the delivery of such amendment to the Lenders, written notices from such Lenders that in the aggregate constitute Requisite Lenders, with each such notice stating that such Lender objects to such amendment (which such notice shall note with specificity the particular provisions of the amendment to which such Lender objects). To the extent the Replacement Rate is approved by the Administrative Agent in connection with this clause (b), the Replacement Rate shall be applied in a manner consistent with market practice; provided that, in each case, to the extent such market practice is not administratively feasible for the Administrative Agent, such Replacement Rate shall be applied as otherwise reasonably determined by the Administrative Agent (it being understood that any such

modification by the Administrative Agent shall not require the consent of, or consultation with, any of the Lenders).

Section 4.3. Illegality.

Notwithstanding any other provision of this Agreement, if any Lender shall determine (which determination shall be conclusive and binding) that due to a Regulatory Change it is unlawful for such Lender to honor its obligation to make or maintain LIBOR Loans hereunder, then such Lender shall promptly notify the Borrower thereof (with a copy of such notice to the Administrative Agent) and such Lender's obligation to make or Continue, or to Convert Loans of any other Type into, LIBOR Loans shall be suspended until such time as such Lender may again make and maintain LIBOR Loans (in which case the provisions of Section 4.5. shall be applicable).

Section 4.4. Compensation.

The Borrower shall pay to the Administrative Agent for the account of each Lender, upon the request of the Administrative Agent, such amount or amounts as the Administrative Agent shall determine in its sole discretion shall be sufficient to compensate such Lender for any loss, cost or expense attributable to:

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

(b) any failure by the Borrower for any reason (including, without limitation, the failure of any of the applicable conditions precedent specified in Section 5.2. to be satisfied) to borrow a LIBOR Loan from such Lender on the date for such borrowing, or to Convert a Base Rate Loan into a LIBOR Loan or Continue a LIBOR Loan on the requested date of such Conversion or Continuation.

Not in limitation of the foregoing, such compensation shall include, without limitation, in the case of a LIBOR Loan, an amount equal to the then present value of (A) the amount of interest that would have accrued on such LIBOR Loan for the remainder of the Interest Period at the rate applicable to such LIBOR Loan, less (B) the amount of interest that would accrue on the same LIBOR Loan for the same period if LIBOR were set on the date on which such LIBOR Loan was repaid, prepaid or Converted or the date on which the Borrower failed to borrow, Convert or Continue such LIBOR Loan, as applicable, calculating present value by using as a discount rate LIBOR quoted on such date. Upon the Borrower's request, the Administrative Agent shall provide the Borrower with a statement setting forth the basis for requesting such compensation and the method for determining the amount thereof. Any such statement shall be conclusive absent manifest error.

Section 4.5. Treatment of Affected Loans.

If the obligation of any Lender to make LIBOR Loans or to Continue, or to Convert Base Rate Loans into, LIBOR Loans, shall be suspended pursuant to Section 4.1.(c), Section 4.2. or Section 4.3., then such Lender's LIBOR Loans shall be automatically Converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for LIBOR Loans (or, in the case of a Conversion required by Section 4.1.(c), Section 4.2., or Section 4.3. on such earlier date as such Lender or the Administrative Agent, as applicable, may specify to the Borrower (with a copy to the Administrative Agent, as applicable)) and, unless and until such Lender or the Administrative Agent, as applicable, gives notice as

provided below that the circumstances specified in Section 4.1., Section 4.2. or Section 4.3. that gave rise to such Conversion no longer exist:

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

(b) all Loans that would otherwise be made or Continued by such Lender as LIBOR Loans shall be made or Continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be Converted into LIBOR Loans shall remain as Base Rate Loans.

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

Section 4.6. Affected Lenders.

If (a) a Lender requests compensation pursuant to Section 3.10. or 4.1., and the Requisite Lenders are not also doing the same, (b) the obligation of any Lender to make LIBOR Loans or to Continue, or to Convert Base Rate Loans into, LIBOR Loans shall be suspended pursuant to Section 4.1.(c) or 4.3. but the obligation of the Requisite Lenders shall not have been suspended under such Sections, or (c) a Lender does not vote in favor of any amendment, modification or waiver to this Agreement or any other Loan Document which, pursuant to Section 12.6.(b), requires the vote of such Lender, and the Requisite Lenders shall have voted in favor of such amendment, modification or waiver then, so long as there does not then exist any Default or Event of Default, the Borrower may demand that such Lender (the "Affected Lender"), and upon such demand the Affected Lender shall promptly, assign its Revolving Commitment and Term Loan, as applicable, to an Eligible Assignee subject to and in accordance with the provisions of Section 12.5.(b) for a purchase price equal to (x) the aggregate principal balance of all Loans then owing to the Affected Lender, plus (y) in the case of an Affected Lender that is a Revolving Lender, the aggregate amount of payments previously made by the Affected Lender under Section 2.3.(j) that have not been repaid, plus (z) any accrued but unpaid interest thereon and accrued but unpaid fees owing to the Affected Lender, or any other amount as may be mutually agreed upon by such Affected Lender and Eligible Assignee. Each of the Administrative Agent and the Affected Lender shall reasonably cooperate in effectuating the replacement of such Affected Lender under this Section, but at no time shall the Administrative Agent, such Affected Lender nor any other Lender nor any Titled Agent be obligated in any way whatsoever to initiate any such replacement or to assist in finding an Eligible Assignee. The exercise by the Borrower of its rights under this Section shall be at the Borrower's sole cost and expense and at no cost or expense to the Administrative Agent, the Affected Lender or any of the other Lenders. The terms of this Section shall not in any way limit the Borrower's obligation to pay to any Affected Lender compensation owing to such Affected Lender pursuant to this Agreement (including, without limitation, pursuant to Sections 3.10., 4.1. or 4.4.) with respect to any period up to the date of replacement.

Section 4.7. Change of Lending Office.

Each Lender agrees that it will use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate an alternate Lending Office with respect to any of its Loans affected by the matters or circumstances described in Sections 3.10., 4.1. or 4.3. to reduce the liability of the Borrower or avoid the results provided thereunder, so long as such designation is not disadvantageous to such Lender as determined by such Lender in its sole discretion, except that such Lender shall have no obligation to designate a Lending Office located in the United States of America.

Section 4.8. Assumptions Concerning Funding of LIBOR Loans.

Calculation of all amounts payable to a Lender under this Article shall be made as though such Lender had actually funded LIBOR Loans through the purchase of deposits in the relevant market bearing interest at the rate applicable to such LIBOR Loans in an amount equal to the amount of the LIBOR Loans and having a maturity comparable to the relevant Interest Period; provided, however, that each Lender may fund each of its LIBOR Loans in any manner it sees fit and the foregoing assumption shall be used only for calculation of amounts payable under this Article.

ARTICLE V. CONDITIONS PRECEDENT

Section 5.1. Initial Conditions Precedent.

The effectiveness of this Agreement and the obligation of the Lenders to effect or permit the occurrence of the first Credit Event hereunder, whether as the making of a Loan or the issuance of a Letter of Credit, are subject to the satisfaction or waiver of the following conditions precedent:

- (a) The Administrative Agent shall have received each of the following, in form and substance satisfactory to the Administrative Agent:
 - (i) counterparts of this Agreement executed by each of the parties hereto;
 - (ii) Revolving Notes and Term Notes executed by the Borrower, payable to each applicable Lender (other than any Lender that has requested that it not receive a Note) and complying with the terms of Section 2.11.(a) and the Swingline Note executed by the Borrower;
 - (iii) the Guaranty executed by each of the Guarantors, if any, initially to be a party thereto;
 - (iv) an opinion of Sullivan & Worcester LLP, and an opinion of Saul Ewing Arnstein & Lehr LLP, special Maryland counsel, in each case, counsel to the Borrower and the other Loan Parties, addressed to the Administrative Agent and the Lenders and covering such matters as the Administrative Agent may reasonably request;
 - (v) the certificate or articles of incorporation or formation, articles of organization, certificate of limited partnership, declaration of trust or other comparable organizational instrument (if any) of each Loan Party certified as of a recent date by the Secretary of State of the state of formation of such Loan Party;
 - (vi) a certificate of good standing (or certificate of similar meaning) with respect to each Loan Party issued as of a recent date by the Secretary of State of the state of formation of each such Loan Party and certificates of qualification to transact business or other comparable

certificates issued as of a recent date by each Secretary of State (and any state department of taxation, as applicable) of each state in which such Loan Party is required to be so qualified and where failure to be so qualified could reasonably be expected to have a Material Adverse Effect and each state in which a Collateral Property owned by such Loan Party is located;

(vii) a certificate of incumbency signed by the Secretary or Assistant Secretary (or other individual performing similar functions) of each Loan Party with respect to each of the officers of such Loan Party authorized to execute and deliver the Loan Documents to which such Loan Party is a party, and in the case of the Borrower, authorized to execute and deliver on behalf of the Borrower Notices of Borrowing, Notices of Swingline Borrowing, requests for Letters of Credit, Notices of Conversion and Notices of Continuation;

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

(ix) a Compliance Certificate calculated as of the Effective Date on a pro forma basis for the Borrower's fiscal quarter ending December 31, 2017;

(x) a Disbursement Instruction Agreement effective as of the Agreement Date;

(xi) evidence that the Fees, if any, then due and payable under Section 3.5., together with all other fees, expenses and reimbursement amounts due and payable to the Administrative Agent and any of the Lenders, including without limitation, the fees and expenses of counsel to the Administrative Agent, have been paid;

(xii) a copy of all Operating Agreements, all Ancillary Agreements, the Business Management Agreement, the Property Management Agreement, in each case certified as true, correct and complete by the chief operating officer or chief financial officer of the Borrower; and

(xiii) such other documents, agreements and instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably request;

(b) there shall not have occurred or become known to the Administrative Agent or any of the Lenders any event, condition, situation or status since the date of the information contained in the financial and business projections, budgets, pro forma data and forecasts concerning the Borrower and its Subsidiaries delivered to the Administrative Agent and the Lenders prior to the Agreement Date that has had or could reasonably be expected to result in a Material Adverse Effect;

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

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

(e) the Borrower and each other Loan Party shall have provided all information requested by the Administrative Agent and each Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including without limitation, the Patriot Act; and

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

Section 5.2. Conditions Precedent to All Loans and Letters of Credit.

In addition to the satisfaction or waiver of the conditions precedent contained in Section 5.1., the obligations of (i) Lenders to make any Loans and (ii) the Issuing Banks to issue, to extend the expiration date of, or to increase the Stated Amount of, Letters of Credit are each subject to the further conditions precedent that: (a) no Default or Event of Default shall exist as of the date of the making of such Loan or date of issuance, extension or increase of such Letter of Credit or would exist immediately after giving effect thereto, and no violation of the limits described in Section 2.15. would occur after giving effect thereto; (b) the representations and warranties made or deemed made by the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of the date of the making of such Loan or date of issuance, extension or increase of such Letter of Credit with the same force and effect as if made on and as of such date except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of such earlier date) and except for changes in factual circumstances specifically and expressly permitted hereunder, (c) in the case of the borrowing of Revolving Loans, the Administrative Agent shall have received a timely Notice of Borrowing, in the case of a Swingline Loan, the applicable Swingline Lender shall have received a timely Notice of Swingline Borrowing or in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a timely request for the issuance of such Letter of Credit, (d) in the case of any Credit Event occurring during the period commencing on the date immediately following the Temporary Waiver Period Expiration Date and ending on the date upon which the Borrower delivers to the Administrative Agent a Compliance Certificate in accordance with Section 8.3 with respect to the fiscal quarter ending September 30, 2022, the Borrower shall have delivered to the Administrative Agent evidence of the Borrower’s compliance with the financial covenants set forth in Sections 9.1(a) through (h) (each as adjusted pursuant to the last paragraph of Section 9.1) using pro forma projections based upon results through the most recently ended period for which such financial information is available to the Borrower, (e) in the case of any Credit Event occurring at any time prior to the Equity Pledge Release Date, upon giving effect to such Credit Event, the Borrower shall be in compliance with Section 7.14, including the

requirement that the Collateral Value Percentage is less than fifty percent (50%) after giving effect to the requested Credit Event, (f) in the case of any Credit Event occurring at any time during the Temporary Waiver Period and continuing thereafter until the Post-Temporary Waiver Period Compliance Date, upon giving effect to such Credit Event, the Borrower shall be in compliance with the Temporary Waiver Period Incurrence Conditions, and (g) in the case of any Credit Event occurring on or after March 6, 2021, the Initial Mortgage Collateral Requirement shall have been satisfied. Each Credit Event shall constitute a certification by the Borrower to the effect set forth in the preceding sentence (both as of the date of the giving of notice relating to such Credit Event and, unless the Borrower otherwise notifies the Administrative Agent prior to the date of such Credit Event, as of the date of the occurrence of such Credit Event). In addition, the Borrower shall be deemed to have represented to the Administrative Agent and the Lenders at the time any Loan is made or any Letter of Credit is issued, extended or increased, that all conditions to the making of such Loan or issuing, extending or increasing of such Letter of Credit contained in this Article V. have been satisfied. Unless set forth in writing to the contrary, the making of its initial Loan by a Lender shall constitute a certification by such Lender to the Administrative Agent for the benefit of the Administrative Agent and the Lenders that the conditions precedent for initial Loans set forth in Sections 5.1. and 5.2. that have not previously been waived by the Lenders in accordance with the terms of this Agreement have been satisfied.

ARTICLE VI. REPRESENTATIONS AND WARRANTIES

Section 6.1. Representations and Warranties.

In order to induce the Administrative Agent and each Lender to enter into this Agreement and to make Loans and, in the case of an Issuing Bank, to issue Letters of Credit, the Borrower represents and warrants to the Administrative Agent, each Issuing Bank and each Lender as follows:

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

(b) Ownership Structure. Part I of Item 6.1.(b) of the Borrower Letter is, as of the Agreement Date, a complete and correct list of all Subsidiaries of the Borrower setting forth for each such Subsidiary, (i) the jurisdiction of organization of such Subsidiary, (ii) each Person holding any Equity Interest in such Subsidiary, (iii) the nature of the Equity Interests held by each such Person, (iv) the percentage of ownership of such Subsidiary represented by such Equity Interests and (v) whether such Subsidiary is an Excluded Subsidiary and/or a Foreign Subsidiary. As of the Agreement Date, except as disclosed in such Schedule, (A) each of the Borrower and its Subsidiaries owns, free and clear of all Liens, and has the unencumbered right to vote, all outstanding Equity Interests in each Person shown to be held by it on such Schedule, (B) all of the issued and outstanding capital stock of each such Person organized as a corporation is validly issued, fully paid and nonassessable and (C) there are no outstanding subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including, without limitation, any stockholders' or voting trust agreements) for the issuance, sale, registration or voting of, or outstanding securities convertible into, any additional shares of capital stock of any class, or partnership or other ownership interests of any type in, any such Person. As of the Agreement Date,

Part II of Item 6.1.(b) of the Borrower Letter correctly sets forth all Unconsolidated Affiliates of the Borrower, including the correct legal name of such Person, the type of legal entity which each such Person is, and all Equity Interests in such Person held directly or indirectly by the Borrower.

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

(d) Compliance of Loan Documents with Laws. The execution, delivery and performance of this Agreement, the other Loan Documents to which any Loan Party is a party and of the Fee Letter in accordance with their respective terms and the borrowings and other extensions of credit hereunder do not and will not, by the passage of time, the giving of notice, or both: (i) require any Governmental Approval or violate any Applicable Law (including all Environmental Laws) relating to the Borrower or any other Loan Party; (ii) conflict with, result in a breach of or constitute a default under the organizational documents of any Loan Party, or any indenture, agreement or other instrument to which the Borrower or any other Loan Party is a party or by which it or any of its respective properties may be bound; or (iii) result in or require the creation or imposition of any Lien upon or with respect to any property now owned or hereafter acquired by any Loan Party other than in favor of the Administrative Agent for its benefit and the benefit of the Lenders and the Issuing Banks.

(e) Compliance with Law; Governmental Approvals. Each of the Borrower, the other Loan Parties and the other Subsidiaries is in compliance with each Governmental Approval and all other Applicable Laws relating to it except for noncompliances which, and Governmental Approvals the failure to possess which, could not, individually or in the aggregate, reasonably be expected to cause a Default or Event of Default or have a Material Adverse Effect.

(f) Title to Properties; Liens. Part I of Item 6.1.(f) of the Borrower Letter is, as of the Agreement Date, a complete and correct listing of all real estate assets of the Borrower, each other Loan Party and each other Subsidiary. Each of the Borrower, each other Loan Party and each other Subsidiary has good, marketable and legal title to, or a valid leasehold interest in, its respective assets. As of the Agreement Date, there are no Liens against any assets of the Borrower, any Subsidiary or any other Loan Party except for Permitted Liens. No Collateral Property nor any direct or indirect interest of the Borrower therein is subject to any Lien (other than Permitted Liens described in clauses (a), (c), (g) and (i) of the definition of that term) or any Negative Pledge. Each Collateral Property satisfies all requirements set forth in the definition of "Eligible Property".

(g) Existing Indebtedness. As of the Agreement Date, the Borrower, the other Loan Parties and the other Subsidiaries have performed and are in compliance with all of the terms of their Indebtedness and all instruments and agreements relating thereto, and no default or event of default, or event or condition which with the giving of notice, the lapse of time, or both, would constitute a default or event of default, exists with respect to any such Indebtedness.

(h) [Intentionally Omitted.]

(i) Litigation. Except as set forth on Schedule 6.1.(i), there are no actions, suits or proceedings pending (nor, to the knowledge of any Loan Party, are there any actions, suits or proceedings threatened, nor is there any basis therefor) against or in any other way relating adversely to or affecting the Borrower, any other Loan Party, any other Subsidiary or any of their respective property in any court or before any arbitrator of any kind or before or by any other Governmental Authority which, (i) could reasonably be expected to have a Material Adverse Effect or (ii) in any manner draws into question the validity or enforceability of any Loan Document or the Fee Letter. There are no strikes, slow downs, work stoppages or walkouts or other labor disputes in progress or threatened relating to, any Loan Party or any other Subsidiary that could reasonably be expected to have a Material Adverse Effect.

(j) Taxes. All federal, state and other material tax returns of the Borrower, each other Loan Party and each other Subsidiary required by Applicable Law to be filed (after taking into account any extensions of time within to file such tax returns) have been duly filed, and all federal, state and other taxes, assessments and other governmental charges or levies upon, each Loan Party, each other Subsidiary and their respective properties, income, profits and assets which are due and payable have been paid, except any such nonpayment or non-filing which is at the time permitted under Section 7.6. As of the Agreement Date, none of the United States income tax returns of the Borrower, any other Loan Party or any other Subsidiary is under audit. All charges, accruals and reserves on the books of the Borrower, the other Loan Parties and the other Subsidiaries in respect of any taxes or other governmental charges are in accordance with GAAP.

(k) Financial Statements. The Borrower has furnished to each Lender copies of the audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries for the fiscal year ended December 31, 2017, and the related audited consolidated statements of operations, shareholders' equity and cash flow for the fiscal year ended on such date, with the opinion thereon of Ernst & Young LLP. Such financial statements (including in each case related schedules and notes) are complete and correct in all material respects and present fairly, in accordance with GAAP consistently applied throughout the periods involved, the consolidated financial position of the Borrower and its consolidated Subsidiaries as at their respective dates and the results of operations and the cash flow for such periods (subject, as to interim statements, to changes resulting from normal yearend audit adjustments). Neither the Borrower nor any of its Subsidiaries has on the Agreement Date any material contingent liabilities, liabilities, liabilities for taxes, unusual or long-term commitments or unrealized or forward anticipated losses from any unfavorable commitments that would be required to be set forth in its financial statements or notes thereto, except as referred to or reflected or provided for in said financial statements.

(l) No Material Adverse Change. Since December 31, 2017, there has been no material adverse change in the consolidated financial condition, results of operations or business of the Borrower and its consolidated Subsidiaries taken as a whole; provided that, during the Temporary Waiver Period, any such determination under this clause (l) shall exclude any event or circumstance resulting from the COVID-19 pandemic to the extent that (i) such event or circumstance has been disclosed in writing by the Borrower to the Lenders or publicly, or in the public domain, prior to the ~~Third~~Fourth Amendment Effective Date and (ii) the scope of such adverse effect is not materially greater than that which has been disclosed. Each of the Borrower, the other Loan Parties, and the Borrower and its Subsidiaries taken as a whole, is Solvent.

(m) REIT Status. The Borrower qualifies as, and has elected to be treated as, a REIT and is in compliance with all requirements and conditions imposed under the Internal Revenue Code to allow the Borrower to maintain its status as a REIT.

(n) ERISA.

(i) Each Benefit Arrangement is in compliance with the applicable provisions of ERISA, the Internal Revenue Code and other Applicable Laws in all material respects. Except with respect to Multiemployer Plans, each Qualified Plan (A) has received a favorable determination from the Internal Revenue Service applicable to such Qualified Plan's current remedial amendment cycle (as defined in Revenue Procedure 2007-44 or "2007-44" for short), (B) has timely filed for a favorable determination letter from the Internal Revenue Service during its staggered remedial amendment cycle (as defined in 2007-44) and such application is currently being processed by the Internal Revenue Service, (C) had filed for a determination letter prior to its "GUST remedial amendment period" (as defined in 2007-44) and received such determination letter and the staggered remedial amendment cycle first following the GUST remedial amendment period for such Qualified Plan has not yet expired, or (D) is maintained under a prototype plan and may rely upon a favorable opinion letter issued by the Internal Revenue Service with respect to such prototype plan. To the best knowledge of the Borrower, nothing has occurred which would cause the loss of its reliance on each Qualified Plan's favorable determination letter or opinion letter.

(ii) With respect to any Benefit Arrangement that is a retiree welfare benefit arrangement, all amounts have been accrued on the applicable ERISA Group's financial statements in accordance with FASB ASC 715. The "benefit obligation" of all Plans does not exceed the "fair market value of plan assets" for such Plans by more than \$10,000,000 all as determined by and with such terms defined in accordance with FASB ASC 715.

(iii) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) no ERISA Event has occurred or is expected to occur; (ii) there are no pending, or to the best knowledge of the Borrower, threatened, claims, actions or lawsuits or other action by any Governmental Authority, plan participant or beneficiary with respect to a Benefit Arrangement; (iii) there are no violations of the fiduciary responsibility rules with respect to any Benefit Arrangement; and (iv) no member of the ERISA Group has engaged in a non-exempt "prohibited transaction," as defined in Section 406 of ERISA and Section 4975 of the Internal Revenue Code, in connection with any Plan, that would subject any member of the ERISA Group to a tax on prohibited transactions imposed by Section 502(i) of ERISA or Section 4975 of the Internal Revenue Code.

(o) Absence of Default. None of the Loan Parties or any of the other Subsidiaries is in default under its certificate or articles of incorporation or formation, bylaws, partnership agreement or other similar organizational documents, and no event has occurred, which has not been remedied, cured or waived: (i) which constitutes a Default or an Event of Default; or (ii) which constitutes, or which with the passage of time, the giving of notice, or both, would constitute, a default or event of default by, any Loan Party or any other Subsidiary under any agreement (other than this Agreement) or judgment, decree or order to which any such Person is a party or by which any such Person or any of its respective properties may be bound where such default or event of default could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(p) Environmental Laws. In the ordinary course of business and from time to time each of the Borrower, each other Loan Party and each other Subsidiary conducts reviews of the effect of Environmental Laws on its respective business, operations and properties, including without limitation, its respective Properties. Each of the Borrower, each other Loan Party and each other Subsidiary: (i) is in compliance with all Environmental Laws applicable to its business, operations and the Properties, (ii) has

obtained all Governmental Approvals which are required under Environmental Laws, and each such Governmental Approval is in full force and effect, and (iii) is in compliance with all terms and conditions of such Governmental Approvals, with respect to the Collateral Properties, where the failure to obtain or to comply with each of the immediately preceding clauses (i) through (iii) could reasonably be expected to have a Material Adverse Effect with respect to such Collateral Property, individually, or the Collateral Properties taken as a whole, and with respect to all Properties other than Collateral Properties, where the failure to obtain or to comply with each of the immediately preceding clauses (i) through (iii) could reasonably be expected to have a Material Adverse Effect. Except for any of the following matters that could not reasonably be expected to have a Material Adverse Effect, no Loan Party has any knowledge of, or has received notice of, any past, present, or pending releases, events, conditions, circumstances, activities, practices, incidents, facts, occurrences, actions, or plans that, with respect to any Loan Party or any other Subsidiary, their respective businesses, operations or with respect to the Properties or any Collateral Property, may: (x) cause or contribute to an actual or alleged violation of or noncompliance with Environmental Laws, (y) cause or contribute to any other potential common law or legal claim or other liability, or (z) cause any of the Properties to become subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Law or require the filing or recording of any notice, approval or disclosure document under any Environmental Law and, with respect to the immediately preceding clauses (x) through (z) is based on or related to the on-site or off-site manufacture, generation, processing, distribution, use, treatment, storage, disposal, transport, removal, clean up or handling, or the emission, discharge, release or threatened release of any wastes or Hazardous Material, or any other requirement under Environmental Law. There is no civil, criminal, or administrative action, suit, demand, claim, hearing, notice, or demand letter, mandate, order, lien, request, investigation, or proceeding pending or, to the Borrower's knowledge after due inquiry, threatened, against the Borrower, any other Loan Party or any other Subsidiary relating in any way to Environmental Laws with respect to the Properties, any Collateral Property, individually, or the Collateral Properties taken as a whole, which reasonably could be expected to have a Material Adverse Effect. As of the Third Amendment Effective Date, none of the Properties is listed on or proposed for listing on the National Priority List promulgated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and its implementing regulations, or any state or local priority list promulgated pursuant to any analogous state or local law. No Hazardous Materials have been transported, released, discharged or disposed on any of the Properties other than (x) in the case of the Collateral Properties, as could not reasonably be expected to have a Material Adverse Effect with respect to any such Collateral Property, individually, or the Collateral Properties taken as a whole and (y) in the case of Properties other than Collateral Properties, as could not reasonably be expected to have a Material Adverse Effect.

(q) Investment Company. None of the Borrower, any other Loan Party or any other Subsidiary is (i) an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or (ii) subject to any other Applicable Law which purports to regulate or restrict its ability to borrow money or obtain other extensions of credit or to consummate the transactions contemplated by this Agreement or to perform its obligations under any Loan Document to which it is a party.

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

(s) Affiliate Transactions. Except as permitted by Section 9.8., none of the Borrower, any other Loan Party or any other Subsidiary is a party to or bound by any agreement or arrangement with any Affiliate entered into after the Agreement Date.

(t) Intellectual Property. Each of the Loan Parties and each other Subsidiary owns or has the right to use, under valid license agreements or otherwise, all patents, licenses, franchises, trademarks, trademark rights, service marks, service mark rights, trade names, trade name rights, trade secrets and copyrights (collectively, "Intellectual Property") necessary to the conduct of its businesses, without known conflict with any patent, license, franchise, trademark, trademark right, service mark, service mark right, trade secret, trade name, copyright, or other proprietary right of any other Person except for such Intellectual Property, the absence of which, and for conflicts which, could not reasonably be expected to have a Material Adverse Effect. Each of the Loan Parties and each other Subsidiary has taken all such steps as it deems reasonably necessary to protect its respective rights under and with respect to such Intellectual Property. No material claim has been asserted by any Person with respect to the use of any such Intellectual Property by the Borrower, any other Loan Party or any other Subsidiary, or challenging or questioning the validity or effectiveness of any such Intellectual Property. The use of such Intellectual Property by the Borrower, the other Loan Parties and the other Subsidiaries does not infringe on the rights of any Person, subject to such claims and infringements as do not, in the aggregate, give rise to any liabilities on the part of the Borrower, any other Loan Party or any other Subsidiary that could reasonably be expected to have a Material Adverse Effect.

(u) Business. As of the Agreement Date, the Borrower and its Subsidiaries are engaged substantially in the business of the acquisition, financing, ownership, development, leasing and tenancy (through TRSs) of lodging, service-oriented retail and travel related properties and other businesses activities incidental thereto.

(v) Broker's Fees. No broker's or finder's fee, commission or similar compensation will be payable with respect to the transactions contemplated hereby. No other similar fees or commissions will be payable by any Loan Party for any other services rendered to the Borrower, any other Loan Party or any other Subsidiary ancillary to the transactions contemplated hereby.

(w) Accuracy and Completeness of Information. All written information, reports and other papers and data (other than financial projections and other forward looking statements, and information of a general economic or industry specific nature) furnished to the Administrative Agent or any Lender by, on behalf of, or at the direction of, the Borrower, any other Loan Party or any other Subsidiary were, at the time the same were so furnished, taken as a whole, complete and correct in all material respects, to the extent necessary to give the recipient a true and accurate knowledge of the subject matter, or, in the case of financial statements, present fairly, in accordance with GAAP consistently applied throughout the periods involved, the financial position of the Persons involved as at the date thereof and the results of operations for such periods (subject, as to interim statements, to changes resulting from normal year end audit adjustments and absence of full footnote disclosure). All financial projections and other forward looking statements prepared by or on behalf of the Borrower, any other Loan Party or any other Subsidiary that have been or may hereafter be made available to the Administrative Agent or any Lender were or will be prepared in good faith based on reasonable assumptions. No fact is known to any Loan Party which has had, or may in the future have (so far as any Loan Party can reasonably foresee), a Material Adverse Effect which has not been set forth in the financial statements referred to in Section 6.1.(k) or in such information, reports or other papers or data or otherwise disclosed in writing to the Administrative Agent and the Lenders, or in the public domain. No document furnished or written statement made to the Administrative Agent or any Lender in connection with the negotiation, preparation or execution of, or pursuant to, this Agreement or any of the other Loan Documents contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary in order to make the statements contained therein not misleading.

(x) Not Plan Assets; No Prohibited Transactions. None of the assets of the Borrower, any other Loan Party or any other Subsidiary constitutes “plan assets” within the meaning of ERISA, the Internal Revenue Code and the respective regulations promulgated thereunder. Assuming that no Lender funds any amount payable by it hereunder with “plan assets,” as that term is defined in 29 C.F.R. 2510.3-101, the execution, delivery and performance of this Agreement and the other Loan Documents, and the extensions of credit and repayment of amounts hereunder, do not and will not constitute “prohibited transactions” under ERISA or the Internal Revenue Code.

(y) Anti-Corruption Laws; Anti-Money Laundering Laws and Sanctions.

(i) None of (i) the Borrower, any other Loan Party, any Subsidiary, any of their respective directors, officers, employees or, to the knowledge of the Borrower, any Affiliates, or (ii) to the knowledge of the Borrower, any agent or representative of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from this Agreement, (A) is a Sanctioned Person or currently the subject or target of any Sanctions, (B) is controlled by or is acting on behalf of a Sanctioned Person, (C) has its assets located in a Sanctioned Country, (D) is under administrative, civil or criminal investigation for an alleged violation of, or received notice from or made a voluntary disclosure to any governmental entity regarding a possible violation of, Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions by a governmental authority that enforces Sanctions or any Anti-Corruption Laws or Anti-Money Laundering Laws, or (E) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons.

(ii) Each of the Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its Subsidiaries and their respective directors, officers, employees, agents and, to the knowledge of the Borrower, any Affiliates with all Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions.

(iii) Each of the Borrower and its Subsidiaries, each director, officer, employee, agent and, to the knowledge of the Borrower, any Affiliate of Borrower and each such Subsidiary, is in compliance with all Anti-Corruption Laws, Anti-Money Laundering Laws in all respects and applicable Sanctions.

(iv) No proceeds of any Loans have been used, directly or indirectly, by the Borrower, any of its Subsidiaries or any of its or their respective directors, officers, employees and agents in violation of Section 9.11(b).

(z) Unencumbered Assets. As of the Third Amendment Effective Date, Schedule 6.1(z) sets forth a correct and complete list of all Unencumbered Assets.

(aa) Insurance. The Borrower or a Subsidiary maintains, or the related Operating Agreement requires the Operator thereunder to maintain, with respect to the Properties commercially reasonable insurance with financially sound and reputable insurance companies.

(bb) Beneficial Ownership Certification. As of the First Amendment Date, all information included in the Beneficial Ownership Certification is true and correct to the knowledge of the officer of the Borrower that executes such certification.

(cc) Affected Financial Institutions. None of the Borrower or any of its Subsidiaries is an Affected Financial Institution.

(dd) Security Interests. Each of the Security Documents creates, or when executed and delivered hereunder, will create, as security for the Guaranteed Obligations, a valid and enforceable Lien on all of the Collateral granted pursuant thereto, superior to and prior to the rights of all third Persons, in favor of the Administrative Agent for its benefit and the benefit of the other Lenders.

(ee) Collateral Properties.

(i) Eligibility. Each Collateral Property is an Eligible Property.

(ii) Americans with Disabilities Act Compliance. To each Loan Party's knowledge, the Collateral Properties comply with the requirements and regulations of the Americans with Disabilities Act, of July 26, 1990, Pub. L. No. 101-336, 104 Stat. 327, 42 U.S.C. § 12101, et seq., in all material respects.

(iii) Property Agreements. The Borrower and each applicable Loan Party have delivered to the Administrative Agent true, correct and complete copies of the Property Management Agreement and each Management Agreement for each Collateral Property. To each Loan Party's knowledge, as of the Third Amendment Effective Date, the Property Management Agreement and each Management Agreement for each Collateral Property is in full force and effect, has not been amended or modified, and there are no defaults or events of default thereunder. Except for the Property Management Agreement and each Management Agreement, no agreements exist which are binding on any of the Loan Parties relating to the management of any of the Collateral Properties.

(iv) Certificate of Occupancy; Licenses. To each Loan Party's knowledge, all material certificates, permits, licenses and approvals, including certificates of completion and occupancy permits, required for the legal use, occupancy and operation of each Collateral Property (excluding, however, certificates of occupancy for tenant spaces and improvements) have been obtained and are in full force and effect. The Borrower shall cause all such material certificates, permits, licenses and approvals to be maintained in full force and effect. The use being made of each Collateral Property is in conformity with all material certificates, permits, licenses and approvals issued for and currently applicable to each Collateral Property.

(v) Physical Condition. To the knowledge of the Borrower, (a) each Collateral Property (including all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, as applicable) is in good condition, order and repair in all material respects, subject to ordinary wear and tear; and (b) there exist no structural or other material defects in or damage to any Collateral Property, whether latent or otherwise. No Loan Party has received or has any knowledge of: (i) any written notice from any insurance company or bonding company of any defects or inadequacies in any Collateral Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon; or (ii) any written notice of any termination or threatened termination of any policy of insurance or bond.

(vi) Boundaries. (A) All of the improvements at each Collateral Property lie wholly within the boundaries and building restriction lines of such Collateral Property, and no improvements on adjoining properties encroach upon any Collateral Property, and (B) no improvements, in any material respect, encroach upon or violate any easements or other encumbrances upon any Collateral Property, except those for which affirmative coverage has been provided in the applicable Title Policy.

(vii) Flood Zone. Except as set forth on Schedule 6.1(ee) (as such schedule may be supplemented from time to time by the Administrative Agent in its sole discretion without the consent of any other Person), as of the date that a Security Instrument is delivered for any Collateral Property, no portion of such Collateral Property will be located in an area identified by the Federal Emergency Management Agency as a special flood hazard area.

(viii) Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes, personal property taxes or other amounts in the nature of transfer or debt taxes required to be paid under applicable law in connection with the transfer of or debt on the Collateral Properties prior to the Third Amendment Effective Date, if any, have been paid. Any mortgage or deed of trust recording, stamp, intangible, personal property or other similar taxes required to be paid under applicable law in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Security Documents, were paid substantially concurrently with any Property becoming a Collateral Property, as applicable. All taxes and governmental assessments due and owing in respect of the Collateral Properties have been paid prior to delinquency.

(ix) Property Information. (A) To the knowledge of Borrower, the Collateral Properties include sufficient on-site parking to comply with Applicable Law; (B) the Collateral Properties currently abut completed and dedicated public thoroughfares; and (C) to the knowledge of Borrower, no archaeological ruins, discoveries or specimens, or cemeteries exist on any Collateral Property.

(x) Brokers. No agreements exist which are binding on any of the Loan Parties relating to the future leasing of such rentable spaces within the Collateral Properties by brokers or other similar agents that are not terminable on more than thirty (30) days' notice.

(xi) Parking. No agreements exist which are binding on any of the Loan Parties relating to the rights of tenants at the Collateral Properties to park at locations other than at the Collateral Properties.

~~(xii) Accounts. Other than the deposit accounts subject to Deposit Account Control Agreements or Excluded Deposit Accounts, no revenue or other income from any Collateral Property is deposited into or held in any other account.~~

(ff) Flood Hazard Insurance. With respect to each Collateral Property as to which a Security Instrument has been delivered, the Administrative Agent has received (a) such flood hazard certifications, notices and confirmations thereof, and effective flood hazard insurance policies as described in Annex I, (b) all flood hazard insurance policies required hereunder have been obtained and remain in full force and effect, and the premiums thereon have been paid in full, and (c) except as the Borrower has previously given written notice thereof to the Administrative Agent, there has been no redesignation of any Collateral Property into or out of a special flood hazard area.

Section 6.2. Survival of Representations and Warranties, Etc.

All statements contained in any certificate, financial statement or other instrument delivered by or on behalf of any Loan Party or any other Subsidiary to the Administrative Agent or any Lender pursuant to or in connection with this Agreement or any of the other Loan Documents (including, but not limited to, any such statement made in or in connection with any amendment thereto or any statement contained in any certificate, financial statement or other instrument delivered by or on behalf of any Loan Party prior to the Agreement Date and delivered to the Administrative Agent or any Lender in connection with the underwriting or closing the transactions contemplated hereby) shall constitute representations and warranties made by the Borrower under this Agreement. All representations and warranties made under this Agreement and the other Loan Documents shall be deemed to be made at and as of the Agreement Date, the Effective Date, the date on which any extension of the Revolving Termination Date is effectuated pursuant to Section 2.13., the date on which any increase of the Revolving Commitments is effectuated pursuant to Section 2.16., the date on which any Collateral Property Addition is effectuated pursuant to Section 7.15(a), the date on which the Security Instrument with respect to any Initial Collateral Property is delivered to the Administrative Agent, and at and as of the date of the occurrence of each Credit Event, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of such earlier date) and except for changes in factual circumstances expressly and specifically permitted hereunder. All such representations and warranties shall survive the effectiveness of this Agreement, the execution and delivery of the Loan Documents and the making of the Loans and the issuance of the Letters of Credit.

ARTICLE VII. AFFIRMATIVE COVENANTS

For so long as this Agreement is in effect, the Borrower shall comply with the following covenants:

Section 7.1. Preservation of Existence and Similar Matters.

Except as otherwise permitted under Section 9.4., the Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, preserve and maintain its respective existence, rights, franchises, licenses and privileges in the jurisdiction of its incorporation or formation and qualify and remain qualified and authorized to do business in each jurisdiction in which the character of its properties or the nature of its business requires such qualification and authorization and where the failure to be so authorized and qualified could reasonably be expected to have a Material Adverse Effect.

Section 7.2. Compliance with Applicable Law and Material Contracts.

The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, comply with (a) all Applicable Law, including the obtaining of all Governmental Approvals, the failure with which to comply could reasonably be expected to have a Material Adverse Effect and (b) all terms and conditions of all Material Contracts to which it is a party. The Borrower shall maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions. Borrower will (a) notify the Administrative Agent and each Lender that previously received a Beneficial Ownership Certification (or a certification that the Borrower qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation) of any change in the information provided in the Beneficial Ownership Certification that

would result in a change to the list of beneficial owners identified therein (or, if applicable, the Borrower ceasing to fall within an express exclusion to the definition of “legal entity customer” under the Beneficial Ownership Regulation) and (b) promptly upon the reasonable request of the Administrative Agent or any Lender, provide the Administrative Agent or such Lender, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

Section 7.3. Maintenance of Property.

In addition to the requirements of any of the other Loan Documents, the Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, (a) protect and preserve, or cause to be protected and preserved, all of its respective material properties, including, but not limited to, all Intellectual Property necessary to the conduct of its respective business, and maintain, or cause to be maintained, in good repair, working order and condition all tangible properties, ordinary wear and tear excepted, and (b) from time to time make or cause to be made all needed and appropriate repairs, renewals, replacements and additions to such properties, so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

Section 7.4. Conduct of Business.

The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, carry on its respective businesses as described in Section 6.1.(u).

Section 7.5. Insurance.

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

(b) In addition to, and not in limitation of, the foregoing, the Borrower shall or shall cause each Guarantor owning a Collateral Property to maintain such additional insurance with respect to such Collateral Property as the Administrative Agent may reasonably require from time to time, including, without limitation, flood insurance coverage (including contents coverage, as applicable). All insurance policies shall be in amounts and have deductibles, limits and retentions as reasonably required by the Administrative Agent. All insurance policies shall be issued and maintained by insurers approved to do business in the jurisdiction in which the applicable Property is located and must have an A.M. Best Company financial rating and policyholder surplus acceptable to the Administrative Agent. The Borrower shall from time to time deliver to the Administrative Agent upon request a detailed list, together with copies of all policies of the insurance then in effect, stating the names of the insurance companies, the amounts and rates of the insurance, the dates of the expiration thereof and the properties and risks covered thereby and insurance certificates, in each such case, in form acceptable to the Administrative Agent, providing that the insurance coverage required under this Section 7.5, is in full force and effect and stating that coverage shall not be cancelable or materially changed without ten (10) days prior written notice to the Administrative Agent of any cancellation for nonpayment of premiums, and not less than thirty (30) days prior written notice to the Administrative Agent of any other cancellation or any modification (including a reduction in coverage), together with appropriate evidence that the

Administrative Agent, for its benefit and for the benefit of the other Lenders, is named as mortgagee lender's loss payee on each property casualty insurance policy and additional insured on all other insurance policies (in each such case, pursuant to endorsements acceptable to the Administrative Agent) that the Borrower or any Loan Party actually maintains with respect to any Collateral Property and improvements on such Property.

Section 7.6. Payment of Taxes and Claims.

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

Section 7.7. Books and Records; Inspections.

The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities in accordance with GAAP and Applicable Law. The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, permit representatives of the Administrative Agent or any Lender to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants (in the presence of an officer of the Borrower if an Event of Default does not then exist), all at such reasonable times during business hours and as often as may reasonably be requested and so long as no Event of Default exists, with reasonable prior notice. The Borrower shall be obligated to reimburse the Administrative Agent and the Lenders for their costs and expenses incurred in connection with the exercise of their rights under this Section only if such exercise occurs while a Default or Event of Default exists. If requested by the Administrative Agent, the Borrower shall execute an authorization letter addressed to its accountants authorizing the Administrative Agent or any Lender to discuss the financial affairs of the Borrower, any other Loan Party or any other Subsidiary with the Borrower's accountants.

Section 7.8. Use of Proceeds.

The Borrower will use the proceeds of the Loans only for the repayment of Indebtedness, the direct or indirect acquisition of properties, working capital and for other general business purposes.

Section 7.9. Environmental Matters.

The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, comply, or cause to be complied, in all material respects with all Environmental Laws with respect to all Properties. The Borrower shall comply, and shall cause each other Loan Party and each other Subsidiary to comply, and the Borrower shall use, and shall cause each other Loan Party and each other Subsidiary to use, commercially reasonable efforts to cause all other Persons occupying, using or present on the Properties to comply with all Environmental Laws with respect to the Properties and each Collateral

Property the failure with which to comply could reasonably be expected to have a Material Adverse Effect with respect thereto. The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, promptly take all actions and pay or arrange to pay all costs necessary for it and for the Properties to comply in all material respects with all Environmental Laws and all Governmental Approvals, including actions to remove and dispose of all Hazardous Materials and to clean up the Properties as required under Environmental Laws. The Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, promptly take, or cause to be taken, all actions necessary to prevent the imposition of any Liens on any of their respective properties arising out of or related to any Environmental Laws. Nothing in this Section shall impose any obligation or liability whatsoever on the Administrative Agent or any Lender.

Section 7.10. Further Assurances.

At the Borrower's cost and expense and upon request of the Administrative Agent, the Borrower shall, and shall cause each other Loan Party and each other Subsidiary to, (i) duly execute and deliver or cause to be duly executed and delivered, to the Administrative Agent such further instruments, documents and certificates, and do and cause to be done such further acts that may be reasonably necessary or advisable in the reasonable opinion of the Administrative Agent to carry out more effectively the provisions and purposes of this Agreement and the other Loan Documents, and (ii) take such additional actions and execute such documents as the Administrative Agent may reasonably require from time to time in order to perfect and maintain the validity, effectiveness and (to the extent required hereby) priority of any of the Security Instruments, the other Security Documents, the Equity Pledges and the Liens intended to be created by any of the foregoing.

Section 7.11. REIT Status.

The Borrower shall maintain its status as, and election to be treated as, a REIT under the Internal Revenue Code.

Section 7.12. Exchange Listing.

The Borrower shall maintain at least one class of common shares of the Borrower having trading privileges on the New York Stock Exchange or the NYSE MKT LLC Exchange or which is subject to price quotations on The NASDAQ Stock Market's Global Market System.

Section 7.13. Guarantors.

(a) Within 10 days after the date on which any of the following conditions first applies to any Subsidiary that is not already a Guarantor, the Borrower shall deliver to the Administrative Agent each of the following in form and substance satisfactory to the Administrative Agent: (i) an Accession Agreement executed by such Subsidiary (or if the Guaranty is not then in existence, a Guaranty executed by such Subsidiary) and (ii) the items that would have been delivered under subsections (iv) through (viii) and (xv) of Section 5.1 (a) and under Section 5.1(e) if such Subsidiary had been required to be a Guarantor on the Agreement Date:

(x) such Subsidiary Guarantees, or otherwise becomes obligated in respect of, any Indebtedness of the Borrower or any other Subsidiary; provided, that a Subsidiary shall not be required to become a Guarantor under this clause (x) if such Subsidiary is an Excluded Subsidiary that has Guaranteed, or otherwise become obligated in respect of, any Indebtedness of another Excluded Subsidiary; or

(y) such Subsidiary owns a Collateral Property or a Collateral Property Addition that has been approved to be a Collateral Property.

(b) The Borrower may request in writing that the Administrative Agent release, and upon receipt of such request the Administrative Agent shall release, a Guarantor from the Guaranty so long as: (i) either (A) simultaneously with its release from the Guaranty such Subsidiary will cease to be a Subsidiary or (B) such Guarantor is not otherwise required to be a party to the Guaranty under the immediately preceding subsection (a); (ii) no Default or Event of Default shall then be in existence or would occur as a result of such release, including without limitation, a Default or Event of Default resulting from a violation of any of the covenants contained in Section 9.1.; (iii) the representations and warranties made or deemed made by the Borrower and each other Loan Party in the Loan Documents to which any of them is a party, shall be true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects) on and as of the date of such release with the same force and effect as if made on and as of such date except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except in the case of a representation or warranty qualified by materiality, in which case such representation or warranty shall be true and correct in all respects)) and except for changes in factual circumstances expressly permitted under the Loan Documents; (iv) such Guarantor owns no Collateral Property and the Liens of each Security Document (other than the Pledge Agreement) granted by such Guarantor have been released in accordance with Section 7.15(b), and (v) the Administrative Agent shall have received such written request at least 10 Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release. Delivery by the Borrower to the Administrative Agent of any such request shall constitute a representation by the Borrower that the matters set forth in the preceding sentence (both as of the date of the giving of such request and as of the date of the effectiveness of such request) are true and correct with respect to such request. Notwithstanding anything herein to the contrary, upon and after the Third Amendment Effective Date, no Guarantor that owns a Collateral Property shall be subject to release pursuant to this Section 7.13(b) (regardless of whether or not the Initial Mortgage Collateral Requirement has been satisfied).

Section 7.14. Equity Pledges.

(a) Initial Delivery of Pledged Collateral. Within 10 Business Days following the Second Amendment Effective Date or such later date acceptable to Administrative Agent, the Borrower shall deliver or cause to be delivered to the Administrative Agent the following each in form and substance reasonably acceptable to the Administrative Agent: (i) each certificate or other instrument in respect of the Pledged Interests, in the manner required under the Pledge Agreement, duly indorsed by such Pledgor to the Administrative Agent, together with an undated stock power covering such certificate (or other appropriate instrument of transfer) duly executed, in blank, by such Pledgor and countersigned by the issuer thereof, (ii) such other schedules, supplements, instruments, certificates, or information in connection therewith as required by the Pledge Agreement or as reasonably requested by the Administrative Agent and (iii) a legal opinion issued by a law firm reasonably acceptable to the Administrative Agent covering the creation and perfection of the security interest in the Pledged Interests upon indorsement and delivery to the Administrative Agent of such certificates or other instruments.

(b) Equity Pledge Requirement.

(i) Subject to Section 7.14(d)(i) below, until such time as (A) the Initial Mortgage Collateral Requirement has been satisfied, and (B) no Default or Event of Default has occurred and is continuing (the first date upon which each of the forgoing conditions are satisfied, the

“Equity Pledge Release Date”), (x) the Obligations shall be secured by the Pledged Interests and (y) the Collateral Value Percentage shall not exceed fifty percent (50%). If at any time prior to the Equity Pledge Release Date the Collateral Value Percentage exceeds or would exceed fifty percent (50%) as the result of (1) any Credit Event, (2) any asset transfer or disposition otherwise permitted by this Agreement, (3) any asset failing to be an Unencumbered Asset or (4) Administrative Agent’s election, at any time during the Temporary Waiver Period and continuing thereafter until the Post-Temporary Waiver Period Compliance Date, to exclude any asset from the calculation of the Collateral Value Percentage as a result of such asset’s rent coverage or performance, then, as a condition precedent the foregoing (1) and (2) and within 10 Business Days following the foregoing (3) and (4), additional Equity Interests of entities identified by the Borrower and approved by the Administrative Agent shall be pledged to Administrative Agent such that the Collateral Value Percentage is fifty percent (50%) or less (after giving effect to the foregoing (1), (2), (3) or (4), as applicable). In connection therewith, the Borrower shall promptly deliver to the Administrative Agent, each of the following in form and substance satisfactory to the Administrative Agent: (A) a supplement to the Pledge Agreement executed by each Person that owns any Equity Interests that are to become Pledged Interests and (B) such other schedules, supplements, instruments, certificates, or information in connection therewith as required by the Pledge Agreement (as though such Equity Interests were subject thereto on the Second Amendment Effective Date) or as reasonably requested by the Administrative Agent.

(ii) Subject to Section 7.14(d) below, at all times on and after the Third Amendment Effective Date, the Obligations shall be secured by the Collateral Property Pledged Interests.

(iii) In connection with any Collateral Property Addition, in addition to the requirements set forth in Section 7.15(a), the Administrative Agent may require that the Equity Interests issued by the Subsidiary owning such additional Collateral Property (the “Additional Collateral Property Pledged Interests”) be pledged to the Administrative Agent. If so requested by the Administrative Agent, the Borrower shall promptly deliver to the Administrative Agent each of the following in form and substance satisfactory to the Administrative Agent: (i) a supplement to the Pledge Agreement executed by each Person that owns any such Equity Interests that are to become Additional Collateral Property Pledged Interests and (ii) such other schedules, supplements, instruments, certificates, or information in connection therewith as required by the Pledge Agreement (as though such Equity Interests were subject thereto on the Second Amendment Effective Date) or as reasonably requested by the Administrative Agent.

(c) [Reserved].

(d) Release of Certain Pledged Interests.

(i) At any time prior to the Equity Pledge Release Date:

(A) The Borrower may from time to time request in writing that additional Equity Interests of any entity identified by the Borrower be pledged to the Administrative Agent as additional Pledged Interests under the Pledge Agreement. Subject to the Administrative Agent having approved such entity, such pledge shall be effective subject to the Borrower having delivered each of the following in form and substance satisfactory to the Administrative Agent: (i) a supplement to the Pledge Agreement executed by each Person that owns any Equity Interests that are to become Pledged Interests and (ii) such other schedules, supplements, instruments, certificates, or information in connection therewith as required by the Pledge Agreement (as though such Equity Interests were

subject thereto on the Second Amendment Effective Date) or as reasonably requested by the Administrative Agent.

(B) In the event that the Collateral Value Percentage is less than fifty percent (50.0%) either due to any repayment of the Obligations in accordance with this Agreement, or to the pledge of additional Pledged Interests in accordance with Section 7.14(d)(i)(A), then the Borrower may request in writing that the Administrative Agent release, and upon receipt of such request the Administrative Agent shall release, the Lien in favor of the Administrative Agent on those Pledged Interests (other than Collateral Property Pledged Interests) identified by the Borrower and approved by Administrative Agent so long as: (i) upon giving effect to such release (and to any concurrent pledge of any additional Pledged Interests in accordance with Section 7.14(d)(i)(A)), the Collateral Value Percentage will not exceed fifty percent (50%), (ii) no Default or Event of Default has occurred and is continuing or would occur as a result of such release, and (iii) the Administrative Agent shall have received such written request at least 10 Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release. Delivery by the Borrower to the Administrative Agent of any such request shall constitute a representation by the Borrower that the matters set forth in the preceding sentence (both as of the date of such request and as of the date of such release) are true and correct with respect to such request.

(C) If the Administrative Agent elects to exclude any asset from the calculation of the Collateral Value Percentage pursuant to Section 7.14(b)(i)(4) and the issuer of Pledged Interests owning such asset does not own any other asset then included in the calculation of the Collateral Value Percentage or any Collateral Property, then the Borrower may request in writing that the Administrative Agent release, and upon receipt of such request the Administrative Agent shall release, the Lien in favor of the Administrative Agent on the Pledged Interests (other than Collateral Property Pledged Interests) of such issuer so long as: (i) upon giving effect to such release, the Collateral Value Percentage will not exceed fifty percent (50%), (ii) no Default or Event of Default has occurred and is continuing or would occur as a result of such release, and (iii) the Administrative Agent shall have received such written request at least 10 Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release. Delivery by the Borrower to the Administrative Agent of any such request shall constitute a representation by the Borrower that the issuer of such Pledged Interests does not own any asset then included in the calculation of the Collateral Value Percentage or any Collateral Property and that the matters set forth in the preceding sentence (both as of the date of such request and as of the date of such release) are true and correct with respect to such request.

(ii) Upon or after the Equity Pledge Release Date:

(A) The Borrower may request in writing that the Administrative Agent release, and upon receipt of such request the Administrative Agent shall release, the Lien in favor of the Administrative Agent on all Pledged Interests other than Collateral Property Pledged Interests so long as: (i) no Default or Event of Default has occurred and is continuing or would occur as a result of such release, and (ii) the Administrative Agent shall have received such written request at least 10 Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release. Delivery by the Borrower to the Administrative Agent of any such request shall

constitute a representation by the Borrower that the matters set forth in the preceding sentence (both as of the date of such request and as of the date of such release) are true and correct with respect to such request.

(B) In connection with a Property Release, the Borrower may request in writing that the Administrative Agent release, and upon receipt of such request the Administrative Agent shall release, the Lien in favor of the Administrative Agent on any Collateral Property Pledged Interests so long as: (i) no Default or Event of Default has occurred and is continuing or would occur as a result of such release, (ii) if prior to the Equity Pledge Release Date, the Equity Pledge of such Collateral Property Pledged Interests is not otherwise required pursuant to this Section 7.14., (iii) such Property Release is effected in accordance with Section 7.15(b) and all conditions set forth therein shall have been satisfied to the satisfaction of the Administrative Agent, (iv) the issuer of such Collateral Property Pledged Interest owns no Collateral Property, and (v) the Administrative Agent shall have received such written request at least 10 Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release. Delivery by the Borrower to the Administrative Agent of any such request shall constitute a representation by the Borrower that the matters set forth in the preceding sentence (both as of the date of such request and as of the date of such release) are true and correct with respect to such request.

(e) No Liens or Negative Pledges. Neither the Pledged Interests nor any asset owned by the issuer of such Pledged Interest included in the calculation of the Collateral Value Percentage (as and when applicable in accordance with the terms hereof) nor any direct or indirect interest of Borrower in such issuer shall be subject to any Lien (other than Permitted Liens of the types described in clauses (a)(x) and (i) of the definition thereof) or Negative Pledge, other than Negative Pledges permitted pursuant to Section 9.2.(b)(iii) and Section 9.2.(b)(iv).

(f) Security Interests. The Borrower represents, warrants and covenants that (i) the Pledge Agreement creates as security for the Obligations a valid and enforceable Lien on all of the Collateral granted pursuant thereto in favor of the Administrative Agent for the benefit of the Lenders, superior to and prior to the rights of all third parties, and (ii) at all times prior to the Equity Pledge Release Date, all assets owned by the issuers of the Pledged Interests and included in the calculation of the Collateral Value Percentage are Unencumbered Assets.

(g) Other Indebtedness. Borrower represents, warrants and covenants that (i) no Indebtedness of the Borrower or its Subsidiaries prohibits or shall prohibit the Liens now or hereafter granted to Administrative Agent in the Pledged Interests and (ii) none of the issuers of the Pledged Interests is or shall be required to be a Guarantor pursuant to Section 7.13(a)(x).

(h) Required Consents. Notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, the consent of all Lenders shall be required to release any of the Collateral granted pursuant to the Pledge Agreement (except for releases thereof expressly permitted under or contemplated by this Agreement or the Pledge Agreement) or to subordinate any Lien of the Administrative Agent in any Pledged Interests.

Section 7.15. Collateral Properties.

(a) Addition of Collateral Properties. If the Borrower desires to include any additional Property as a Collateral Property (each such addition, a “**Collateral Property Addition**”), then the

Borrower shall so notify the Administrative Agent in writing. No Property may become a Collateral Property unless it is an Eligible Property and unless and until each of the following conditions is satisfied or waived by the Administrative Agent in writing:

- (i) the Administrative Agent shall have approved such Collateral Property Addition; and
- (ii) the Borrower shall have delivered to the Administrative Agent each of the following in form and substance satisfactory to the Administrative Agent:

(A) each of the items set forth on Annex I (or, if applicable, updates to such items), unless such item has been waived by the Administrative Agent in writing; *provided* that any such items requiring delivery of Security Documents that the Administrative Agent determines to be applicable, a Title Policy, flood hazard determinations or, to the extent applicable, evidence of flood insurance coverage as required by the Administrative Agent shall not be waived without the written consent of the Requisite Lenders;

(B) all of the items required to be delivered to the Administrative Agent under Section 7.13(a), if not previously delivered unless such property is owned by a Subsidiary of the Borrower that is, at such time, a Guarantor and then only to the extent required by the Administrative Agent;

(C) if and to the extent required by the Administrative Agent, the items required to be delivered to the Administrative Agent under Section 7.14(b)(iii); and

(D) such other items or documents as may be appropriate under the circumstances or as the Administrative Agent may reasonably request.

(b) Borrower Requests for Property Releases. From time to time the Borrower may request that any Collateral Property be released from the Security Documents, and the Liens created thereby to the extent applicable to such Property and related Collateral, in connection with (i) a Qualified Collateral Property Sale, (ii) a permanent reduction of the Revolving Commitments in accordance with Section 2.12, or (iii) such Property being excluded from Collateral Property Eligibility under Section 7.15(c), in each case, which release (the “**Property Release**”) shall be subject to the satisfaction of the following conditions:

(i) Upon giving effect to such Property Release, (A) the Collateral Property Availability shall be equal to or greater than \$600,000,000 and (B) the remaining Collateral Property Availability shall not be less than the aggregate Revolving Commitments (giving effect to any reduction in Revolving Commitments occurring in connection therewith, if applicable);

(ii) No Default or Event of Default has occurred and is continuing or would occur as a result of such Property Release;

(iii) All representations and warranties in the Loan Documents are true and accurate in all material respects (except that, to the extent any representation or warranty is qualified by materiality or Material Adverse Effect or similar language, such representation or warranty shall be true and correct in all respects) at the time of such Property Release and immediately after giving effect to such Property Release, except to the extent that such representations and

warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct in all material respects (except that, to the extent any such representation or warranty is qualified by materiality or Material Adverse Effect or similar language, such representation or warranty shall have been true and correct in all respects) on and as of such earlier date);

(iv) Any prepayment to be made in accordance with Section 2.8(b)(iv) shall have been made or shall be made substantially concurrently with such Property Release pursuant to an escrow arrangement acceptable to the Administrative Agent; ~~and~~

~~(v) If any Collateral Property to be released pursuant to such Property Release is subject to an agreement which restricts such Collateral Property from being owned, operated or encumbered independently from another Collateral Property, then (A) each such other Collateral Property shall be released concurrently with the effectiveness of such Property Release pursuant to one or more Property Releases in accordance with the terms hereof such that, upon giving effect to such Property Release and any other Property Release occurring simultaneously therewith, none of the remaining Collateral Properties shall be in violation of such restrictions or (B) the Administrative Agent shall have received evidence in form and substance satisfactory to the Administrative Agent in its reasonable discretion that the applicable agreement has been amended or replaced (in accordance with this Agreement) such that applicable Collateral Properties may be owned, operated and/or encumbered separately and independently from each other; and~~

~~(v)~~ (vi) The Administrative Agent shall have received such written request at least ten (10) Business Days (or such shorter period as may be acceptable to the Administrative Agent) prior to the requested date of release.

Delivery by the Borrower to the Administrative Agent of any such request shall constitute a representation by the Borrower that the foregoing conditions (both as of the date of such request and as of the date of such release) are true and correct with respect to such Property Release.

(c) Ineligibility of Properties. A Property shall be excluded from the calculation of Collateral Property Availability if, at any time: (i) such Property fails to qualify as an Eligible Property, and such failure is not cured within thirty (30) days after the Borrower obtains knowledge of such failure, (ii) the Administrative Agent shall cease to hold a valid and perfected first priority mortgage, deed of trust or deed to secure debt, as applicable, Lien in such Property, or (iii) there shall have occurred and be continuing a default (after giving effect to any applicable cure period) under any Security Document relating to such Property. Such Property shall not be released from the Liens of the applicable Security Instruments unless the requirements of Section 7.15(b) are satisfied with respect thereto. Upon the occurrence of any such event or circumstance described in the foregoing clause (i), (ii) or (iii), Collateral Property Availability shall be recalculated excluding such ineligible Property.

(d) Continuity of Liens. Except as set forth in Section 7.15(b), no Collateral Property shall be released from the Liens created by the Security Documents applicable thereto.

(e) Frequency of Appraisals. The Appraised Value of a Collateral Property shall be determined or redetermined, as applicable, pursuant to Appraisals conducted under each of the following circumstances:

(i) In connection with the proposal of a Property as a Collateral Property pursuant to Section 7.15(a), which shall include, without limitation, in connection with the initial encumbrance of the Initial Collateral Properties with Security Instruments;

(ii) If any Default or Event of Default exists, upon written request from the Administrative Agent to the Borrower;

(iii) If necessary in order to comply with FIRREA, other Applicable Law or the requirements of any Governmental Authority relating to the Administrative Agent or any of the Lenders; and

(iv) Upon written request from the Administrative Agent to the Borrower, not more than once every 12 months with respect to each Collateral Property.

All Appraisals shall be engaged by the Administrative Agent at the Borrower's expense and shall be subject to satisfactory review and approval of the Administrative Agent. Notwithstanding anything to the contrary herein, each Lender may conduct Appraisals of any Collateral Property at any time at such Lender's expense; provided that, for the avoidance of doubt, such Appraisal shall not be used in determining or redetermining the Appraised Value of a Collateral Property.

(f) MIRE Events. Notwithstanding anything to the contrary set forth herein, no MIRE Event may be closed until the date that is (a) if there are no Collateral Properties in a "special flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), twenty (20) days or (b) if there are any Collateral Properties in a "special flood hazard area", sixty (60) days, after the Administrative Agent has delivered to the Lenders the following documents in respect of such Property: (i) a completed flood hazard determination from a third party vendor; (ii) if such Property is located in a "special flood hazard area", (A) a notification to the applicable Loan Parties of that fact and (if applicable) notification to the applicable Loan Parties that flood insurance coverage is not available and (B) evidence of the receipt by the applicable Loan Parties of such notice; and (iii) if required by applicable Flood Laws, evidence of required flood insurance with respect to which flood insurance has been made available under applicable Flood Laws; provided that any such MIRE Event may be closed prior to such period expiring if the Administrative Agent shall have received confirmation from each Lender that such Lender has completed any necessary flood insurance due diligence to its reasonable satisfaction.

(g) Notwithstanding anything to the contrary in the Loan Documents, it is the intention of the parties hereto that (i) each Security Instrument and each other Security Document with respect to any Collateral Property creates as security for the Guaranteed Obligations of the direct owners of any Collateral Property a valid and enforceable Lien on all of the Collateral granted pursuant thereto in favor of the Administrative Agent for the benefit of the Lenders, superior to and prior to the rights of all third parties, and (ii) the Obligations of the Borrower and the "Guaranteed Obligations" (as defined in the Guaranty) of any Guarantor that is not a direct owner of a Collateral Property, in each such case, under the Loan Documents shall not be directly secured by any real property interest whatsoever.

(h) Other Indebtedness. Borrower represents, warrants and covenants that no Subsidiary owning a Collateral Property (i) has or shall incur, acquire or suffer to exist any Indebtedness that is not Nonrecourse Indebtedness (other than obligations in respect of Indebtedness under the Loan Documents), or (ii) is or shall become obligated in respect of any Indebtedness of the Borrower or any other Subsidiary (other than obligations in respect of Indebtedness under the Loan Documents in its capacity as a Guarantor hereunder).

(i) Required Consents. Notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, the consent of all Lenders shall be required to (i) release any Loan Party from its obligations under any Security Document (except as contemplated by Section 7.14(d) or 7.15(b)), (ii) release or dispose of any Collateral Property, or all or substantially all of the value of any other Collateral unless released or disposed of as permitted by, and in accordance with, Section 11.3., Section 11.10(b), Section 7.14(d) or Section 7.15(b), or (iii) permit the Collateral to secure any Indebtedness other than the Obligations or the Guaranteed Obligations, as applicable.

ARTICLE VIII. INFORMATION

For so long as this Agreement is in effect, the Borrower shall furnish to the Administrative Agent for distribution to each of the Lenders:

Section 8.1. Quarterly Financial Statements.

As soon as available and in any event within 5 days after the same is filed with the Securities and Exchange Commission (but in no event later than 45 days after the end of each of the first, second and third fiscal quarters of the Borrower), commencing with the fiscal quarter ending March 31, 2018, the unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such period and the related unaudited consolidated statements of income, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such period, setting forth in each case in comparative form the figures as of the end of and for the corresponding periods of the previous fiscal year, all of which shall be certified by the chief financial officer or chief accounting officer of the Borrower, in his or her opinion, to present fairly, in accordance with GAAP as then in effect, the consolidated financial position of the Borrower and its Subsidiaries as at the date thereof and the results of operations for such period (subject to normal yearend audit adjustments). Together with such financial statements, the Borrower shall deliver reports, in form and detail satisfactory to the Administrative Agent, setting forth (a) to the extent such information is obtained from Operators, all capital expenditures made during the fiscal quarter then ended; (b) a listing of all Properties acquired during such fiscal quarter, including the minimum rent or expected minimum return of each such Property, acquisition costs and related mortgage debt, (c) to the extent such information is obtained from Operators, the Hotel Net Cash Flow for each Hotel Pool and each Hotel that is not in a Hotel Pool, and (d) such other information as the Administrative Agent may reasonably request.

Section 8.2. YearEnd Statements.

As soon as available and in any event within 5 days after the same is filed with the Securities and Exchange Commission (but in no event later than 90 days after the end of each fiscal year of the Borrower), the audited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year and the related audited consolidated statements of income, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, setting forth in comparative form the figures as at the end of and for the previous fiscal year, all of which shall be certified by (a) the chief financial officer or chief accounting officer of the Borrower, in his or her opinion, to present fairly, in accordance with GAAP as then in effect, the consolidated financial position of the Borrower and its Subsidiaries as at the date thereof and the results of operations for such period and (b) independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent (it being acknowledged that any of Deloitte, Ernst & Young, PricewaterhouseCoopers and KPMG shall be acceptable to the Administrative Agent), whose report shall not be subject to (i) any "going concern" or like qualification or exception or (ii) any qualification or exception as to the scope of such audit. Together with such financial statements, the Borrower shall deliver a report, in form and detail

reasonably satisfactory to the Administrative Agent, setting forth the Hotel Net Cash Flow for each Hotel Pool and each Hotel that is not in a Hotel Pool for such fiscal year to the extent such information is obtained from Operators and such other information as the Administrative Agent may reasonably request.

Section 8.3. Compliance Certificate.

At the time the financial statements are furnished pursuant to the immediately preceding Sections 8.1. and 8.2., and within 5 Business Days of the Administrative Agent's request with respect to any other fiscal period, (i) a certificate substantially in the form of Exhibit J (a "**Compliance Certificate**") executed on behalf of the Borrower by the chief financial officer or chief accounting officer of the Borrower (a) setting forth in reasonable detail as of the end of such quarterly accounting period or fiscal year, as the case may be, the calculations required to establish whether the Borrower was in compliance with the covenants contained in Section 9.1.; and (b) stating that, to the best of his or her knowledge, information and belief after due inquiry, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default and its nature, when it occurred and the steps being taken by the Borrower with respect to such event, condition or failure; (ii) if, at such time, the Initial Mortgage Collateral Requirement has not yet been satisfied, a certificate (an "**Unencumbered Asset Certificate**") executed by the chief financial officer of the Borrower that: (a) sets forth a list of all assets that meet the requirements of the definition of "Unencumbered Assets"; and (b) certifies that all Unencumbered Assets so listed fully qualify as such under the applicable criteria for inclusion as an Unencumbered Asset; (iii) a report in form and substance satisfactory to the Administrative Agent setting forth a list of the Collateral Properties and detailing all financial information maintained on the Collateral Properties, including, without limitation, trailing twelve (12) month Net Operating Income, GAAP undepreciated cost basis, property Net Operating Income projections, Appraised Values (to the extent available), operating statements, aggregate capital investments and maintenance capital expenditures for each Collateral Property made during such quarterly accounting period or fiscal year, as the case may be, and sales reports (including occupancy costs, to the extent available); and (iv) a report in form and substance reasonably satisfactory to the Administrative Agent setting forth a list of the Sonesta Hotels and detailing financial information and metrics maintained with respect thereto, including, without limitation, location, occupancy, average daily rate, and operating performance.

Section 8.4. Other Information.

(a) Promptly upon receipt thereof, copies of all material reports, if any, submitted to the Borrower or its Board of Trustees by its independent public accountants, and in any event, all management reports;

(b) Within five (5) Business Days of the filing thereof, copies of all registration statements (excluding the exhibits thereto (unless requested by the Administrative Agent) and any registration statements on Form S8 or its equivalent), reports on Forms 10K, 10Q and 8K (or their equivalents) and all other periodic reports which any Loan Party or any other Subsidiary shall file with the Securities and Exchange Commission (or any Governmental Authority substituted therefor) or any national securities exchange;

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

(d) If any ERISA Event shall occur that individually, or together with any other ERISA Event that has occurred, could reasonably be expected to have a Material Adverse Effect, a certificate of

the chief executive officer or chief financial officer of the Borrower setting forth details as to such occurrence and the action, if any, which the Borrower or applicable member of the ERISA Group is required or proposes to take;

(e) To the extent any Loan Party or any other Subsidiary is aware of the same, prompt notice of the commencement of any proceeding or investigation by or before any Governmental Authority and any action or proceeding in any court or other tribunal or before any arbitrator against or in any other way relating adversely to, or adversely affecting, any Loan Party or any other Subsidiary or any of their respective properties, assets or businesses which could reasonably be expected to have a Material Adverse Effect;

(f) A copy of any amendment to the certificate or articles of incorporation or formation, bylaws, partnership agreement or other similar organizational documents of the Borrower or any other Loan Party promptly upon the Administrative Agent's request;

(g) Prompt notice of any change in the senior management of the Borrower, any other Loan Party or any other Subsidiary, and any change in the business, assets, liabilities, financial condition, results of operations or business prospects of any Loan Party or any other Subsidiary which has had, or could reasonably be expected to have, a Material Adverse Effect;

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

(i) Prompt notice of any order, judgment or decree in excess of \$5,000,000 having been entered against any Loan Party or any other Subsidiary or any of their respective properties or assets;

(j) Prompt notice if the Borrower, any Subsidiary or any other Loan Party shall receive any notification from any Governmental Authority alleging a violation of any Applicable Law or any inquiry which could reasonably be expected to have a Material Adverse Effect;

(k) Promptly upon the request of the Administrative Agent, evidence of the Borrower's calculation of the Ownership Share with respect to a Subsidiary or an Unconsolidated Affiliate, such evidence to be in form and detail satisfactory to the Administrative Agent;

(l) Promptly, upon the Borrower becoming aware of any change in the Borrower's Credit Rating, a certificate stating that the Borrower's Credit Rating has changed and the new Credit Rating that is in effect;

(m) Promptly, upon each request, information identifying the Borrower as a Lender may request in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the Patriot Act;

(n) Promptly, and in any event within 3 Business Days after the Borrower obtains knowledge thereof, written notice of the occurrence of any of the following: (i) the Borrower, any Loan Party or any other Subsidiary shall receive notice that any violation of or noncompliance with any Environmental Law has or may have been committed or is threatened; (ii) the Borrower, any Loan Party or any other Subsidiary shall receive notice that any administrative or judicial complaint, order or petition has been

filed or other proceeding has been initiated, or is about to be filed or initiated against any such Person alleging any violation of or noncompliance with any Environmental Law or requiring any such Person to take any action in connection with the release or threatened release of Hazardous Materials; (iii) the Borrower, any Loan Party or any other Subsidiary shall receive any notice from a Governmental Authority or private party alleging that any such Person may be liable or responsible for any costs associated with a response to, or remediation or cleanup of, a release or threatened release of Hazardous Materials or any damages caused thereby; or (iv) the Borrower, any Loan Party or any other Subsidiary shall receive notice of any other fact, circumstance or condition that could reasonably be expected to form the basis of an environmental claim, in each of the cases described in the preceding clauses (i) through (iv), with respect to the Collateral Properties, in any material respect, and with respect to the Properties that are not Collateral Properties, where the matters covered by such notice(s) under the preceding clauses (i) through (iv), whether individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect;

(o) Promptly, and in any event within three (3) Business Days after the Borrower obtains knowledge thereof, any Collateral Property failing to comply with the requirements for being an Eligible Property;

(p) If requested by the Administrative Agent and available to the Borrower or any Subsidiary on a nonconfidential basis, the Borrower shall deliver to the Administrative Agent the same reports and information with respect to each material mortgagor under any Mortgage Note and with respect to each material Operator as is required by Sections 8.1. and 8.2. with respect to the Borrower, except that: (i) every reference to the Borrower and its Subsidiaries shall be deemed to refer to such material mortgagor or Operator; and (ii) the time periods within which the Borrower shall deliver such reports as to material mortgagors and Operators shall each be 30 days longer than the time periods set forth in Sections 8.1. and 8.2.;

(q) [Intentionally Omitted];

(r) [Intentionally Omitted]; and

(s) From time to time and promptly upon each request, such data, certificates, reports, statements, opinions of counsel, documents or further information regarding any Property or the business, assets, liabilities, financial condition, results of operations or business prospects of the Borrower, any of its Subsidiaries, or any other Loan Party as the Administrative Agent or any Lender may reasonably request.

Section 8.5. Electronic Delivery of Certain Information.

(a) Documents required to be delivered pursuant to the Loan Documents shall be delivered by electronic communication and delivery, including, the Internet, e-mail or intranet websites to which the Administrative Agent and each Lender have access (including a commercial, third-party website such as www.sec.gov or a website sponsored or hosted by the Administrative Agent or the Borrower) provided that the foregoing shall not apply to (i) notices to any Lender (or any Issuing Bank) pursuant to Article II. and (ii) any Lender that has notified the Administrative Agent and the Borrower that it cannot or does not want to receive electronic communications. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic delivery pursuant to procedures approved by it for all or particular notices or communications. Documents or notices delivered electronically (other than by e-mail) shall be deemed to have been delivered (A) with respect to deliveries made pursuant to Sections 8.1., 8.2., 8.4.(b) and 8.4.(c) by proper filing with the

Securities and Exchange Commission and available on www.sec.gov, on the date of filing thereof and (B) with respect to all other electronic deliveries (other than deliveries made by e-mail) twenty-four (24) hours after the date and time on which the Administrative Agent or the Borrower posts such documents or the documents become available on a commercial website and the Administrative Agent or Borrower notifies each Lender of said posting and the Borrower notifies Administrative Agent of said posting by causing an e-mail notification to be sent to an email address specified from time to time by the Administrative Agent and provides a link thereto provided (x) if such notice or other communication is not sent or posted during the normal business hours of the recipient, said posting date and time shall be deemed to have commenced as of 10:00 a.m. Eastern time on the next business day for the recipient and (y) if the deemed time of delivery occurs on a day that is not a business day for the recipient, the deemed time of delivery shall be 10:00 a.m. Eastern time on the next business day for the recipient. Notwithstanding anything contained herein, the Borrower shall deliver paper copies of any documents to the Administrative Agent or to any Lender that requests such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents delivered electronically, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery. Each Lender shall be solely responsible for requesting delivery to it of paper copies and maintaining its paper or electronic documents.

(b) Documents required to be delivered pursuant to Article II. may be delivered electronically to a website provided for such purpose by the Administrative Agent pursuant to the procedures provided to the Borrower by the Administrative Agent.

Section 8.6. Public/Private Information.

The Borrower shall cooperate with the Administrative Agent in connection with the publication of certain materials and/or information provided by or on behalf of the Borrower. Documents required to be delivered pursuant to the Loan Documents shall be delivered by or on behalf of the Borrower to the Administrative Agent and the Lenders (collectively, "Information Materials") pursuant to this Article and the Borrower shall designate Information Materials (a) that are either available to the public or not material with respect to the Borrower and its Subsidiaries or any of their respective securities for purposes of United States federal and state securities laws, as "Public Information" and (b) that are not Public Information as "Private Information".

Section 8.7. USA Patriot Act Notice; Compliance.

The Patriot Act and federal regulations issued with respect thereto require all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, a Lender (for itself and/or as agent for all Lenders hereunder) may from time-to-time request, and the Borrower shall, and shall cause the other Loan Parties to, provide promptly upon any such request to such Lender, such Loan Party's name, address, tax identification number and/or such other identification information as shall be necessary for such Lender to comply with federal law. An "account" for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.

ARTICLE IX. NEGATIVE COVENANTS

For so long as this Agreement is in effect, the Borrower shall comply with the following covenants:

Section 9.1. Financial Covenants.

(a) Leverage Ratio. For any fiscal quarter ending after March 31, 2021, the Borrower shall not permit the ratio of (i) Total Indebtedness to (ii) Total Asset Value to exceed 0.60 to 1.00 at any time; provided, however, that if such ratio is greater than 0.60 to 1.00 but is not greater than 0.65 to 1.00, then the Borrower shall be deemed to be in compliance with this subsection (a) so long as (i) the Borrower completed a Material Acquisition during the fiscal quarter, or the fiscal quarter immediately preceding the fiscal quarter, in which such ratio first exceeded 0.60 to 1.00, (ii) such ratio does not exceed 0.60 to 1.00 for a period of more than three consecutive fiscal quarters immediately following the fiscal quarter in which such Material Acquisition was completed, (iii) the Borrower has not maintained compliance with this subsection (a) in reliance on this proviso more than two times during the term of this Agreement and (iv) such ratio is not greater than 0.65 to 1.00 at any time; and solely for the fiscal quarter ending March 31, 2020, the Borrower shall not permit the ratio of (i) Total Indebtedness to (ii) Total Asset Value to exceed 0.65 to 1.00 at any time during such fiscal quarter.

(b) Minimum Fixed Charge Coverage Ratio. The Borrower shall not permit the ratio of (i) Adjusted EBITDA for the fiscal quarter of the Borrower most recently ending and the three immediately preceding fiscal quarters to (ii) Fixed Charges for such period, to be less than 1.50 to 1.00 at any time.

(c) Secured Indebtedness. The Borrower shall not permit the ratio of (i) Secured Indebtedness of the Borrower and its Subsidiaries to (ii) Total Asset Value to be greater than 0.40 to 1.00 at any time.

(d) [Reserved].

(e) Total Unencumbered Assets. The Borrower shall at all times maintain Total Unencumbered Assets of not less than 150% of the aggregate outstanding principal amount of the Unsecured Debt of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

(f) Dividends and Other Restricted Payments. Subject to the following sentence, if an Event of Default exists, the Borrower shall not, and shall not permit any of its Subsidiaries to, declare or make any Restricted Payments except that the Borrower may declare and make cash distributions to its shareholders in an aggregate amount not to exceed the minimum amount necessary for the Borrower to remain in compliance with Section 7.11. and to avoid the imposition of income or excise taxes imposed under Sections 857(b)(1), 857(b)(3) and 4981 of the Internal Revenue Code, and Subsidiaries may pay Restricted Payments to the Borrower or any other Subsidiary. If an Event of Default specified in Section 10.1(a), Section 10.1(e) or Section 10.1(f) shall exist, or if as a result of the occurrence of any other Event of Default any of the Obligations have been accelerated pursuant to Section 10.2(a), the Borrower shall not, and shall not permit any Subsidiary to, make any Restricted Payments to any Person except that Subsidiaries may pay Restricted Payments to the Borrower or any other Subsidiary.

(g) Minimum Liquidity. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Borrower shall at all times maintain Liquidity of not less than \$125,000,000.

(h) Minimum Collateral Property Availability. Following the satisfaction of the Initial Mortgage Collateral Requirement, the Borrower shall not permit the Collateral Property Availability to be less than \$600,000,000 at any time.

During the Temporary Waiver Period (including, for the avoidance of doubt, financial covenant compliance for which the Temporary Waiver Period Termination Date is the applicable determination

date), the Borrower shall deliver to the Administrative Agent duly completed Compliance Certificates as and when required under Section 8.3 certifying as to (i) the Borrower's calculations of each of the financial covenants set forth in Sections 9.1(a) through (h) above, (ii) compliance with the financial covenants set forth in Sections 9.1(e), (g) and (h), but excluding, for the avoidance of doubt, Sections 9.1(a) through (c) (compliance with which shall not be required during the Temporary Waiver Period), and (iii) the other matters contained in the Compliance Certificate.

Immediately following the Temporary Waiver Period Termination Date, all financial covenants set forth in Section 9.1(a) through (h) shall be in full force and effect and the Borrower shall be required to be in compliance therewith; provided, that the applicable testing period for the covenants set forth in Sections 9.1(a) through (c) (including the related defined terms) shall be modified as follows: (i) if the Revolving Termination Date is extended for the first time pursuant to Section 2.13, (A) for the fiscal quarter ending September 30, 2022, based upon the fiscal quarter of the Borrower most recently ending, annualized, and (B) for the fiscal quarter ending December 31, 2022, based upon the fiscal quarter of the Borrower most recently ending and the immediately preceding fiscal quarter, annualized, and (ii) if the Revolving Termination Date is extended for a second time pursuant to Section 2.13, (A) for the fiscal quarter ending March 31, 2023, based upon the fiscal quarter of the Borrower most recently ending and the two immediately preceding fiscal quarters, annualized, and (B) for the fiscal quarter ending June 30, 2023 and each fiscal quarter thereafter, based upon the fiscal quarter of the Borrower most recently ending and the three immediately preceding fiscal quarters.

Section 9.2. Negative Pledge.

(a) The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary to, (i) create, assume, incur, permit or suffer to exist any Lien on any Collateral Property or any direct or indirect ownership interest of the Borrower in any Person owning any Collateral Property, now owned or hereafter acquired, except for Permitted Liens described in clauses (c), (g) and (i) of the definition of that term, (ii) create, assume, incur, permit or suffer to exist any Lien on other Collateral, or any direct or indirect ownership interest of the Borrower in any Person owning any other Collateral, except for Permitted Liens described in clauses (c), (g) and (i) of the definition of that term, or (iii) create, assume, or incur any Lien (other than Permitted Liens) upon any of its other properties, assets, income or profits of any character whether now owned or hereafter acquired if immediately prior to the creation, assumption or incurring of such Lien, or immediately thereafter, a Default or Event of Default is or would be in existence, including without limitation, a Default or Event of Default resulting from a violation of any of the covenants contained in Section 9.1.

(b) The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary (other than an Excluded Subsidiary) to, enter into, assume or otherwise be bound by any Negative Pledge except for a Negative Pledge contained in (i) an agreement (x) evidencing Indebtedness which (A) the Borrower, such Loan Party or such Subsidiary may create, incur, assume, or permit or suffer to exist without violation of this Agreement and (B) is secured by a Lien permitted to exist under the Loan Documents, and (y) which prohibits the creation of any other Lien on only the property securing such Indebtedness as of the date such agreement was entered into; (ii) the organizational documents or other agreements binding on any Subsidiary that is not a Wholly Owned Subsidiary (but only to the extent such Negative Pledge covers any Equity Interest in such Subsidiary or the property or assets of such Subsidiary); (iii) an agreement relating to the sale of a Subsidiary or assets pending such sale, provided that in any such case the Negative Pledge applies only to the Subsidiary or the assets that are the subject of such sale or (iv) a Negative Pledge contained in any agreement that evidences unsecured Indebtedness which contains restrictions on encumbering assets that are substantially similar to those restrictions contained in the Loan Documents; *provided* that, notwithstanding the foregoing, the Borrower shall not,

and shall not permit any other Loan Party or any other Subsidiary to, permit any Collateral Property or any direct or indirect ownership interest of the Borrower in any Person owning any Collateral Property to be subject to a Negative Pledge.

Section 9.3. Restrictions on Intercompany Transfers.

The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary (other than an Excluded Subsidiary) to, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary (other than an Excluded Subsidiary) to: (a) pay dividends or make any other distribution on any of such Subsidiary's capital stock or other equity interests owned by the Borrower or any Subsidiary; (b) pay any Indebtedness owed to the Borrower or any Subsidiary; (c) make loans or advances to the Borrower or any Subsidiary; or (d) transfer any of its property or assets to the Borrower or any Subsidiary; other than (i) with respect to clauses (a) through (d) those encumbrances or restrictions contained in (A) any Loan Document, (B) any other agreement evidencing Unsecured Indebtedness that the Borrower, any other Loan Party any other Subsidiary may create, incur, assume or permit or suffer to exist under this Agreement and containing encumbrances and restrictions imposed in connection with such Unsecured Indebtedness that are either substantially similar to, or less restrictive than, the encumbrances and restrictions set forth in Section 9.1. (f) and Section 9.4. of this Agreement and Section 13 of the Guaranty and (C) the organizational documents or other agreements binding on or applicable to any Subsidiary that is not a Wholly Owned Subsidiary (but only to the extent such encumbrance or restriction covers any Equity Interest in such Subsidiary or the property or assets of such Subsidiary), and (ii) with respect to clause (d), (A) customary provisions restricting assignment of any agreement entered into by the Borrower, any other Loan Party or any Subsidiary in the ordinary course of business or (B) transfer restrictions in any agreement relating to the sale of a Subsidiary or assets pending such sale or relating to Indebtedness secured by a Lien on assets that the Borrower or a Subsidiary may create, incur, assume or permit or suffer to exist under Section 9.2.(a); provided that in the case of this clause (B), the restrictions apply only to the Subsidiary or the assets that are the subject of such sale or Lien, as the case may be. Notwithstanding anything to the contrary in the foregoing, the restrictions in this Section shall not apply to any provision of any Guaranty entered into by the Borrower, any Loan Party or any other Subsidiary relating to the Indebtedness of any Subsidiary permitted to be incurred hereunder, which provision subordinates any rights of Borrower, other Loan Party or any other Subsidiary to payment from such Subsidiary to the payment in full of such Indebtedness.

Section 9.4. Merger, Consolidation, Sales of Assets and Other Arrangements.

The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary to, (i) enter into any transaction of merger or consolidation; (ii) liquidate, windup or dissolve itself (or suffer any liquidation or dissolution); or (iii) convey, sell, lease, sublease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any substantial part of its business or assets, or the capital stock of or other Equity Interests in any of its Subsidiaries, whether now owned or hereafter acquired; provided, however, that:

(a) any of the actions described in the immediately preceding clauses (i) through (iii) may be taken with respect to any Subsidiary or any other Loan Party (other than the Borrower or any Loan Party that directly or indirectly owns a Collateral Property), including, for the avoidance of doubt, the sale, transfer or other disposition of the capital stock of or other Equity Interests in any Subsidiary of the Borrower, so long as immediately prior to the taking of such action, and immediately thereafter and after giving effect thereto, (i) no Default or Event of Default is or would be in existence and (ii) at any time

prior to the Equity Pledge Release Date, the Collateral Value Percentage does not exceed fifty percent (50%);

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

(c) a Person (other than any Loan Party that owns a Collateral Property) may merge with and into the Borrower so long as (i) the Borrower is the survivor of such merger, (ii) immediately prior to such merger, and immediately thereafter and after giving effect thereto, no Default or Event of Default is or would be in existence; and (iii) the Borrower shall have given the Administrative Agent and the Lenders at least 10 Business Days' prior written notice of such merger (except that such prior notice shall not be required in the case of the merger of a Subsidiary with and into the Borrower); and

(d) the Borrower and each Subsidiary may sell, transfer or dispose of assets among themselves (other than (i) Pledged Interests and, prior to the Equity Pledge Release Date, the assets identified as Initial Collateral Properties and (ii) Collateral Properties other than pursuant to a Qualified Collateral Property Sale in accordance with Section 7.15); *provided* that, if any such sale, transfer or disposition is to be consummated prior to the Equity Pledge Release Date, then upon giving effect to such sale, transfer or disposition of assets, the Collateral Value Percentage shall not exceed fifty percent (50%) (as recalculated to exclude such assets being sold, transferred or disposed).

Section 9.5. Plans.

The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary to, permit any of its respective assets to become or be deemed to be "plan assets" within the meaning of ERISA, the Internal Revenue Code and the respective regulations promulgated thereunder. The Borrower shall not cause or permit to occur, and shall not permit any other member of the ERISA Group to cause or permit to occur, any ERISA Event if such ERISA Event could reasonably be expected to have a Material Adverse Effect.

Section 9.6. Fiscal Year.

The Borrower shall not, and shall not permit any other Loan Party or other Subsidiary to, change its fiscal year from that in effect as of the Agreement Date.

Section 9.7. Modifications of Organizational Documents and Other Contracts.

(a) The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary to, amend, supplement, restate or otherwise modify its certificate or articles of incorporation or formation, by-laws, operating agreement, declaration of trust, partnership agreement or other applicable organizational document if such amendment, supplement, restatement or other modification (a) could reasonably be expected to be adverse to the interest of the Lenders in any material respect, (b) could reasonably be expected to have a Material Adverse Effect, or (c) could reasonably be expected to adversely affect the validity, perfection or priority of the Administrative Agent's security interest in the Collateral.

(b) The Borrower shall not, and shall not permit any Subsidiary or other Loan Party to, enter into any amendment or modification to any Material Contract which could reasonably be expected to have a Material Adverse Effect.

Section 9.8. Transactions with Affiliates.

The Borrower shall not enter into, and shall not permit any other Loan Party or any other Subsidiary to enter into, any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate after the Agreement Date, except (a) transactions among the Borrower and any Wholly Owned Subsidiary or among Wholly Owned Subsidiaries, (b) (i) transactions in the ordinary course of the Borrower, such other Loan Party or such Subsidiary and (ii) pursuant to the reasonable requirements of the business of the Borrower, such other Loan Party or such other Subsidiary and upon fair and reasonable terms which are no less favorable to the Borrower, such other Loan Party or such other Subsidiary than would be obtained in a comparable arm's length transaction with a Person that is not an Affiliate; provided, however, that the Borrower, a Loan Party or any other Subsidiary may enter into an Operating Agreement with an Affiliate outside of the ordinary course of business of the Borrower, such other Loan Party or such other Subsidiary so long as such Operating Agreement complies with the terms of the immediately preceding clause (b)(ii) or (c) except for any transaction with a Loan Party or any direct or indirect owner thereof, any transaction approved by a majority of the Board of Trustees of the Borrower (including a majority of the independent trustees).

Section 9.9. Environmental Matters.

The Borrower shall not, and shall not permit any other Loan Party, any other Subsidiary or any other Person to, use, generate, discharge, emit, manufacture, handle, process, store, release, transport, remove, dispose of or clean up any Hazardous Materials on, under or from the Properties or any Collateral Property in violation of any Environmental Law or in a manner that could lead to any environmental claim or pose a risk to human health, safety or the environment, in each case, that could reasonably be expected to have a Material Adverse Effect. Nothing in this Section shall impose any obligation or liability whatsoever on the Administrative Agent or any Lender.

Section 9.10. Derivatives Contracts.

The Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary to enter into or become obligated in respect of, Derivatives Contracts, other than Derivatives Contracts entered into by the Borrower, any such Loan Party or any such Subsidiary in the ordinary course of business and which are intended to establish an effective hedge in respect of liabilities, commitments or assets held or reasonably anticipated by the Borrower, such other Loan Party or such other Subsidiary.

Section 9.11. Use of Proceeds.

(a) No part of the proceeds of any of the Loans or any other extension of credit hereunder shall be used for purchasing or carrying margin stock (within the meaning of Regulation T, U or X of the Board of Governors of the Federal Reserve System) or for any purpose which violates the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System. If requested by the Administrative Agent or any Lender (through the Administrative Agent), the Borrower shall promptly furnish to the Administrative Agent and each requesting Lender a statement in conformity with the requirements of Form G-3 or Form U-1, as applicable, under Regulation U of the Board of Governors of the Federal Reserve System.

(b) The Borrower shall not use, and shall ensure that its Subsidiaries and Unconsolidated Affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Loans or any other extension of credit hereunder, directly or indirectly, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of

value, to any Person in violation of any Anti-Corruption Laws or Anti-Money Laundering Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 9.12. Temporary Waiver Period.

Notwithstanding anything to the contrary contained herein, at all times during the Temporary Waiver Period and continuing thereafter until the Post-Temporary Waiver Period Compliance Date, the Borrower shall not, and shall not permit any other Loan Party or any other Subsidiary or Unconsolidated Affiliate to do any of the following without the prior written consent of the Requisite Lenders:

(a) incur any additional Indebtedness (including, without limitation, any increase in the Term Loans or the Revolving Commitments pursuant to Section 2.16), other than (i) borrowings of Revolving Loans in accordance with the terms hereof, (ii) any issuance by the Borrower of unsecured notes pursuant to a Qualified Notes Issuance, provided that (A) the proceeds thereof are applied in accordance with Section 2.8(b)(v)(B) and (B) no Default or Event of Default has occurred and is continuing or would result therefrom, (iii) pursuant to a Stimulus Transaction, and (iv) any other incurrence by (x) the Borrower of unsecured Indebtedness or (y) any Subsidiary or Unconsolidated Affiliate of unsecured Nonrecourse Indebtedness (which Indebtedness may be guaranteed by the Borrower on a nonrecourse basis (subject to customary exceptions for fraud, misapplication of funds, environmental indemnities, voluntary bankruptcy, collusive involuntary bankruptcy and other similar customary exceptions to nonrecourse liability)), in each case, provided that (A) the proceeds thereof are applied in accordance with Section 2.8(b)(v)(B), (B) no Default or Event of Default has occurred and is continuing or would result therefrom, and (C) unless the Borrower is not in compliance with the Temporary Waiver Period Incurrence Conditions, at the time of incurrence or as a result of the application of subclause (A) of this clause (iv), no Revolving Loans remain outstanding, and all Obligations have been repaid in full;

(b) acquire any real property or make any other Investments of any kind, other than: (i) renovations or improvements required to be paid by Borrower or its Subsidiaries (or its Ownership Share thereof to be paid by Unconsolidated Affiliates) pursuant to leases and contracts in effect as of the Third Amendment Effective Date, (ii) completion of in-process renovations involving substantially renovated Sonesta Hotels, (iii) renovation, rebranding, repurposing and leasing costs to be paid by Borrower or its Subsidiaries (or its Ownership Share thereof to be paid by Unconsolidated Affiliates), (iv) maintenance capital expenditures and reimbursements required to be paid by Borrower or its Subsidiaries to TravelCenters of America Inc. (“TA”) consistent with past practices, (v) maintenance capital expenditures and contractual capital expenditures to be paid by Borrower or its Subsidiaries (or its Ownership Share thereof to be paid by Unconsolidated Affiliates) (clauses (i) through (v), collectively, in an aggregate amount not to exceed \$250,000,000 in any calendar year), (vi) (A) if TA conducts an equity offering, the acquisition by the Borrower of such minimum number of additional shares of TA as would permit the Borrower to retain pro rata ownership of 8.2% of TA, and (B) pro rata capital contributions required by Sonesta Holdco Corporation for business activities (the foregoing clauses (A) and (B), collectively, in an aggregate amount not to exceed \$50,000,000 following the Third Amendment Effective Date), and (vii) (A) acquisitions of any properties in the proximity of, and accretive to, existing real property assets of the Borrower and its Subsidiaries and (B) the acquisition of the fee simple interest in any ground lease parcel by exercise of a right of first offer or right of first refusal pursuant to the applicable contract terms (the foregoing clauses (A) and (B), collectively, in an aggregate amount not to exceed \$50,000,000 in any calendar year) (the foregoing clauses (i) through (vii), collectively, the “**Permitted Capital Expenditures**”);

(c) make any Restricted Payments, provided that (i) the Borrower may declare and make cash distributions to its shareholders in an aggregate amount not to exceed the minimum amount necessary for the Borrower to remain in compliance with Section 7.11. and to avoid the imposition of income or excise taxes imposed under Sections 857(b)(1), 857(b)(3) and 4981 of the Internal Revenue Code, (ii) the Borrower shall be permitted to make Restricted Payments of not more than \$0.01 per share in cash to the holders of its capital stock following the end of each fiscal quarter of Borrower, and (iii) any Subsidiary or Unconsolidated Affiliate may make Restricted Payments to the Borrower or any Subsidiary thereof, provided that, no Loan Party shall make any Restricted Payments to any Subsidiary that is not a Loan Party and is obligated in respect of any Indebtedness;

(d) take any action, or refrain from taking any action, that would be prohibited during a Default or Event of Default, including, without limitation, mergers, liquidations, liens, encumbrances, releases, and certain transfers in each case which would otherwise be permitted hereunder, other than (i) the borrowing of Revolving Loans or Swingline Loans otherwise permitted hereunder, (ii) the issuance, extension or amendment of any Letter of Credit otherwise permitted hereunder, (iii) requesting a Conversion or Continuation of LIBOR Loans in accordance with Sections 2.9 and 2.10, as applicable, (iv) dispositions of property or other Investments, in each case, pursuant to an arm's-length third party transactions in the ordinary course of business, (v) Permitted Capital Expenditures, and (vi) the granting of any Liens on assets (other than any Collateral) to the extent securing any Indebtedness permitted under Section 9.12(a)(iv)(y); and

(e) use the proceeds of any Revolving Loans or other Credit Event to directly or indirectly repay any Indebtedness other than the repayment or optional redemption of up to \$50,000,000 of the existing "4.25% Senior Notes due 2021" issued by the Borrower, in the original principal amount of \$400,000,000 with a stated maturity date of February 15, 2021.

ARTICLE X. DEFAULT

Section 10.1. Events of Default.

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

(a) Default in Payment. The Borrower (i) shall fail to pay when due under this Agreement or any other Loan Document (whether upon demand, at maturity, by reason of acceleration or otherwise) the principal of any of the Loans or any Reimbursement Obligation or (ii) shall fail to pay when due any interest on any of the Loans or any of the other payment Obligations owing by the Borrower under this Agreement, any other Loan Document or the Fee Letter or any other Loan Party shall fail to pay when due any payment Obligation owing by such other Loan Party under any Loan Document to which it is a party, and, in the case of a failure described in this clause (ii), such failure shall continue for a period of 5 Business Days.

(b) Default in Performance.

(i) Any Loan Party shall fail to perform or observe any term, covenant, condition or agreement on its part to be performed or observed and contained in Section 8.4.(h) or Article IX.; or

(ii) Any Loan Party shall fail to perform or observe any term, covenant, condition or agreement contained in this Agreement or any other Loan Document to which it is a party and not otherwise mentioned in this Section, and in the case of this subsection (b)(ii) only, such failure shall continue for a period of 30 days after the earlier of (x) the date upon which a Responsible Officer of the Borrower or such other Loan Party obtains knowledge of such failure or (y) the date upon which the Borrower has received written notice of such failure from the Administrative Agent.

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

(d) Indebtedness CrossDefault.

(i) The Borrower, any other Loan Party or any other Subsidiary shall fail to pay when due and payable (after giving effect to any applicable grace or cure period) the principal of, or interest on, any Indebtedness (other than the Loans and Reimbursement Obligations) having an aggregate outstanding principal amount (or, in the case of any Derivatives Contract, having a Derivatives Termination Value) of, in each case individually or in the aggregate with all other Indebtedness as to which such a failure exists, of an aggregate outstanding principal amount greater than or equal to (A) \$25,000,000 in the case of Indebtedness that is not Nonrecourse Indebtedness or (B) \$75,000,000 in the case of Indebtedness that is Nonrecourse Indebtedness ("Material Indebtedness"); or

(ii) (x) The maturity of any Material Indebtedness shall have been accelerated in accordance with the provisions of any indenture, contract or instrument evidencing, providing for the creation of or otherwise concerning such Material Indebtedness or (y) any Material Indebtedness shall have been required to be prepaid or repurchased prior to the stated maturity thereof (other than as a result of customary non default mandatory prepayment requirements associated with asset sales, casualty events or debt or equity issuances); or

(iii) Any other event shall have occurred and be continuing which, with or without the passage of time, the giving of notice, or otherwise, would permit any holder or holders of any Material Indebtedness, any trustee or agent acting on behalf of such holder or holders or any other Person, to accelerate the maturity of any such Material Indebtedness or require any such Material Indebtedness to be prepaid or repurchased prior to its stated maturity (other than as a result of customary non default mandatory prepayment requirements associated with asset sales, casualty events or debt or equity issuances).

(e) Voluntary Bankruptcy Proceeding. The Borrower, any other Loan Party or any other Subsidiary (other than (x) an Excluded Subsidiary all Indebtedness of which is Nonrecourse Indebtedness, (y) a Guarantor (other than any Guarantor that directly or indirectly owns a Collateral Property) that, together with all other Guarantors then subject to a bankruptcy proceeding or other proceeding or condition described in this subsection or the immediately following subsection, does not account for more than \$25,000,000 of Total Asset Value, or (z) a Subsidiary (other than (1) any Subsidiary that directly or indirectly owns a Collateral Property and (2) an Excluded Subsidiary all the Indebtedness of which is Nonrecourse Indebtedness) that, together with all other Subsidiaries then subject to a bankruptcy

proceeding or other proceeding or condition described in this subsection or the immediately following subsection, does not account for more than \$50,000,000 of Total Asset Value) shall: (i) commence a voluntary case under the Bankruptcy Code or other federal bankruptcy laws (as now or hereafter in effect); (ii) file a petition seeking to take advantage of any other Applicable Laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts; (iii) consent to, or fail to contest in a timely and appropriate manner, any petition filed against it in an involuntary case under such bankruptcy laws or other Applicable Laws or consent to any proceeding or action described in the immediately following subsection (f); (iv) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign; (v) admit in writing its inability to pay its debts as they become due; (vi) make a general assignment for the benefit of creditors; (vii) make a conveyance fraudulent as to creditors under any Applicable Law; or (viii) take any corporate or partnership action for the purpose of effecting any of the foregoing.

(f) Involuntary Bankruptcy Proceeding. A case or other proceeding shall be commenced against the Borrower, any other Loan Party or any other Subsidiary (other than (x) an Excluded Subsidiary all Indebtedness of which is Nonrecourse Indebtedness, (y) a Guarantor (other than any Guarantor that directly or indirectly owns a Collateral Property) that, together with all other Guarantors then subject to a bankruptcy proceeding or other proceeding or condition described in this subsection or the immediately preceding subsection, does not account for more than \$25,000,000 of Total Asset Value, or (z) a Subsidiary (other than (1) any Subsidiary that directly or indirectly owns a Collateral Property and (2) an Excluded Subsidiary all the Indebtedness of which is Nonrecourse Indebtedness) that, together with all other Subsidiaries then subject to a bankruptcy proceeding or other proceeding or condition described in this subsection or the immediately preceding subsection, does not account for more than \$50,000,000 of Total Asset Value) in any court of competent jurisdiction seeking: (i) relief under the Bankruptcy Code or other federal bankruptcy laws (as now or hereafter in effect) or under any other Applicable Laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, windingup, or composition or adjustment of debts; or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of such Person, or of all or any substantial part of the assets, domestic or foreign, of such Person, and in the case of either clause (i) or (ii) such case or proceeding shall continue undismissed or unstayed for a period of 60 consecutive calendar days, or an order granting the remedy or other relief requested in such case or proceeding against the Borrower, such Subsidiary or such other Loan Party(including, but not limited to, an order for relief under such Bankruptcy Code or such other federal bankruptcy laws) shall be entered.

(g) Revocation of Loan Documents. Any Loan Party shall (or shall attempt to) disavow, revoke or terminate any Loan Document or the Fee Letter to which it is a party or shall otherwise challenge or contest in any action, suit or proceeding in any court or before any Governmental Authority the validity or enforceability of any Loan Document or the Fee Letter or any Loan Document or the Fee Letter shall cease to be in full force and effect (except as a result of the express terms thereof).

(h) Judgment. A judgment or order for the payment of money or for an injunction or other non-monetary relief shall be entered against the Borrower, any other Loan Party, or any other Subsidiary by any court or other tribunal and (i) such judgment or order shall continue for a period of 30 days without being paid, stayed or dismissed through appropriate appellate proceedings and (ii) either (A) the amount of such judgment or order (x) for which insurance has not been acknowledged in writing by the applicable insurance carrier (or the amount as to which the insurer has denied liability) or (y) is not otherwise subject to indemnification or reimbursement on reasonable terms and conditions by Persons reasonably likely to honor such indemnification or reimbursement obligations, exceeds, individually or together with all other such judgments or orders entered against (1) the Borrower, any Guarantor, or any Subsidiary that directly or indirectly owns a Collateral Property, \$25,000,000, or (2) any other

Subsidiaries, \$50,000,000, or (B) in the case of an injunction or other non-monetary relief, such injunction or judgment or order could reasonably be expected to have a Material Adverse Effect.

(i) Attachment. A warrant, writ of attachment, execution or similar process shall be issued against any property of the Borrower, any other Loan Party or any other Subsidiary, which exceeds, individually or together with all other such warrants, writs, executions and processes, (1) for the Borrower, any Guarantor, or any Subsidiary that directly or indirectly owns a Collateral Property, \$25,000,000, or (2) for any other Subsidiaries, \$50,000,000, and such warrant, writ, execution or process shall not be paid, discharged, vacated, stayed or bonded for a period of 30 days; provided, however, that if a bond has been issued in favor of the claimant or other Person obtaining such warrant, writ, execution or process, the issuer of such bond shall execute a waiver or subordination agreement in form and substance satisfactory to the Administrative Agent pursuant to which the issuer of such bond subordinates its right of reimbursement, contribution or subrogation to the Obligations and waives or subordinates any Lien it may have on the assets of the Borrower or any Subsidiary.

(j) ERISA.

(i) Any ERISA Event shall have occurred that results or could reasonably be expected to result in liability to any member of the ERISA Group aggregating in excess of \$10,000,000; or

(ii) The “benefit obligation” of all Plans exceeds the “fair market value of plan assets” for such Plans by more than \$10,000,000, all as determined, and with such terms defined, in accordance with FASB ASC 715.

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

(l) Change of Control.

(i) Any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)), is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a Person will be deemed to have “beneficial ownership” of all securities that such Person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 25.0% of the total voting power of the then outstanding voting stock of the Borrower; or

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

(iii) RMR shall cease for any reason to act as the sole business manager for the Borrower.

(m) Security Documents. Any provision of any Security Document, at any time after the execution and delivery of such Security Document and for any reason other than as expressly permitted hereunder or under such Security Document, shall for any reason cease to be valid and binding on or enforceable against any Loan Party or any Lien created under any Security Document ceases to be a valid and perfected first priority Lien in any of the Collateral purported to be covered thereby.

Section 10.2. Remedies Upon Event of Default.

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

(a) Acceleration; Termination of Facilities.

(i) Automatic. Upon the occurrence of an Event of Default specified in Sections 10.1.(e) or 10.1.(f), (1)(A) the principal of, and all accrued interest on, the Loans and the Notes at the time outstanding, (B) an amount equal to the Stated Amount of all Letters of Credit outstanding as of the date of the occurrence of such Event of Default for deposit into the Letter of Credit Collateral Account and (C) all of the other Obligations, including, but not limited to, the other amounts owed to the Lenders and the Administrative Agent under this Agreement, the Notes or any of the other Loan Documents shall become immediately and automatically due and payable without presentment, demand, protest, or other notice of any kind, all of which are expressly waived by the Borrower on behalf of itself and the other Loan Parties, and (2) the Commitments and the Swingline Commitment and the obligation of the Issuing Banks to issue Letters of Credit hereunder, shall all immediately and automatically terminate.

(ii) Optional. If any other Event of Default shall exist, the Administrative Agent may, and at the direction of the Requisite Lenders shall: (1) declare (A) the principal of, and accrued interest on, the Loans and the Notes at the time outstanding, (B) an amount equal to the Stated Amount of all Letters of Credit outstanding as of the date of the occurrence of such Event of Default for deposit into the Letter of Credit Collateral Account and (C) all of the other Obligations, including, but not limited to, the other amounts owed to the Lenders and the Administrative Agent under this Agreement, the Notes or any of the other Loan Documents to be forthwith due and payable, whereupon the same shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Borrower on behalf of itself and the other Loan Parties, and (2) terminate the Commitments and the Swingline Commitment and the obligation of the Issuing Banks to issue Letters of Credit hereunder.

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

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

(d) Appointment of Receiver. To the extent permitted by Applicable Law, the Administrative Agent and the Lenders shall be entitled to the appointment of a receiver for the assets and properties of the Borrower and its Subsidiaries, without notice of any kind whatsoever and without regard to the adequacy of any security for the Obligations or the solvency of any party bound for its payment, to

take possession of all or any portion of the Collateral, the property and/or the business operations of the Borrower and its Subsidiaries and to exercise such power as the court shall confer upon such receiver.

(e) **Specified Derivatives Contract Remedies.** Notwithstanding any other provision of this Agreement or other Loan Document, each Specified Derivatives Provider shall have the right, with prompt notice to the Administrative Agent, but without the approval or consent of or other action by the Administrative Agent or the Lenders, and without limitation of other remedies available to such Specified Derivatives Provider under contract or Applicable Law, in each case, in accordance with the terms of the applicable Specified Derivatives Contract, to undertake any of the following: (a) to declare an event of default, termination event or other similar event under any Specified Derivatives Contract and to create an “Early Termination Date” (as defined therein) in respect thereof, (b) to determine net termination amounts in respect of any and all Specified Derivatives Contracts in accordance with the terms thereof, and to set off amounts among such contracts, (c) to set off or proceed against deposit account balances, securities account balances and other property and amounts held by such Specified Derivatives Provider pursuant to any Derivatives Support Document, including any “Posted Collateral” (as defined in any credit support annex included in any such Derivatives Support Document to which such Specified Derivatives Provider may be a party), and (d) to prosecute any legal action against the Borrower, any Loan Party or other Subsidiary to enforce or collect net amounts owing to such Specified Derivatives Provider pursuant to any Specified Derivatives Contract.

Section 10.3. Remedies Upon Default.

Upon the occurrence of a Default specified in Section 10.1.(f), the Commitments, the Swingline Commitment, and the obligation of the Issuing Banks to issue Letters of Credit shall immediately and automatically terminate.

Section 10.4. Marshaling; Payments Set Aside.

None of the Administrative Agent, any Issuing Bank, any Lender or any Specified Derivatives Provider shall be under any obligation to marshal any assets in favor of any Loan Party or any other party or against or in payment of any or all of the Obligations or the Specified Derivatives Obligations. To the extent that any Loan Party makes a payment or payments to the Administrative Agent, any Issuing Bank, any Lender or any Specified Derivatives Provider, or the Administrative Agent, any Issuing Bank, any Lender or any Specified Derivatives Provider enforce their security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such recovery, the Obligations or Specified Derivatives Obligations, or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

Section 10.5. Allocation of Proceeds.

If an Event of Default exists, all payments received by the Administrative Agent (or any Lender as a result of its exercise of remedies pursuant to Section 12.3.) under any of the Loan Documents, in respect of any principal of or interest on the Obligations or any other amounts payable by the Borrower hereunder or thereunder, shall be applied in the following order and priority:

(a) to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts, including attorney fees, payable to the Administrative Agent in its capacity as such, each Issuing Bank in its capacity as such and each Swingline Lender in its capacity as such, ratably among the Administrative Agent, the Issuing Banks and Swingline Lenders in proportion to the respective amounts described in this clause (a) payable to them;

(b) to amounts due to the Administrative Agent and the Lenders in respect of Protective Advances in proportion to the respective amounts described in this clause (b) payable to them;

(c) to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders under the Loan Documents, including attorney fees, ratably among the Lenders in proportion to the respective amounts described in this clause (c) payable to them;

(d) to payment of that portion of the Obligations constituting accrued and unpaid interest on the Swingline Loans;

(e) to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and Reimbursement Obligations, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (e) payable to them;

(f) to payment of that portion of the Obligations constituting unpaid principal of the Swingline Loans;

(g) to payment of that portion of the Obligations constituting unpaid principal of the Loans, Reimbursement Obligations and other Letter of Credit Liabilities, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (g) payable to them; provided, however, to the extent that any amounts available for distribution pursuant to this clause are attributable to the issued but undrawn amount of an outstanding Letter of Credit, such amounts shall be paid to the Administrative Agent for deposit into the Letter of Credit Collateral Account; and

(h) the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Applicable Law.

Notwithstanding the foregoing, in the event any Disclaimed Cash Proceeds are to be applied in accordance with this Section 10.5, no such Disclaimed Cash Proceeds shall be distributed to the applicable Disclaimed Lender, and to the extent such Disclaimed Cash Proceeds are to be paid ratably among the Lenders for purposes of this Section 10.5, the applicable Disclaimed Lender and the amounts owed to it shall be disregarded and excluded for the purposes of determining same.

Section 10.6. Collateral Accounts.

Section 10.6.(a) Letter of Credit Collateral Account.

(a) As collateral security for the prompt payment in full when due of all Letter of Credit Liabilities and the other Obligations, the Borrower hereby pledges and grants to the Administrative Agent, for the ratable benefit of the Administrative Agent, the Issuing Banks and the Lenders as provided herein, a security interest in all of its right, title and interest in and to the Letter of Credit Collateral Account and the balances from time to time in the Letter of Credit Collateral Account (including the investments and reinvestments therein provided for below).

The balances from time to time in the Letter of Credit Collateral Account shall not constitute payment of any Letter of Credit Liabilities until applied by the applicable Issuing Bank as provided herein. Anything in this Agreement to the contrary notwithstanding, funds held in the Letter of Credit Collateral Account shall be subject to withdrawal only as provided in this Section.

(b)ii) Amounts on deposit in the Letter of Credit Collateral Account shall be invested and reinvested by the Administrative Agent in such Cash Equivalents as the Administrative Agent shall determine in its sole discretion. All such investments and reinvestments shall be held in the name of and be under the sole dominion and control of the Administrative Agent for the ratable benefit of the Administrative Agent, the Issuing Banks and the Lenders; provided, that all earnings on such investments will be credited to and retained in the Letter of Credit Collateral Account. The Administrative Agent shall exercise reasonable care in the custody and preservation of any funds held in the Letter of Credit Collateral Account and shall be deemed to have exercised such care if such funds are accorded treatment substantially equivalent to that which the Administrative Agent accords other funds deposited with the Administrative Agent, it being understood that the Administrative Agent shall not have any responsibility for taking any necessary steps to preserve rights against any parties with respect to any funds held in the Letter of Credit Collateral Account.

(c)iii) If a drawing pursuant to any Letter of Credit occurs on or prior to the expiration date of such Letter of Credit, the Borrower and the Lenders authorize the Administrative Agent to use the monies deposited in the Letter of Credit Collateral Account to reimburse the applicable Issuing Bank for the payment made by such Issuing Bank to the beneficiary with respect to such drawing or the payee with respect to such presentment.

(d)iv) If an Event of Default exists, the Administrative Agent may (and, if instructed by the Requisite Lenders, shall) in its (or their) discretion at any time and from time to time elect to liquidate any such investments and reinvestments and apply the proceeds thereof to the Obligations in accordance with Section 10.5. Notwithstanding the foregoing, the Administrative Agent shall not be required to liquidate and release any such amounts if such liquidation or release would result in the amount available in the Letter of Credit Collateral Account being less than the Stated Amount of all Extended Letters of Credit that remain outstanding.

(e)v) So long as no Default or Event of Default exists, and to the extent amounts on deposit in or credited to the Letter of Credit Collateral Account exceed the aggregate amount of the Letter of Credit Liabilities then due and owing, the Administrative Agent shall, from time to time, at the request of the Borrower, deliver to the Borrower within 5 Business Days after the Administrative Agent's receipt of such request from the Borrower, against receipt but without any recourse, warranty or representation whatsoever, such amount of the credit balances in the Letter of Credit Collateral Account as exceeds the aggregate amount of Letter of Credit Liabilities at such time. Upon the expiration, termination or cancellation of an Extended Letter of Credit for which the Lenders reimbursed (or funded participations in) a drawing deemed to have occurred under the fourth sentence of Section 2.3.(b) for deposit into the Letter of Credit Collateral Account but in respect of which the Revolving Lenders have not otherwise received payment for the amount so reimbursed or funded, the Administrative Agent shall promptly remit to the Revolving Lenders the amount so reimbursed or funded for such Extended Letter of Credit that remains in the Letter of Credit Collateral Account, pro rata in accordance with the respective unpaid reimbursements or funded participations of the Revolving Lenders in respect of such Extended Letter of Credit, against receipt but without any recourse, warranty or representation

whatsoever. When all of the Obligations shall have been indefeasibly paid in full and no Letters of Credit remain outstanding, the Administrative Agent shall deliver to the Borrower, against receipt but without any recourse, warranty or representation whatsoever, the balances remaining in the Letter of Credit Collateral Account.

(fvi) The Borrower shall pay to the Administrative Agent from time to time such fees as the Administrative Agent normally charges for similar services in connection with the Administrative Agent's administration of the Letter of Credit Collateral Account and investments and reinvestments of funds therein.

(b) Blocked Account.

(i) As collateral security for the prompt payment in full when due of all Obligations, the Borrower hereby pledges and grants to the Administrative Agent, for the ratable benefit of the Lenders, a security interest in all of its right, title and interest in and to the Blocked Account and the balances from time to time in the Blocked Account. Anything in this Agreement to the contrary notwithstanding, funds held in the Blocked Account shall be subject to withdrawal and disbursement only as provided in this Section.

(ii) The Borrower hereby acknowledges and agrees that: (A) at all times, the Administrative Agent shall be the only Person that has a right to withdraw or disburse funds from the Blocked Account, and (B) the funds on deposit in the Blocked Account shall at all times continue to be collateral security for all of the Obligations and shall not be subject to any Lien (other than Permitted Liens of the types described in clauses (a)(x), (i) and (l)(iii) of the definition thereof).

(iii) So long as (A) all conditions precedent set forth in Section 5.2 (other than Section 5.2(f) and any other condition precedent set forth in Section 5.2 which would not be satisfied solely as a result of any such failure to satisfy the condition precedent set forth in Section 5.2(f)) are satisfied (it being understood and agreed that each withdrawal and disbursement from the Blocked Account will be deemed to be a Credit Event for purposes of determining whether or not such conditions precedent set forth in Section 5.2 are satisfied), and (B) no Default or Event of Default (other than as a result of the Borrower's failure to satisfy the Temporary Waiver Period Incurrence Conditions) has occurred and is continuing or will result from such withdrawal or disbursement, the Borrower may request in writing, pursuant to a written notice in form and substance reasonably satisfactory to the Administrative Agent, signed by a Responsible Officer of the Borrower and delivered to the Administrative Agent (each such written notice, a "**Blocked Account Disbursement Request**"), that the Administrative Agent disburse funds in the Blocked Account to the Borrower to be applied (1) to repay Indebtedness, (2) for working capital purposes of the Borrower and/or its Subsidiaries, or (3) for any other purpose in Administrative Agent's sole and absolute discretion, in each case, in a manner consistent with the then-applicable Approved Budget; provided, that the Borrower shall not deliver more than one (1) Blocked Account Disbursement Request in any fiscal quarter (or such greater number as the Administrative Agent may agree in its sole discretion). Each such Blocked Account Disbursement Request shall (w) specify the amount of such requested disbursement, (x) specify the purpose and use of proceeds of such requested disbursement, (y) certify that such requested disbursement and the requested application thereof are consistent with the then-applicable Approved Budget, and (z) be subject to confirmation by the Administrative Agent, in its reasonable discretion, that the form and substance of such Blocked Account Disbursement Request (including, without limitation, any supporting documentation delivered to or requested

by the Administrative Agent pursuant thereto) are reasonably satisfactory and that the requirements and conditions to disbursement set forth in this Section 10.6(b) have been satisfied. Upon delivery of a Blocked Account Disbursement Request to the Administrative Agent, the Administrative Agent shall, and the Borrower acknowledges and agrees that the Administrative Agent shall be irrevocably authorized to, disburse funds from the Blocked Account to the applicable account designated in the Disbursement Instruction Agreement.

(iv) The Borrower covenants and agrees that it will apply the proceeds of any disbursement from the Blocked Account solely as so specified by the Borrower in the applicable Blocked Account Disbursement Request and will not use such proceeds for any other purpose.

(v) Notwithstanding anything to the contrary contained herein, the Borrower hereby acknowledges and agrees that if any Default or Event of Default (other than as a result of the Borrower's failure to satisfy the Temporary Waiver Period Incurrence Conditions) shall exist, then the Administrative Agent may, in its sole and absolute discretion, apply the funds on deposit in the Blocked Account to repay the Obligations in the order and manner provided in Section 10.5.

(vi) The Borrower shall pay to the Administrative Agent from time to time such reasonable fees as the Administrative Agent normally charges for similar services in connection with the Administrative Agent's administration of the Blocked Account and oversight and management of funds therein as provided hereunder.

Section 10.7. Performance by Administrative Agent.

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

Section 10.8. Rights Cumulative.

(a) The rights and remedies of the Administrative Agent, the Issuing Banks, the Lenders and the Specified Derivatives Providers under this Agreement, each of the other Loan Documents, the Fee Letter and Specified Derivatives Contracts shall be cumulative and not exclusive of any rights or remedies which any of them may otherwise have under Applicable Law. In exercising their respective rights and remedies the Administrative Agent, the Issuing Banks, the Lenders and the Specified Derivatives Providers may be selective and no failure or delay by the Administrative Agent, any Issuing Bank, any of the Lenders or any of the Specified Derivatives Providers in exercising any right shall operate as a waiver of it, nor shall any single or partial exercise of any power or right preclude its other or further exercise or the exercise of any other power or right.

(b) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents

against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article X. for the benefit of all the Lenders and the Issuing Banks; provided that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (ii) any Issuing Bank or any Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank or a Swingline Lender, as the case may be) hereunder or under the other Loan Documents, (iii) any Specified Derivatives Provider from exercising the rights and remedies that inure to its benefit under any Specified Derivatives Contract, (iv) any Lender from exercising setoff rights in accordance with Section 12.3. (subject to the terms of Section 3.3.), or (v) 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 (x) the Requisite Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Article X. and (y) in addition to the matters set forth in clauses (ii), (iv) and (v) of the preceding proviso and subject to Section 3.3., any Lender may, with the consent of the Requisite Lenders, enforce any rights and remedies available to it and as authorized by the Requisite Lenders.

ARTICLE XI. THE ADMINISTRATIVE AGENT

Section 11.1. Appointment and Authorization.

Each Lender hereby irrevocably appoints and authorizes the Administrative Agent to take such action as contractual representative on such Lender's behalf and to exercise such powers under this Agreement and the other Loan Documents as are specifically delegated to the Administrative Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. Not in limitation of the foregoing, each Lender authorizes and directs the Administrative Agent to enter into the Loan Documents for the benefit of the Lenders. Each Lender hereby agrees that, except as otherwise set forth herein, any action taken by the Requisite Lenders in accordance with the provisions of this Agreement or the Loan Documents, and the exercise by the Requisite Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. Nothing herein shall be construed to deem the Administrative Agent a trustee or fiduciary for any Lender or to impose on the Administrative Agent duties or obligations other than those expressly provided for herein. Without limiting the generality of the foregoing, the use of the terms "Agent", "Administrative Agent", "agent" and similar terms in the Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead, use of such terms is merely a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. The Administrative Agent shall deliver to each Lender, promptly upon receipt thereof by the Administrative Agent, copies of each of the financial statements, certificates, notices and other documents delivered to the Administrative Agent pursuant to Article VIII. that the Borrower is not otherwise required to deliver directly to the Lenders. The Administrative Agent will furnish to any Lender, upon the request of such Lender, a copy (or, where appropriate, an original) of any document, instrument, agreement, certificate or notice furnished to the Administrative Agent by the Borrower, any other Loan Party or any other Affiliate of the Borrower, pursuant to this Agreement or any other Loan Document not already delivered or otherwise made available to such Lender pursuant to the terms of this Agreement or any such other Loan Document. As to any matters not expressly provided for by the Loan Documents (including, without limitation, enforcement or collection of any of the Obligations), the Administrative Agent shall not be required to exercise any discretion or take any action,

but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Requisite Lenders (or all of the Lenders if explicitly required under any other provision of this Agreement), and such instructions shall be binding upon all Lenders and all holders of any of the Obligations; provided, however, that, notwithstanding anything in this Agreement to the contrary, the Administrative Agent shall not be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to this Agreement or any other Loan Document or Applicable Law. Not in limitation of the foregoing, the Administrative Agent may exercise any right or remedy it or the Lenders may have under any Loan Document upon the occurrence of a Default or an Event of Default unless the Requisite Lenders have directed the Administrative Agent otherwise. Without limiting the foregoing, no Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of the Requisite Lenders, or where applicable, all the Lenders.

Section 11.2. Administrative Agent as Lender.

The Lender acting as Administrative Agent shall have the same rights and powers under this Agreement and any other Loan Document as any other Lender and may exercise the same as though it were not the Administrative Agent; and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated, include such Lender in each case in its individual capacity. The Lender acting as Administrative Agent and its Affiliates may each accept deposits from, maintain deposits or credit balances for, invest in, lend money to, act as trustee under indentures of, serve as financial advisor to, and generally engage in any kind of business with the Borrower, any other Loan Party or any other Affiliate thereof as if it were any other bank and without any duty to account therefor to the Issuing Banks or the other Lenders. Further, the Administrative Agent and any Affiliate may accept fees and other consideration from the Borrower for services in connection with this Agreement or otherwise without having to account for the same to the Issuing Banks or the other Lenders. The Issuing Banks and the Lenders acknowledge that, pursuant to such activities, Wells Fargo or its Affiliates may receive information regarding the Borrower, other Loan Parties, other Subsidiaries and other Affiliates (including information that may be subject to confidentiality obligations in favor of such Person) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them.

Section 11.3. Approvals of Lenders.

All communications from the Administrative Agent to any Lender requesting such Lender’s determination, consent, approval or disapproval (a) shall be given in the form of a written notice to such Lender, (b) shall be accompanied by a description of the matter or issue as to which such determination, approval, consent or disapproval is requested, or shall advise such Lender where information, if any, regarding such matter or issue may be inspected, or shall otherwise describe the matter or issue to be resolved, and (c) shall include, if reasonably requested by such Lender and to the extent not previously provided to such Lender, written materials provided to the Administrative Agent by the Borrower in respect of the matter or issue to be resolved. Unless a Lender shall give written notice to the Administrative Agent that it specifically objects to the requested determination, consent, approval or disapproval (together with a reasonable written explanation of the reasons behind such objection; provided, that no insufficiency in any such explanation shall effect or otherwise impair such Lender’s objection to the requested determination, consent, approval or disapproval) within fifteen (15) Business Days (or such lesser or greater period as may be specifically required under the express terms of the Loan Documents) of receipt of such communication, such Lender shall be deemed to have conclusively provided such requested determination, consent, approval or disapproval; *provided, however*, that this

sentence shall not apply to amendments, waivers or consents that require the written consent of each Lender directly and adversely affected thereby pursuant to Section 12.6.(b).

Section 11.4. Notice of Events of Default.

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or Event of Default unless the Administrative Agent has received notice from a Lender or the Borrower referring to this Agreement, describing with reasonable specificity such Default or Event of Default and stating that such notice is a “notice of default.” If any Lender (excluding the Lender which is also serving as the Administrative Agent) becomes aware of any Default or Event of Default, it shall promptly send to the Administrative Agent such a “notice of default”; provided, a Lender’s failure to provide such a “notice of default” to the Administrative Agent shall not result in any liability of such Lender to any other party under any of the Loan Documents. Further, if the Administrative Agent receives such a “notice of default,” the Administrative Agent shall give prompt notice thereof to the Lenders.

Section 11.5. Administrative Agent’s Reliance.

Notwithstanding any other provisions of this Agreement or any other Loan Documents, neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by it under or in connection with this Agreement or any other Loan Document, except for its or their own gross negligence or willful misconduct in connection with its duties expressly set forth herein or therein as determined by a court of competent jurisdiction in a final non-appealable judgment. Without limiting the generality of the foregoing, the Administrative Agent may consult with legal counsel (including its own counsel or counsel for the Borrower or any other Loan Party), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts. Neither the Administrative Agent nor any of its Related Parties: (a) makes any warranty or representation to any Lender, any Issuing Bank or any other Person, or shall be responsible to any Lender, any Issuing Bank or any other Person for any statement, warranty or representation made or deemed made by the Borrower, any other Loan Party or any other Person in or in connection with this Agreement or any other Loan Document; (b) shall have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or any other Loan Document or the satisfaction of any conditions precedent under this Agreement or any Loan Document on the part of the Borrower or other Persons, or to inspect the property, books or records of the Borrower or any other Person; (c) shall be responsible to any Lender or any Issuing Bank for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document, any other instrument or document furnished pursuant thereto or any collateral covered thereby or the perfection or priority of any Lien in favor of the Administrative Agent on behalf of the Lenders, the Issuing Banks and the Specified Derivatives Providers in any such collateral; (d) shall have any liability in respect of any recitals, statements, certifications, representations or warranties contained in any of the Loan Documents or any other document, instrument, agreement, certificate or statement delivered in connection therewith; and (e) shall incur any liability under or in respect of this Agreement or any other Loan Document by acting upon any notice, consent, certificate or other instrument or writing (which may be by telephone, telecopy or electronic mail) believed by it to be genuine and signed, sent or given by the proper party or parties. The Administrative Agent may execute any of its duties under the Loan Documents by or through agents, employees or attorneys-in-fact and shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct in the selection of such agent or attorney-in-fact as determined by a court of competent jurisdiction in a final non-appealable judgment.

Section 11.6. Indemnification of Administrative Agent.

Each Lender agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) pro rata in accordance with such Lender's respective Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, reasonable out-of-pocket costs and expenses of any kind or nature whatsoever which may at any time be imposed on, incurred by, or asserted against the Administrative Agent (in its capacity as Administrative Agent but not as a Lender) in any way relating to or arising out of the Loan Documents, any transaction contemplated hereby or thereby or any action taken or omitted by the Administrative Agent under the Loan Documents (collectively, "Indemnifiable Amounts"); provided, however, that no Lender shall be liable for any portion of such Indemnifiable Amounts to the extent resulting from the Administrative Agent's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment; provided, however, that no action taken in accordance with the directions of the Requisite Lenders (or all of the Lenders, if expressly required hereunder) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Administrative Agent (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) promptly upon demand for its ratable share of any outofpocket expenses (including the reasonable fees and expenses of the counsel to the Administrative Agent) incurred by the Administrative Agent in connection with the preparation, negotiation, execution, administration, or enforcement (whether through negotiations, legal proceedings, or otherwise) of, or legal advice with respect to the rights or responsibilities of the parties under, the Loan Documents, any suit or action brought by the Administrative Agent to enforce the terms of the Loan Documents and/or collect any Obligations, any "lender liability" suit or claim brought against the Administrative Agent and/or the Lenders, and any claim or suit brought against the Administrative Agent and/or the Lenders arising under any Environmental Laws. Such outofpocket expenses (including counsel fees) shall be advanced by the Lenders on the request of the Administrative Agent notwithstanding any claim or assertion that the Administrative Agent is not entitled to indemnification hereunder upon receipt of an undertaking by the Administrative Agent that the Administrative Agent will reimburse the Lenders if it is actually and finally determined by a court of competent jurisdiction that the Administrative Agent is not so entitled to indemnification. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder or under the other Loan Documents and the termination of this Agreement. If the Borrower shall reimburse the Administrative Agent for any Indemnifiable Amount following payment by any Lender to the Administrative Agent in respect of such Indemnifiable Amount pursuant to this Section, the Administrative Agent shall share such reimbursement on a ratable basis with each Lender making any such payment.

Section 11.7. Lender Credit Decision, Etc.

Each of the Lenders and the Issuing Banks expressly acknowledges and agrees that neither the Administrative Agent nor any of its Related Parties has made any representations or warranties to such Issuing Bank or such Lender and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Borrower, any other Loan Party or any other Subsidiary or Affiliate, shall be deemed to constitute any such representation or warranty by the Administrative Agent to any Issuing Bank or any Lender. Each of the Lenders and the Issuing Banks acknowledges that it has made its own credit and legal analysis and decision to enter into this Agreement and the transactions contemplated hereby, independently and without reliance upon the Administrative Agent, any other Lender or counsel to the Administrative Agent, or any of their respective Related Parties, and based on the financial statements of the Borrower, the other Loan Parties, the other Subsidiaries and other Affiliates, and

inquiries of such Persons, its independent due diligence of the business and affairs of the Borrower, the other Loan Parties, the other Subsidiaries and other Persons, its review of the Loan Documents, the legal opinions required to be delivered to it hereunder, the advice of its own counsel and such other documents and information as it has deemed appropriate. Each of the Lenders and the Issuing Banks also acknowledges that it will, independently and without reliance upon the Administrative Agent, any other Lender or counsel to the Administrative Agent or any of their respective Related Parties, and based on such review, advice, documents and information as it shall deem appropriate at the time, continue to make its own decisions in taking or not taking action under the Loan Documents. The Administrative Agent shall not be required to keep itself informed as to the performance or observance by the Borrower or any other Loan Party of the Loan Documents or any other document referred to or provided for therein or to inspect the properties or books of, or make any other investigation of, the Borrower, any other Loan Party or any other Subsidiary. Except for notices, reports and other documents and information expressly required to be furnished to the Lenders and the Issuing Banks by the Administrative Agent under this Agreement or any of the other Loan Documents or furnished to the Administrative Agent for distribution to the Lenders and/or the Issuing Banks, the Administrative Agent shall have no duty or responsibility to provide any Lender or any Issuing Bank with any credit or other information concerning the business, operations, property, financial and other condition or creditworthiness of the Borrower, any other Loan Party or any other Affiliate thereof which may come into possession of the Administrative Agent or any of its Related Parties. Each of the Lenders and the Issuing Banks acknowledges that the Administrative Agent's legal counsel in connection with the transactions contemplated by this Agreement is only acting as counsel to the Administrative Agent and is not acting as counsel to any Lender or any Issuing Bank.

Section 11.8. Successor Administrative Agent.

The Administrative Agent may (a) resign at any time as Administrative Agent under the Loan Documents by giving written notice thereof to the Lenders and the Borrower or (b) be removed as Administrative Agent by all of the Lenders (excluding the Lender then acting as Administrative Agent) and the Borrower upon 30 days' prior written notice if the Administrative Agent is found by a court of competent jurisdiction in a final, non-appealable judgment to have committed gross negligence or willful misconduct in the course of performing its duties hereunder. Upon any such resignation or removal, the Requisite Lenders shall have the right to appoint a successor Administrative Agent which appointment shall, provided no Default or Event of Default exists, be subject to the Borrower's approval, which approval shall not be unreasonably withheld or delayed (except that the Borrower shall, in all events, be deemed to have approved each Lender and any of its Affiliates as a successor Administrative Agent). If no successor Administrative Agent shall have been so appointed in accordance with the immediately preceding sentence, and shall have accepted such appointment, within 30 days after the current Administrative Agent's giving of notice of resignation or giving of notice of removal of the Administrative Agent, then the current Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a Lender, if any Lender shall be willing to serve, and otherwise shall be an Eligible Assignee; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no Lender has accepted such appointment, then such resignation or removal shall nonetheless become effective in accordance with such notice and (1) the Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made to each Lender and each Issuing Bank directly, until such time as a successor Administrative Agent has been appointed as provided for above in this Section; provided, further that such Lenders and such Issuing Bank so acting directly shall be and be deemed to be protected by all indemnities and other provisions herein for the benefit and protection of the Administrative Agent as if each such Lender or such Issuing Bank were itself the Administrative Agent. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor

Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the current Administrative Agent, and the current Administrative Agent shall be discharged from its duties and obligations under the Loan Documents. Any resignation by, or removal of, an Administrative Agent shall also constitute the resignation or removal, as applicable, as an Issuing Bank and as a Swingline Lender by the Lender then acting as Administrative Agent (the “Resigning Lender”). Upon the acceptance of a successor’s appointment as Administrative Agent hereunder (i) the Resigning Lender shall be discharged from all duties and obligations of an Issuing Bank and a Swingline Lender hereunder and under the other Loan Documents and (ii) any successor Issuing Bank shall issue letters of credit in substitution for all Letters of Credit issued by the Resigning Lender as an Issuing Bank outstanding at the time of such succession (which letters of credit issued in substitution shall be deemed to be, and the substituted Letters of Credit shall cease to be, Letters of Credit issued hereunder) or make other arrangements satisfactory to the Resigning Lender to effectively assume the obligations of the Resigning Lender with respect to such Letters of Credit. After any Administrative Agent’s resignation hereunder as Administrative Agent, the provisions of this Article XI. shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under the Loan Documents. Notwithstanding anything contained herein to the contrary, the Administrative Agent may assign its rights and duties under the Loan Documents to any of its Affiliates by giving the Borrower and each Lender prior written notice.

Section 11.9. Titled Agents.

Each of the Lead Arrangers, the Syndication Agents and the Documentation Agent (each a “Titled Agent”) in each such respective capacity, assumes no responsibility or obligation hereunder, including, without limitation, for servicing, enforcement or collection of any of the Loans, nor any duties as an agent hereunder for the Lenders. The titles given to the Titled Agents are solely honorific and imply no fiduciary responsibility on the part of the Titled Agents to the Administrative Agent, any Lender, any Issuing Bank, the Borrower or any other Loan Party and the use of such titles does not impose on the Titled Agents any duties or obligations greater than those of any other Lender or entitle the Titled Agents to any rights other than those to which any other Lender is entitled.

Section 11.10. Collateral Matters; Protective Advances.

(a) Each Lender hereby authorizes the Administrative Agent, without the necessity of any notice to or further consent from any Lender, from time to time prior to an Event of Default, to take any action with respect to any Collateral or any Loan Document which may be necessary to perfect and maintain perfected the Liens upon the Collateral granted pursuant to any of the Loan Documents.

(b) The Lenders hereby authorize the Administrative Agent, at its option and in its discretion, to release any Lien granted to or held by the Administrative Agent upon any Collateral (i) upon termination of the Commitments and indefeasible payment and satisfaction in full of all of the Obligations, (ii) as expressly permitted by, but only in accordance with, the terms of the applicable Loan Document, and (iii) if approved, authorized or ratified in writing by the Requisite Lenders (or such greater number of Lenders as this Agreement or any other Loan Document may expressly provide). Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Administrative Agent’s authority to release particular types or items of Collateral pursuant to this Section.

(c) Upon any sale and transfer of Collateral which is expressly permitted pursuant to the terms of this Agreement, and upon at least five (5) Business Days’ prior written request by the Borrower, the Administrative Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Administrative Agent

for its benefit and the benefit of the Lenders hereunder or pursuant hereto upon the Collateral that was sold or transferred; provided, however, that (i) the Administrative Agent shall not be required to execute any such document on terms which, in the Administrative Agent's opinion, would expose the Administrative Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Liens upon (or obligations of the Borrower or any other Loan Party in respect of) all interests retained by the Borrower or any other Loan Party, including, without limitation, the proceeds of such sale or transfer, all of which shall continue to constitute part of the Collateral. In the event of any sale or transfer of Collateral, or any foreclosure with respect to any of the Collateral, the Administrative Agent shall be authorized to deduct all of the expenses reasonably incurred by the Administrative Agent from the proceeds of any such sale, transfer or foreclosure.

(d) The Administrative Agent shall have no obligation whatsoever to any Lender or to any other Person to assure that the Collateral exists or is owned by the Borrower, any other Loan Party or any other Subsidiary or is cared for, protected or insured or that the Liens granted to the Administrative Agent herein or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to the Administrative Agent in this Section or in any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Administrative Agent may act in any manner it may deem appropriate, in its sole discretion, and that the Administrative Agent shall have no duty or liability whatsoever to the Lenders, except to the extent determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from its gross negligence or willful misconduct.

(e) The Administrative Agent may make, and shall be reimbursed by the Lenders (in accordance with their Pro Rata Shares) to the extent not reimbursed by the Borrower for, Protective Advances during any one (1) calendar year with respect to each Pledged Interest or Collateral Property up to the sum of (i) amounts expended to pay taxes, assessments and governmental charges or levies imposed upon such Collateral; (ii) amounts expended to pay insurance premiums for policies of insurance related to such Collateral; and (iii) \$5,000,000. Protective Advances in excess of said sum during any calendar year for any Pledged Interest or Collateral Property shall require the consent of the Requisite Lenders. The Borrower agrees to pay on demand all Protective Advances.

(f) By their acceptance of the benefits of the Security Documents, each Lender that is at any time itself a Specified Derivatives Provider, or having an Affiliate that is a Specified Derivatives Provider, hereby, for itself, and on behalf of any such Affiliate, in its capacity as a Specified Derivatives Provider, acknowledges that obligations arising under any Specified Derivatives Contract are not secured by the Collateral.

(g) Each Lender agrees that it will not take any action, nor institute any actions or proceedings, against the Borrower or any other Loan Party under the Loan Documents with respect to exercising claims against or rights in the Collateral without the written consent of the Requisite Lenders. For purposes of this Section, the term "Lender" includes any Person that is or at any time has been a Lender and the terms and conditions of this provision shall be binding upon such Person at all times and expressly survive any assignment of the Commitment and Loans of such Person in whole or in part.

(h) Notwithstanding anything to the contrary in this Agreement or in any Security Instrument, before any particular Collateral Property is acquired by the Administrative Agent as a result of a foreclosure of the Security Instrument thereon, the acceptance of a deed in lieu thereof or any other

exercise of remedies pursuant thereto, the Administrative Agent shall have obtained an updated “Phase I” environmental assessment of such Collateral Property and any “Phase II” environmental assessment recommended by the environmental engineering firm preparing such assessments for such Collateral Property. Without limiting the provisions of this Section 11.10 above, the requirements of this Section 11.10(h) may only be amended or waived with the consent of all Lenders notwithstanding anything in this Agreement to the contrary.

Section 11.11. Post-Foreclosure Plans.

If all or any portion of the Collateral is acquired by the Administrative Agent as a result of a foreclosure or the acceptance of an assignment in lieu of foreclosure, or is retained in satisfaction of all or any part of the Obligations, the title to any such Collateral, or any portion thereof, shall be held in the name of the Administrative Agent or a nominee or Subsidiary of the Administrative Agent, as “Administrative Agent”, for the ratable benefit of all Lenders. The Administrative Agent shall prepare a recommended course of action for such Collateral (a “**Post-Foreclosure Plan**”), which shall be subject to the approval of the Requisite Lenders. In accordance with the approved Post-Foreclosure Plan, the Administrative Agent shall manage, operate, repair, administer, complete, construct, restore or otherwise deal with the Collateral acquired, and shall administer all transactions relating thereto, including agents for the sale of such Collateral, and the collecting of rents and other sums from such Collateral and paying the expenses of such Collateral. Actions taken by the Administrative Agent with respect to the Collateral, which are not specifically provided for in the approved Post-Foreclosure Plan or reasonably incidental thereto, shall require the written consent of the Requisite Lenders by way of supplement to such Post-Foreclosure Plan. Upon demand therefor from time to time, each Lender will contribute its share (based on its Pro Rata Share) of all reasonable costs and expenses incurred by the Administrative Agent pursuant to the approved Post-Foreclosure Plan in connection with the construction, operation, management, maintenance, leasing and sale of such Collateral. In addition, the Administrative Agent shall render or cause to be rendered to each Lender, on a monthly basis, an income and expense statement for such Collateral, and each Lender shall promptly contribute its Pro Rata Share of any operating loss for such Collateral, and such other expenses and operating reserves as the Administrative Agent shall deem reasonably necessary pursuant to and in accordance with the approved Post-Foreclosure Plan. To the extent there is net operating income from such Collateral, the Administrative Agent shall, in accordance with the approved Post-Foreclosure Plan, determine the amount and timing of distributions to the Lender. All such distributions shall be made to the Lenders in accordance with their respective Pro Rata Shares. The Lenders acknowledge and agree that if title to any Collateral is obtained by the Administrative Agent or its nominee, such Collateral will not be held as a permanent investment but will, consistent with and subject to the requirements of Section 11.10 and this Section 11.11, be liquidated and the proceeds of such liquidation will be distributed in accordance with Section 10.5 as soon as practicable. The Administrative Agent shall undertake to sell such Collateral, at such price and upon such terms and conditions as the Requisite Lenders reasonably shall determine to be most advantageous to the Lenders. Any purchase money Mortgage taken in connection with the disposition of such Collateral in accordance with the immediately preceding sentence shall name the Administrative Agent, as Administrative Agent for the Lenders, as the beneficiary or mortgagee. In such case, the Administrative Agent and the Lenders shall enter into an agreement with respect to such purchase money Mortgage defining the rights of the Lenders in the same Pro Rata Shares as provided hereunder, which agreement shall be in all material respects similar to this Article XI insofar as the same is appropriate or applicable.

Section 11.12. Flood Laws.

Wells Fargo has adopted internal policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and related legislation

(the “**Flood Laws**”). Wells Fargo, as Administrative Agent, will post on the applicable electronic platform (or otherwise distribute to each Lender in the syndicate) documents that it receives in connection with the Flood Laws. However, Wells Fargo reminds each Lender and Participant that, pursuant to the Flood Laws, each federally regulated Lender (whether acting as a Lender or Participant) is responsible for assuring its own compliance with the flood insurance requirements.

Section 11.13. No Set Off.

Each Lender hereby acknowledges that the exercise by any Lender of any offset, set-off, banker’s lien or similar rights against any deposit account or other property or asset of any Loan Party, whether or not located in California, could result under certain laws in significant impairment of the ability of all Lenders to recover any further amounts in respect of the Guaranteed Obligations. Therefore, each Lender agrees not to charge or offset any amount owed to it by any Loan Party against any of the accounts, property or assets of any Loan Party or any of its affiliates held by such Lender without the prior written approval of the Administrative Agent and Requisite Lenders.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Notices.

Unless otherwise provided herein (including without limitation as provided in Section 8.5.), communications provided for hereunder shall be in writing and shall be mailed, telecopied, or delivered as follows:

If to the Borrower:

Service Properties Trust
Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458-1634
Attention: Chief Financial Officer
Telecopy Number: (617) 219-8349
Telephone Number: (617) 796-8350

If to the Administrative Agent:

Wells Fargo Bank, National Association
One Wells Fargo Center
301 South College Street
Charlotte, North Carolina 28202
Attn: Anand J. Jobanputra
Telecopier: (704) 715-1428
Telephone: (704) 383-4013

If to the Administrative Agent under Article II.:

Wells Fargo Bank, National Association
Minneapolis Loan Center
600 South 4th Street, 9th Floor
Minneapolis, Minnesota 55415
Attn: Marsha Rouch
Telecopier: (866) 968-5589
Telephone: (612) 667-1098

If to Wells Fargo Bank, National Association as Issuing Bank or Swingline Lender:

Wells Fargo Bank, National Association
600 South 4th Street, 9th Floor
Minneapolis, MN 55415
Attn: Marsha Rouch
Telecopier: (866) 968-5589
Telephone: (612) 667-1098

With a copy to:

Wells Fargo Bank, National Association
2030 Main Street
Suite 800
Irvine, California 92614
Attn: Rhonda Friedly
Telecopier: (949) 851-9728
Telephone: (949) 251-4383

If to Bank of America, N.A. as Issuing Bank or Swingline Lender:

Bank of America, N.A.
Global Trade Operations
One Fleet Way, 2nd Floor
Mail Code PA6-580-02-30
Scranton, PA 18507
Telecopier: 1.800.755.8743
Telephone: 1.800.370.7519
E-mail Address: scranton_standby_lc@bankofamerica.com
SWIFT Address: BOFAUS3N

If to PNC Bank, National Association as Issuing Bank:

PNC Bank, National Association
Participated Servicing
6750 Miller Rd
Brecksville, OH 44141-3265
Attn: Myra Ollison

If to Royal Bank of Canada as Issuing Bank:

Royal Bank of Canada
30 Hudson Street,
28th floor
Jersey City, NJ 07302-4699
Attn: Credit Administration
Telecopier: 212.428.3015
Telephone: 212.428.6298

If to any other Lender:

To such Lender's address or telecopy number as set forth in the applicable Administrative Questionnaire

or, as to each party at such other address as shall be designated by such party in a written notice to the other parties delivered in compliance with this Section; provided, a Lender or an Issuing Bank shall only be required to give notice of any such other address to the Administrative Agent and the Borrower. All such notices and other communications shall be effective (i) if mailed, upon the first to occur of receipt or the expiration of three (3) days after the deposit in the United States Postal Service mail, postage prepaid and addressed to the address of the Borrower or the Administrative Agent, the Issuing Banks and the Lenders at the addresses specified; (ii) if telecopied, when transmitted; (iii) if hand delivered or sent by overnight courier, when delivered; or (iv) if delivered in accordance with Section 8.5. to the extent applicable; provided, however, that, in the case of the immediately preceding clauses (i), (ii) and (iii), non-receipt of any communication as of the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. Notwithstanding the immediately preceding sentence, all notices or communications to the Administrative Agent, any Issuing Bank or any Lender under Article II. shall be effective only when actually received. None of the Administrative Agent, any Issuing Bank or any Lender shall incur any liability to any Loan Party (nor shall the Administrative Agent incur any liability to the Issuing Banks or the Lenders) for acting upon any telephonic notice referred to in this Agreement which the Administrative Agent, such Issuing Bank or such Lender, as the case may be, believes in good faith to have been given by a Person authorized to deliver such notice or for otherwise acting in good faith hereunder. Failure of a Person designated to get a copy of a notice to receive such copy shall not affect the validity of notice properly given to another Person.

Section 12.2. Expenses.

The Borrower agrees (a) to pay or reimburse the Administrative Agent for all of its reasonable out-of-pocket costs and expenses incurred in connection with the preparation, negotiation and execution of, and any amendment, supplement or modification to, any of the Loan Documents (including due diligence expense and reasonable travel expenses related to closing), and the consummation of the transactions contemplated hereby and thereby, including the reasonable fees and disbursements of counsel to the Administrative Agent and all costs and expenses of the Administrative Agent in connection with the use of IntraLinks, SyndTrak or other similar information transmission systems in connection with the Loan Documents and in connection with the review of Properties for inclusion as Collateral Properties and the Administrative Agent's other activities under Section 7.15 and the fees and disbursements of counsel to the Administrative Agent relating to all such activities, (b) to pay or reimburse the Administrative Agent, the Issuing Banks and the Lenders for all their reasonable costs and expenses incurred in connection with the enforcement or preservation of any rights under the Loan Documents and

the Fee Letter, including the reasonable fees and disbursements of their respective counsel (including the allocated fees and expenses of in-house counsel) and any payments in indemnification or otherwise payable by the Lenders to the Administrative Agent pursuant to the Loan Documents, (c) to pay, and indemnify and hold harmless the Administrative Agent, the Issuing Banks and the Lenders from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any failure to pay or delay in paying, documentary, stamp, excise and other similar taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of any of the Loan Documents, or consummation of any amendment, supplement or modification of, or any waiver or consent under or in respect of, any Loan Document and (d) to the extent not already covered by any of the preceding subsections, to pay or reimburse the fees and disbursements of counsel to the Administrative Agent, any Issuing Bank and any Lender incurred in connection with the representation of the Administrative Agent, such Issuing Bank or such Lender in any matter relating to or arising out of any bankruptcy or other proceeding of the type described in Sections 10.1.(e) or 10.1.(f), including, without limitation (i) any motion for relief from any stay or similar order, (ii) the negotiation, preparation, execution and delivery of any document relating to the Obligations and (iii) the negotiation and preparation of any debtorinpossession financing or any plan of reorganization of the Borrower or any other Loan Party, whether proposed by the Borrower, such Loan Party, the Lenders or any other Person, and whether such fees and expenses are incurred prior to, during or after the commencement of such proceeding or the confirmation or conclusion of any such proceeding. If the Borrower shall fail to pay any amounts required to be paid by it pursuant to this Section, the Administrative Agent and/or the Lenders may pay such amounts on behalf of the Borrower and such amounts shall be deemed to be Obligations owing hereunder.

Section 12.3. Setoff.

Subject to Section 3.3. and in addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, the Borrower hereby authorizes the Administrative Agent, each Issuing Bank, each Lender, each Affiliate of the Administrative Agent, any Issuing Bank or any Lender, and each Participant, at any time or from time to time while an Event of Default exists, without notice to the Borrower or to any other Person, any such notice being hereby expressly waived, but in the case of an Issuing Bank, a Lender, an Affiliate of an Issuing Bank or a Lender, or a Participant, subject to receipt of the prior written consent of the Requisite Lenders exercised in their sole discretion, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured) and any other indebtedness at any time held or owing by the Administrative Agent, such Issuing Bank, such Lender, any Affiliate of the Administrative Agent, such Issuing Bank or such Lender, or such Participant, to or for the credit or the account of the Borrower against and on account of any of the Obligations, irrespective of whether or not any or all of the Loans and all other Obligations have been declared to be, or have otherwise become, due and payable as permitted by Section 10.2., and although such Obligations shall be contingent or unmatured. Notwithstanding anything to the contrary in this Section, if any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 3.9. and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks and the Lenders and (y) such Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff.

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

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

(b) THE BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY ISSUING BANK, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY, AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY ISSUING BANK MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION. EACH PARTY FURTHER WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT SUCH ACTION OR PROCEEDING WAS BROUGHT IN AN INCONVENIENT FORUM AND EACH AGREES NOT TO PLEAD OR CLAIM THE SAME. THE CHOICE OF FORUM SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE BRINGING OF ANY ACTION BY THE ADMINISTRATIVE AGENT, ANY ISSUING BANK OR ANY LENDER OR THE ENFORCEMENT BY THE ADMINISTRATIVE AGENT, ANY ISSUING BANK OR ANY LENDER OF ANY JUDGMENT OBTAINED IN SUCH FORUM IN ANY OTHER APPROPRIATE JURISDICTION.

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

Section 12.5. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of the immediately following subsection (b), (ii) by way of participation in accordance with the provisions of the immediately following subsection (d) or (iii) by way of pledge or assignment of a security interest subject to the restrictions of the immediately following subsection (f) (and, subject to the last sentence of the immediately following subsection (b), any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in the immediately following subsection (d) and, to the extent expressly contemplated hereby, the Related Parties of the Administrative Agent 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 Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the 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 an assigning Revolving Lender's Revolving Commitment and/or the Loans at the time owing to it, or in the case of an assignment of the entire remaining amount of an assigning Term Loan Lender's Term Loans at the time owing to it, or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in the immediately preceding subsection (A), the aggregate amount of the Revolving Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Revolving Commitment is not then in effect, the principal outstanding balance of the Revolving Loans of the assigning Lender subject to each such assignment, and the principal outstanding balance of the Term Loan subject to such assignment (in each case, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, unless each of the Administrative Agent and the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed) (provided that the Borrower's consent shall not be required if a Default or Event

of Default shall exist at the time of such assignment); provided, however, that if, after giving effect to such assignment, the amount of the Revolving Commitment held by such assigning Lender or the outstanding principal balance of the Loans of such assigning Lender, as applicable, would be less than \$5,000,000, then such assigning Lender shall assign the entire amount of its Revolving Commitment or the Loans at the time owing to it, as applicable.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Revolving Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations in respect of its Revolving Commitment and its Term Loan on a non-pro rata basis.

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

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) a Default or Event of Default shall exist at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (a) a Revolving Commitment if such assignment is to a Person that is not already a Revolving Lender with a Commitment, an Affiliate of such a Revolving Lender or an Approved Fund with respect to such a Lender or (y) a Term Loan to a Person who is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of each Swingline Lender and each Issuing Bank (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of a Revolving Commitment.

(iv) Assignment and Assumption; Notes. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$4,500 for each assignment (which fee the Administrative Agent may, in its sole discretion, elect to waive), and the assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. If requested by the transferor Lender or the assignee, upon the consummation of any assignment, the transferor Lender, the Administrative Agent and the Borrower shall make appropriate arrangements so that new Notes are issued to the assignee and such transferor Lender, as appropriate.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries or (B) to any Defaulting Lender or any of its Subsidiaries, or to any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

(vii) 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 such assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank, each Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (y) if such Lender will be a Revolving Lender, acquire (and fund as appropriate) its full pro rata share of all Revolving Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Commitment 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 the Administrative Agent pursuant to the immediately following subsection (c), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.10., 4.1., 4.4., 12.2. and 12.9. and the other provisions of this Agreement and the other Loan Documents as provided in Section 12.10. with respect to facts and circumstances occurring prior to the effective date of such assignment; 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 having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with the immediately following subsection (d).

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Principal Office a copy of each Assignment and Assumption delivered to it 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 owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, any Swingline Lender or any Issuing Bank, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or

Subsidiaries or a Defaulting Lender) (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 Revolving Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver of any provision of any Loan Document that (w) increases such Lender’s Commitment or reduces the principal of any such Lender’s Loans, in each case, in which such Participant has a participation, (x) extends the date fixed for the payment of principal on the Loans or portions thereof owing to such Lender, (y) reduces the rate at which interest is payable thereon or (z) releases any Guarantor from its Obligations under the Guaranty except as contemplated by Section 7.13.(b), in each case, as applicable to that portion of such Lender’s rights and/or obligations that are subject to the participation. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.10., 4.1., 4.4. (subject to the requirements and limitations therein, including the requirements under Section 3.10.(g) (it being understood that the documentation required under Section 3.10.(c) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Section 4.6. as if it were an assignee under subsection (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 4.1. or 3.10., with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Regulatory Change that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower’s request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 4.6. with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.3. as though it were a Lender; provided that such Participant agrees to be subject to Section 3.3. as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement 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) No Registration. Each Lender agrees that, without the prior written consent of the Borrower and the Administrative Agent, it will not make any assignment hereunder in any manner or under any circumstances that would require registration or qualification of, or filings in respect of, any Loan or Note under the Securities Act or any other securities laws of the United States of America or of any other jurisdiction.

(g) USA Patriot Act Notice; Compliance. In order for the Administrative Agent to comply with “know your customer” and anti-money laundering rules and regulations, including without limitation, the Patriot Act, prior to any Lender that is organized under the laws of a jurisdiction outside of the United States of America becoming a party hereto, the Administrative Agent may request, and such Lender shall provide to the Administrative Agent, its name, address, tax identification number and/or such other identification information as shall be necessary for the Administrative Agent to comply with federal law.

Section 12.6. Amendments and Waivers.

(a) Generally. Except as otherwise expressly provided in this Agreement, (i) any consent or approval required or permitted by this Agreement or any other Loan Document to be given by the Lenders may be given, (ii) any term of this Agreement or of any other Loan Document may be amended, (iii) the performance or observance by the Borrower, any other Loan Party or any other Subsidiary of any terms of this Agreement or such other Loan Document may be waived, and (iv) the continuance of any Default or Event of Default may be waived (either generally or in a particular instance and either retroactively or prospectively) with, but only with, the written consent of the Requisite Lenders (or the Administrative Agent at the written direction of the Requisite Lenders), and, in the case of an amendment to any Loan Document, the written consent of each Loan Party which is party thereto. Subject to the immediately following subsection (b), any term of this Agreement or of any other Loan Document relating to the rights or obligations of the Revolving Lenders, and not any other Lenders, may be amended, and the performance or observance by the Borrower or any other Loan Party or any Subsidiary of any such terms may be waived (either generally or in a particular instance and either retroactively or prospectively) with, and only with, the written consent of the Requisite Revolving Lenders (and, in the case of an amendment to any Loan Document, the written consent of each Loan Party a party thereto). Subject to the immediately following subsection (b), any term of this Agreement or of any other Loan Document relating to the rights or obligations of the Term Loan Lenders, and not any other Lenders, may be amended, and the performance or observance by the Borrower or any other Loan Party or any Subsidiary of any such terms may be waived (either generally or in a particular instance and either retroactively or prospectively) with, but only with, the written consent of the Requisite Term Loan Lenders (and, in the case of an amendment to any Loan Document, the written consent of each Loan Party a party thereto). Notwithstanding anything to the contrary contained in this Section, the Fee Letter may only be amended, and the performance or observance by any Loan Party thereunder may only be waived, in a writing executed by the parties thereto.

(b) Consent of Lenders Directly Affected. In addition to the foregoing requirements, no amendment, waiver or consent shall:

(i) increase (or reinstate) a Commitment of a Lender (excluding any increase as a result of an assignment of Commitments permitted under Section 12.5. and any increases

contemplated under Section 2.16.) or subject such Lender to any additional obligations without the written consent of such Lender;

(ii) reduce the principal of, or interest that has accrued or the rates of interest that will be charged on the outstanding principal amount of, any Loans or other Obligations without the written consent of each Lender directly affected thereby; provided, however, only the written consent of the Requisite Lenders shall be required for the waiver of interest payable at the Post-Default Rate, retraction of the imposition of interest at the Post-Default Rate and amendment of the definition of “Post-Default Rate”;

(iii) reduce the amount of any Fees payable to a Lender without the written consent of such Lender;

(iv) modify the definitions of “Revolving Termination Date” (except in accordance with Section 2.13.) or “Revolving Commitment Percentage”, or otherwise postpone any date fixed for, or forgive, any payment of principal of, or interest on, any Revolving Loans or for the payment of any other Obligations owing to the Revolving Lenders, or extend the expiration date of any Letter of Credit beyond the Revolving Termination Date (except as permitted under Section 2.3.(b)) or, with respect to any Letter of Credit having an expiration date beyond the Revolving Termination Date as permitted by Section 2.3.(b), extend the expiration date of such Letter of Credit, in each case, without the written consent of each Revolving Lender;

(v) modify the definitions of “Term Loan Maturity Date” or “Term Loan Percentage”, or otherwise postpone any date fixed for, or forgive, any payment of principal of, or interest on, any Term Loans or for the payment of any other Obligations owing to the Term Loan Lenders, in each case, without the written consent of each Term Loan Lender;

(vi) while any Term Loans remain outstanding, amend, modify or waive (A) Section 5.2. or any other provision of this Agreement if the effect of such amendment, modification or waiver is to require the Revolving Lenders to make Revolving Loans when such Lenders would not otherwise be required to do so, (B) the amount of the Swingline Commitment or (C) the L/C Commitment Amount, in each case, without the written consent of the Requisite Revolving Lenders;

(vii) modify the definition of “Pro Rata Share” or amend or otherwise modify the provisions of Section 3.2. without the written consent of each Lender;

(viii) amend this Section or amend any of the other definitions of the terms used in this Agreement or the other Loan Documents insofar as such definitions affect the substance of this Section without the written consent of each Lender;

(ix) modify the definition of the term “Requisite Revolving Lenders” or modify in any other manner the number or percentage of the Revolving Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof without the written consent of each Revolving Lender;

(x) modify the definition of the term “Requisite Term Loan Lenders” or modify in any other manner the number or percentage of the Term Loan Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof without the written consent of each Term Loan Lender;

(xi) modify the definition of the term “Requisite Lenders” or modify in any other manner the number or percentage of the Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof without the written consent of each Lender;

(xii) release any Guarantor from its obligations under the Guaranty except as contemplated by Section 7.13.(b) without the written consent of each Lender;

(xiii) waive a Default or Event of Default under Section 10.1.(a) without the written consent of each Lender; or

(xiv) amend, or waive the Borrower’s compliance with, Section 2.15. without the written consent of each Lender.

(c) Amendment of Administrative Agent’s Duties, Etc. No amendment, waiver or consent unless in writing and signed by the Administrative Agent, in addition to the Lenders required hereinabove to take such action, shall affect the rights or duties of the Administrative Agent under this Agreement or any of the other Loan Documents. Any amendment, waiver or consent relating to Section 2.4. or the obligations of a Swingline Lender under this Agreement or any other Loan Document shall, in addition to the Lenders required hereinabove to take such action, require the written consent of such Swingline Lender. Any amendment, waiver or consent relating to Section 2.3. or the obligations of an Issuing Bank under this Agreement or any other Loan Document shall, in addition to the Lenders required hereinabove to take such action, require the written consent of such Issuing Bank. The Administrative Agent and the Borrower may, without the consent of any Lender, enter into the amendments or modifications to this Agreement or any of the other Loan Documents or enter into additional Loan Documents as the Administrative Agent reasonably deems appropriate in order to implement any Replacement Rate or otherwise effectuate the terms of Section 4.2(b) in accordance with the terms of Section 4.2(b). Any amendment, waiver or consent with respect to any Loan Document that (i) diminishes the rights of a Specified Derivatives Provider in a manner or to an extent dissimilar to that affecting the Lenders or (ii) increases the liabilities or obligations of a Specified Derivatives Provider shall, in addition to the Lenders required hereinabove to take such action, require the consent of the Lender that is (or having an Affiliate that is) such Specified Derivatives Provider. 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) a Commitment of a Defaulting Lender may not be increased, reinstated or extended without the written consent of such Defaulting 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 more adversely than other affected Lenders shall require the written consent of such Defaulting Lender. No waiver shall extend to or affect any obligation not expressly waived or impair any right consequent thereon and any amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose set forth therein. No course of dealing or delay or omission on the part of the Administrative Agent or any Lender in exercising any right shall operate as a waiver thereof or otherwise be prejudicial thereto. Any Event of Default occurring hereunder shall continue to exist until such time as such Event of Default is waived in writing in accordance with the terms of this Section, notwithstanding any attempted cure or other action by the Borrower, any other Loan Party or any other Person subsequent to the occurrence of such Event of Default. Except as otherwise explicitly provided for herein or in any other Loan Document, no notice to or demand upon the Borrower shall entitle the Borrower to other or further notice or demand in similar or other circumstances.

(d) Technical Amendments. Notwithstanding anything to the contrary in this Section 12.6., if the Administrative Agent and the Borrower have jointly identified an ambiguity, omission, mistake or defect in any provision of this Agreement or an inconsistency between provisions of this Agreement, the Administrative Agent and the Borrower shall be permitted to amend such provision or provisions to cure such ambiguity, omission, mistake, defect or inconsistency so long as to do so would not adversely affect the interests of the Lenders and the Issuing Banks. Any such amendment shall become effective without any further action or consent of any of other party to this Agreement and the Administrative Agent will provide a copy of such amendment to the Lenders.

Section 12.7. Nonliability of Administrative Agent and Lenders.

The relationship between the Borrower, on the one hand, and the Lenders, the Issuing Banks and the Administrative Agent, on the other hand, shall be solely that of borrower and lender. None of the Administrative Agent, any Issuing Bank or any Lender shall have any fiduciary responsibilities to the Borrower and no provision in this Agreement or in any of the other Loan Documents, and no course of dealing between or among any of the parties hereto, shall be deemed to create any fiduciary duty owing by the Administrative Agent, any Issuing Bank or any Lender to any Lender, the Borrower, any Subsidiary or any other Loan Party. None of the Administrative Agent, any Issuing Bank or any Lender undertakes any responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower's business or operations.

Section 12.8. Confidentiality.

Except as otherwise provided by Applicable Law, the Administrative Agent, each Issuing Bank and each Lender shall maintain the confidentiality of all Information (as defined below) in accordance with its customary procedure for handling confidential information of this nature and in accordance with safe and sound banking practices but in any event may make disclosure: (a) to its Affiliates and to its and its Affiliates' other respective 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) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any actual or proposed assignee, Participant or other transferee in connection with a potential transfer of any Commitment or participation therein as permitted hereunder, or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations; (c) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process or in connection with any legal proceedings, or as otherwise required by Applicable Law; (d) to the Administrative Agent's, such Issuing Bank's or such Lender's independent auditors and other professional advisors (provided they shall be notified of the confidential nature of the information); (e) in connection with the exercise of any remedies under any Loan Document (or any Specified Derivatives Contract) or any action or proceeding relating to any Loan Document (or any such Specified Derivatives Contract) or the enforcement of rights hereunder or thereunder; (f) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section actually known by the Administrative Agent, such Issuing Bank or such Lender to be a breach of this Section or (ii) becomes available to the Administrative Agent, any Issuing Bank, any Lender or any Affiliate of the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower or any Affiliate of the Borrower; (g) to the extent requested by, or required to be disclosed to, any nationally recognized rating agency or regulatory or similar authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners) having or purporting to have jurisdiction over it; (h) to bank trade publications, such information to consist of deal terms and other information customarily found in such publications; (i) to any other party hereto; (j) on a confidential basis to the CUSIP Service Bureau or any similar agency in

connection with the issuance and monitoring of CUSIP numbers with respect to the Loan Documents; (k) for purposes of establishing a “due diligence” defense, and (l) with the consent of the Borrower. Notwithstanding the foregoing, the Administrative Agent, each Issuing Bank and each Lender may disclose any such confidential information, without notice to the Borrower or any other Loan Party, to Governmental Authorities in connection with any regulatory examination of the Administrative Agent, such Issuing Bank or such Lender or in accordance with the regulatory compliance policy of the Administrative Agent, such Issuing Bank or such Lender. As used in this Section, the term “Information” means all information received from the Borrower, any other Loan Party, any other Subsidiary or Affiliate relating to any Loan Party or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by the Borrower, any other Loan Party, any other Subsidiary or any Affiliate, provided that, in the case of any such information received from the Borrower, any other Loan Party, any other Subsidiary or any Affiliate 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.

Section 12.9. Indemnification.

(a) The Borrower shall and hereby agrees to indemnify, defend and hold harmless the Administrative Agent, the Issuing Banks, the Lenders, all of the Affiliates of each of the Administrative Agent, any of the Issuing Banks or any of the Lenders, and their respective Related Parties (each referred to herein as an “Indemnified Party”) from and against any and all of the following (collectively, the “Indemnified Costs”): losses, costs, claims, penalties, damages, liabilities, deficiencies, judgments or expenses of every kind and nature (including, without limitation, amounts paid in settlement, court costs and the fees and disbursements of counsel incurred in connection with any litigation, investigation, claim or proceeding or any advice rendered in connection therewith, but excluding Indemnified Costs indemnification in respect of which is specifically covered by Section 3.10. or 4.1. or expressly excluded from the coverage of such Sections) incurred by an Indemnified Party in connection with, arising out of, or by reason of, any suit, cause of action, claim, arbitration, investigation or settlement, consent decree or other proceeding (the foregoing referred to herein as an “Indemnity Proceeding”) which is in any way related directly or indirectly to: (i) this Agreement or any other Loan Document or the transactions contemplated thereby or the Collateral; (ii) the making of any Loans or issuance of Letters of Credit hereunder; (iii) any actual or proposed use by the Borrower of the proceeds of the Loans or Letters of Credit; (iv) the Administrative Agent’s, any Issuing Bank’s or any Lender’s entering into this Agreement; (v) the fact that the Administrative Agent, the Issuing Banks and the Lenders have established the credit facility evidenced hereby in favor of the Borrower; (vi) the fact that the Administrative Agent, the Issuing Banks and the Lenders are creditors of the Borrower and have or are alleged to have information regarding the financial condition, strategic plans or business operations of the Borrower and the Subsidiaries; (vii) the fact that the Administrative Agent, the Issuing Banks and the Lenders are material creditors of the Borrower and are alleged to influence directly or indirectly the business decisions or affairs of the Borrower and the Subsidiaries or their financial condition; (viii) the exercise of any right or remedy the Administrative Agent, the Issuing Banks or the Lenders may have under this Agreement or the other Loan Documents; provided, however, that the Borrower shall not be obligated to indemnify any Indemnified Party for any acts or omissions of such Indemnified Party in connection with matters described in this clause (viii) to the extent arising from the gross negligence or willful misconduct of such Indemnified Party, as determined by a court of competent jurisdiction in a final, non-appealable judgment; (ix) any civil penalty or fine assessed by the OFAC against, and all costs and expenses (including counsel fees and disbursements) incurred in connection with defense thereof by, the

Administrative Agent, any Issuing Bank or any Lender as a result of conduct of the Borrower, any other Loan Party or any other Subsidiary that violates a sanction administered or enforced by the OFAC; or (x) any violation or noncompliance by the Borrower or any Subsidiary of any Applicable Law (including any Environmental Law) including, but not limited to, any Indemnity Proceeding commenced by (A) the Internal Revenue Service or state taxing authority or (B) any Governmental Authority or other Person under any Environmental Law, including any Indemnity Proceeding commenced by a Governmental Authority or other Person seeking remedial or other action to cause the Borrower or its Subsidiaries (or its respective properties) (or the Administrative Agent and/or the Lenders and/or the Issuing Banks as successors to the Borrower) to be in compliance with such Environmental Laws.

(b) The Borrower's indemnification obligations under this Section shall apply to all Indemnity Proceedings arising out of, or related to, the foregoing whether or not an Indemnified Party is a named party in such Indemnity Proceeding. In this connection, this indemnification shall cover all Indemnified Costs of any Indemnified Party in connection with any deposition of any Indemnified Party or compliance with any subpoena (including any subpoena requesting the production of documents). This indemnification shall, among other things, apply to any Indemnity Proceeding commenced by other creditors of the Borrower or any Subsidiary, any shareholder of the Borrower or any Subsidiary (whether such shareholder(s) are prosecuting such Indemnity Proceeding in their individual capacity or derivatively on behalf of the Borrower), any account debtor of the Borrower or any Subsidiary or by any Governmental Authority.

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

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

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

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

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

References in this Section 12.9. to "Lender" or "Lenders" shall be deemed to include such Persons (and their Affiliates) in their capacity as Specified Derivatives Providers.

Section 12.10. Termination; Survival.

This Agreement shall terminate at such time as (a) all of the Commitments have been terminated, (b) all Letters of Credit have terminated or expired or been cancelled (other than Extended Letters of Credit in respect of which the Borrower has satisfied the requirements to provide Cash Collateral as required in Section 2.3.(b)), (c) none of the Lenders is obligated any longer under this Agreement to make any Loans and the Issuing Banks are no longer obligated under this Agreement to issue Letters of Credit and (d) all Obligations (other than obligations which survive as provided in the following sentence) have been paid and satisfied in full; provided, however, if on the Revolving Termination Date, or any other date the Revolving Commitments are terminated or reduced to zero (whether voluntarily, by reason of the occurrence of an Event of Default or otherwise), any Letters of Credit remain outstanding, then the provisions of this Agreement applicable to Letters of Credit, including without limitation, the terms of Section 2.13 and the Borrower's reimbursement obligations under Section 2.3.(d), shall remain in effect until all such Letters of Credit have expired, have been cancelled or have otherwise terminated. The indemnities to which the Administrative Agent, the Issuing Banks and the Lenders are entitled under the provisions of Sections 3.10., 4.1., 4.4., 11.6., 12.2. and 12.9. and any other provision of this Agreement and the other Loan Documents, and the provisions of Sections 12.4. and 12.12., shall continue in full force and effect and shall protect the Administrative Agent, the Issuing Banks and the Lenders (i) notwithstanding any termination of this Agreement, or of the other Loan Documents, against events arising after such termination as well as before and (ii) at all times after any such party ceases to be a party to this Agreement with respect to all matters and events existing on or prior to the date such party ceased to be a party to this Agreement.

Section 12.11. Severability of Provisions.

If any provision of this Agreement or the other Loan Documents shall be determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severed from the Loan Documents, and the validity, legality and enforceability of the remaining provisions shall remain in full force as though the invalid, illegal, or unenforceable provision had never been part of the Loan Documents.

Section 12.12. GOVERNING LAW.

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED, AND TO BE FULLY PERFORMED, IN SUCH STATE.

Section 12.13. Counterparts.

To facilitate execution, this Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts as may be convenient or required (which may be effectively delivered by facsimile, in portable document format ("PDF") or other similar electronic

means). It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto.

Section 12.14. Obligations with Respect to Loan Parties.

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

Section 12.15. Independence of Covenants.

All covenants hereunder shall be given in any jurisdiction independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

Section 12.16. Limitation of Liability.

None of the Administrative Agent, any Issuing Bank or any Lender, or any of their respective Related Parties shall have any liability with respect to, and the Borrower hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Borrower in connection with, arising out of, or in any way related to, this Agreement, any of the other Loan Documents or the Fee Letter, or any of the transactions contemplated by this Agreement or any of the other Loan Documents. The Borrower hereby waives, releases, and agrees not to sue the Administrative Agent, any Issuing Bank or any Lender or any of the Administrative Agent's, any Issuing Bank's or any Lender's Affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement, any of the other Loan Documents, the Fee Letter, or any of the transactions contemplated by this Agreement or financed hereby.

Section 12.17. Entire Agreement.

This Agreement, the Notes, the other Loan Documents and the Fee Letter embody the final, entire agreement among the parties hereto and supersede any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and thereof and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto. To the extent any term of this Agreement is inconsistent with a term of any other Loan Document to which the parties of this Agreement are party, the term of this Agreement shall control to the extent of such inconsistency. There are no oral agreements among the parties hereto.

Section 12.18. Construction.

The Administrative Agent, each Issuing Bank, the Borrower and each Lender acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement and the other Loan Documents with its legal counsel and that this Agreement

and the other Loan Documents shall be construed as if jointly drafted by the Administrative Agent, each Issuing Bank, the Borrower and each Lender.

Section 12.19. Headings.

The paragraph and section headings in this Agreement are provided for convenience of reference only and shall not affect its construction or interpretation.

Section 12.20. LIABILITY OF TRUSTEES, ETC.

THE PARTIES HERETO ACKNOWLEDGE AND AGREE AS FOLLOWS:

THE AMENDED AND RESTATED DECLARATION OF TRUST ESTABLISHING THE BORROWER, DATED AUGUST 21, 1995, AS AMENDED AND SUPPLEMENTED, AS FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION OF MARYLAND, PROVIDES THAT NO TRUSTEE, OFFICER, SHAREHOLDER, EMPLOYEE OR AGENT OF THE BORROWER SHALL BE HELD TO ANY PERSONAL LIABILITY, JOINTLY OR SEVERALLY, FOR ANY OBLIGATION OF, OR CLAIM AGAINST, THE BORROWER. ALL PERSONS DEALING WITH THE BORROWER, IN ANY WAY, SHALL LOOK ONLY TO THE ASSETS OF THE BORROWER FOR THE PAYMENT OF ANY SUM OR THE PERFORMANCE OF ANY OBLIGATION. THE PROVISIONS OF THIS SECTION SHALL NOT LIMIT ANY OBLIGATIONS OF ANY LOAN PARTY OTHER THAN THE BORROWER.

Section 12.21. Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion powers of an the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent 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 the applicable Resolution Authority.

Section 12.22. No Novation.

(a) Existing Credit Agreement. Upon satisfaction of the conditions precedent set forth in Sections 5.1. and 5.2. of this Agreement, this Agreement and the other Loan Documents shall exclusively control and govern the mutual rights and obligations of the parties hereto with respect to the Existing Credit Agreement, and the Existing Credit Agreement shall be superseded in all respects, in each case, on a prospective basis only.

(b) NO NOVATION. THE PARTIES HERETO HAVE ENTERED INTO THIS AGREEMENT SOLELY TO AMEND AND RESTATE THE TERMS OF, AND THE OBLIGATIONS OWING UNDER, THE EXISTING CREDIT AGREEMENT. THE PARTIES DO NOT INTEND THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY TO BE, AND THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT BE CONSTRUED TO BE, A NOVATION OF ANY OF THE OBLIGATIONS OWING BY THE BORROWER UNDER OR IN CONNECTION WITH THE EXISTING CREDIT AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS (AS DEFINED IN THE EXISTING CREDIT AGREEMENT).

Section 12.23. Acknowledgement Regarding Any Supported QFCs.

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for a Derivatives Contract or any other agreement or instrument that is a QFC (such support, “QFC Credit Support” and each such QFC a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 12.24. Stamp, Intangible and Recording Taxes.

The Borrower will pay or cause to be paid any and all stamp, excise, intangible, registration, recordation and similar taxes, fees or charges and shall indemnify the Administrative Agent and each Lender against any and all liabilities with respect to or resulting from any delay in the payment or omission to pay any such taxes, fees or charges, which may be payable or determined to be payable in connection with the execution, delivery, recording, performance or enforcement of this Agreement, the Notes and any of the other Loan Documents, the amendment, supplement, modification or waiver of or consent under this Agreement, the Notes or any of the other Loan Documents or the perfection of any rights or Liens under this Agreement, the Notes or any of the other Loan Documents.

[Signatures on Following Pages]

SCHEDULE I

Commitments

Revolving Lenders	Revolving Commitment Amount
Wells Fargo Bank, National Association	\$86,500,000
BMO Harris Bank, N.A.	\$104,500,000
Bank of America, N.A.	\$86,500,000
PNC Bank, National Association	\$86,500,000
Royal Bank of Canada	\$86,500,000
Citibank, N.A.	\$66,500,000
Mizuho Bank, Ltd.	\$58,000,000
Regions Bank	\$58,000,000
Sumitomo Mitsui Banking Corporation	\$58,000,000
U.S. Bank National Association	\$58,000,000
Bank of East Asia, Limited, New York Branch	\$35,000,000
Truist Bank	\$35,000,000
Barclays Bank PLC	\$35,000,000
Morgan Stanley Bank, N.A.	\$35,000,000
UBS AG, Stamford Branch	\$35,000,000
Bank Hapoalim B.M.	\$19,000,000
First Commercial Bank, Ltd., New York Branch	\$13,750,000
Berkshire Bank	\$11,000,000
First Tennessee Bank N.A.	\$11,250,000
Mega International Commercial Bank Co., Ltd. Los Angeles Branch	\$10,500,000
Mega International Commercial Bank Co., Ltd. New York Branch	\$10,500,000
TOTAL	\$1,000,000,000.00

ANNEX I

COLLATERAL PROPERTY DILIGENCE

1. An executive summary of the Property including the following information relating to such Property: (a) a description of such Property, and (b) the current projected capital plans and, if applicable, current renovation plans for such Property;
2. An operating statement for such Property audited or certified by a representative of the Borrower as being true and correct in all material respects and prepared in accordance with GAAP for the previous three (3) fiscal years; provided that, with respect to any period during which such Property was owned by a Subsidiary of the Borrower for less than three (3) years, such information shall only be required to be delivered to the extent reasonably available to the Borrower and such certification may be based upon the best of the Borrower's knowledge; provided, further, that if such Property has been operating for less than three (3) years, the Borrower shall provide such projections and other information concerning the anticipated operation of such Property as the Administrative Agent may reasonably request;
3. All Security Documents for such Property;
4. Copies of all documents of record reflected in Schedule A and Schedule B of the commitment or preliminary report for the applicable Title Policy and a copy of the most recent real estate tax bill and notice of assessment;
5. A Title Policy for such Property insuring the Lien of the applicable Security Instrument;
6. An opinion of counsel in the jurisdiction in which such Property is located;
7. A survey of such Property certified by a surveyor licensed in the applicable jurisdiction to have been prepared in accordance with the then effective Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys;
8. Receipt of a completed standard flood hazard determination for such Property and if such Property is located in a FEMA-designated special flood hazard area, evidence of the Borrower's receipt of required notices and adequate flood insurance;
9. An Appraisal of such Property addressed to the Administrative Agent or on which the Administrative Agent and the Lenders are expressly permitted to rely pursuant to a reliance letter addressed to the Administrative Agent and the Lenders;
10. A "Phase I" environmental assessment of such Property, which report (a) has been prepared by an environmental engineering firm acceptable to the Administrative Agent and (b) complies with the requirements contained in the Administrative Agent's guidelines adopted from time to time by the Administrative Agent to be used in its lending practice generally and any other environmental assessments or other reports relating to such Property, including, without limitation, any "Phase II" environmental assessment prepared or recommended by such environmental engineering firm to be prepared for such Property;

11. A property condition report for such Property prepared by a firm or firms acceptable to the Administrative Agent;
 12. To the extent requested by the Administrative Agent in its reasonable discretion, seismic reports and such other reports as are usual and customary for secured real estate loans or similar properties in the jurisdiction in which the Property is located, in each case, commissioned by the Administrative Agent in the name of the Administrative Agent, its successors and assigns;
 13. If available, final certificates of occupancy and any other Governmental Approvals relating to such Property;
 14. A property zoning report indicating that such Property complies with applicable zoning and land use laws;
 15. Copies of (a) all Material Contracts relating to the use, occupancy, operation, maintenance, enjoyment or ownership of such Property, if any, (b) all Leases with respect to such Property as requested by the Administrative Agent, and (c) any other franchises, leases or material operating agreements with respect to such Property;
 16. UCC, tax, judgment, litigation, bankruptcy and lien search reports with respect to such Property and the Guarantor owning such Property in all necessary or appropriate jurisdictions indicating that there are no Liens of record on such Property other than Permitted Liens described in clauses (c), (g) and (i) of the definition of that term;
 17. [Reserved];
 18. Copies of any applicable ground leases and estoppels from ground lessors for such Property;
 19. Inspection of such Property by the Administrative Agent and any Lender and their respective engineers and consultants as the Administrative Agent or any such Lender may require;
 20. Execution and delivery of any state specific documents or waivers required and/or customary in connection with the execution of any Security Instrument, including, but not limited to, anti-coercion statements, disclosure of confession of judgments, tax affidavits, recording tax orders or other similar documents;
 21. Copies of all policies of insurance required by Section 7.5, including, without limitation, such evidence of flood insurance coverage (including contents coverage, as applicable) as the Administrative Agent shall require;
 22. Evidence satisfactory to the Administrative Agent that the Borrower has taken all actions required under the Flood Laws and/or requested by the Administrative Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to such Collateral Property; and
 23. Such other documents, instruments, comfort letters, estoppels, subordination, nondisturbance and attornment agreements, consents, and other agreements and information reasonably deemed necessary by the Administrative Agent (including any supplements to the Schedules hereto with respect to such Property reasonably acceptable to the Administrative Agent).
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THIRD AMENDED AND RESTATED PROPERTY MANAGEMENT AGREEMENT

THIS THIRD AMENDED AND RESTATED PROPERTY MANAGEMENT AGREEMENT (this “Agreement”) is made and entered into as of June 22, 2021, by and among The RMR Group LLC, a Maryland limited liability company (“Managing Agent”), and Service Properties Trust, a Maryland real estate investment trust (the “Company”), on behalf of itself and those of its subsidiaries as may from time to time own properties subject to this Agreement (each, an “Owner” and, collectively, “Owners”).

W I T N E S S E T H:

WHEREAS, Owners and Managing Agent are parties to a Second Amended and Restated Property Management Agreement, dated as of June 5, 2015 (as so amended, the “Original Agreement”), pursuant to which Owners have engaged Managing Agent to manage certain of their properties as described therein; and

WHEREAS, Owners and Managing Agent wish to continue the Original Agreement in force and effect with respect to services performed and fees due with respect to such services, on and prior to the date of this Agreement, but wish to amend and restate the Original Agreement as hereinafter provided, effective with respect to services performed and fees due with respect to such services after the date of this Agreement;

NOW, THEREFORE, in consideration of the premises and the agreements herein contained, Owners and Managing Agent hereby agree that the Original Agreement is hereby amended and restated to read in its entirety as follows:

1. **Engagement.**

(a) Subject to the terms and conditions hereinafter set forth, Owners hereby continue to engage Managing Agent to provide the property management and administrative services with respect to the Managed Premises as contemplated by this Agreement. Managing Agent hereby accepts such continued engagement as managing agent and agrees to devote such time, attention and effort as may be appropriate to operate and manage the Managed Premises in a diligent, orderly and efficient manner.

As used in this Agreement, “Managed Premises” shall mean all properties of Owners that Owners shall from time to time designate as subject to this Agreement, including certain of Owners’ office properties and net lease service retail properties.

(b) Managing Agent may subcontract out some or all of its obligations under this Agreement to third parties; provided, however, that, in any such event, Managing Agent shall be and remain primarily liable to Owners for performance hereunder.

(c) Notwithstanding anything to the contrary set forth in this Agreement, the services to be provided by Managing Agent hereunder shall exclude all services (including, without limitation, any garage management or cafeteria management services)

whose performance by a manager to any Owner could give rise to an Owner's receipt of "impermissible tenant service income" as defined in §856(d)(7) of the Internal Revenue Code of 1986 (as amended or superseded hereafter, the "Code") or could in any other way jeopardize an Owner's federal or state tax qualification as a real estate investment trust.

2. **General Parameters.** Any or all services may be performed or goods purchased by Managing Agent under arrangements jointly with or for other properties owned or managed by Managing Agent and the costs shall be reasonably apportioned. Managing Agent may employ personnel who are assigned to work exclusively at the Managed Premises or partly at the Managed Premises and other properties owned and/or managed by Managing Agent. Wages, benefits and other related costs of centralized accounting personnel and employees employed by Managing Agent and assigned to work exclusively or partly at the Managed Premises shall be fairly apportioned and reimbursed, *pro rata*, by Owners in addition to the Fee, Construction Supervision Fee and Major Renovation Fee (each as defined in Section 6).

3. **Duties.** Without limitation, Managing Agent agrees to perform the following specific duties:

(a) To seek tenants for the Managed Premises in accordance with market rents and to negotiate leases, including renewals thereof, and to lease space to tenants, at rentals, and for periods of occupancy all on market terms. To employ appropriate means in order that the availability of rental space is made known to potential tenants, including, but not limited to, the employment of brokers. The brokerage and legal expenses of negotiating such leases and leasing such space shall be paid by the applicable Owner.

(b) To collect all rents and other income from the Managed Premises and to give receipts therefor, both on behalf of Owners, and deposit such funds in such banks and such accounts as are named, from time to time, by Owners, in agency accounts for and under the name of Owners. Managing Agent shall be empowered to sign disbursement checks on these accounts. Managing Agent may also use pooled bank accounts for the benefit of Owners and other owners for whom the Managing Agent provides services, provided separate records and accountings of such funds are maintained.

(c) To make contracts for and to supervise any repairs and/or alterations to the Managed Premises, including tenant improvements on reasonable commercial terms.

(d) For Owners' account and at its expense, to hire, supervise and discharge employees as required for the efficient operation and maintenance of the Managed Premises.

(e) To obtain, at Owners' expense, appropriate insurance for the Managed Premises protecting Owners and Managing Agent while acting on behalf of Owners against all normally insurable risks relating to the Managed Premises and complying with the requirements of Owners' mortgagee, if any, and to cause the same to be provided and

maintained by all tenants with respect to the Managed Premises to the extent required by the terms of such tenants' leases. Notwithstanding the foregoing, Owners may determine to purchase insurance directly for their own account.

(f) To promptly notify the applicable Owner's insurance carriers, as required by the applicable policies, of any casualty or injury to person or property at the Managed Premises, and complete customary reports in connection therewith.

(g) To procure all supplies, other materials and services as may be necessary for the proper operation of the Managed Premises, at Owners' expense.

(h) To pay promptly from rental receipts, other income derived from the Managed Premises, or other monies made available by Owners for such purpose, all costs incurred in the operation of the Managed Premises which are expenses of Owners hereunder, including wages or other payments for services rendered, invoices for supplies or other items furnished in relation to the Managed Premises, and pay over forthwith the balance of such rental receipts, income and monies to Owners or as Owners shall from time to time direct. In the event that the sum of the expenses to operate and the compensation due Managing Agent exceeds gross receipts in any month and no excess funds from prior months are available for payment of such excess, Owners shall pay promptly the amount of the deficiency thereof to Managing Agent upon receipt of statements therefor.

(i) To keep Owners apprised of any material developments in the operation of the Managed Premises.

(j) To establish reasonable rules and regulations for tenants of the Managed Premises.

(k) On behalf of and in the name of Owner, to institute or defend, as the case may be, any and all legal actions or proceedings relating to the operation of the Managed Premises.

(l) To maintain the books and records of Owners reflecting the management and operation of the Managed Premises, making available for reasonable inspection and examination by Owners or their representatives all books, records and other financial data relating to the Managed Premises at the place where the same are maintained.

(m) To prepare and deliver seasonably to tenants of the Managed Premises such statements of expenses or other information as shall be required on the landlord's part to be delivered to such tenants for computation of rent, additional rent, or any other reason.

(n) To aid, assist and cooperate with Owners in matters relating to taxes and assessments and insurance loss adjustments, notify Owners of any tax increase or special

assessments relating to the Managed Premises and to enter into contracts for tax abatements services.

(o) To provide such emergency services as may be required for the efficient management and operation of the Managed Premises on a twenty-four (24)-hour basis.

(p) To enter into contracts on commercially reasonable terms for utilities (including, without limitation, water, fuel, electricity and telephone) and for building services (including, without limitation, cleaning of windows, common areas and tenant space, ash, rubbish and garbage hauling, snow plowing, landscaping, carpet cleaning and vermin extermination), and for other services as are appropriate to the Managed Premises.

(q) To seek market terms for all items purchased or services contracted by it under this Agreement.

(r) To take such action generally consistent with the provisions of this Agreement as Owners might with respect to the Managed Premises if personally present.

(s) To, from time to time, or at any time requested by the Board of Trustees of the Company (the "Trustees"), make reports of its performance of the foregoing services to the Company.

In addition, with respect to certain hotel properties owned by Owners and managed by third party operators, including, but not limited to, Sonesta International Hotels Corporation, if requested by Owners, Manager shall oversee major capital projects and repositionings as requested by Owners from time to time ("Major Hotel Capital Projects").

4. **Authority.** Owners give to Managing Agent the authority and powers to perform the foregoing duties on behalf of Owners and authorize Managing Agent to incur such reasonable expenses, as contemplated in Sections 2, 3 and 5 on behalf of Owners as are necessary in the performance of those duties.

5. **Special Authority of Managing Agent.** In addition to, and not in limitation of, the duties and authority of Managing Agent contained herein, Managing Agent shall perform the following duties:

(a) Terminate tenancies and sign and serve in the name of Owners such notices therefor as may be required for the proper management of the Managed Premises.

(b) At Owners' expense, institute and prosecute actions to evict tenants and recover possession of rental space, and recover rents and other sums due; and when expedient, settle, compromise and release such actions or suits or reinstate such tenancies.

6. **Compensation.**

(a) In consideration of the services to be rendered by Managing Agent hereunder, Owners agree to pay and Managing Agent agrees to accept as its compensation (i) a management fee (the "Fee") equal to three percent (3%) of the gross collected rents actually received by Owners from the Managed Premises, such gross rents to include all fixed rents, percentage rents, additional rents, operating expense and tax escalations, and any other charges paid to Owners in connection with occupancy of the Managed Premises, but excluding any amounts collected from tenants to reimburse Owners for the cost of capital improvements or for expenses incurred in curing any tenant default or in enforcing any remedy against any tenant; (ii) a construction supervision fee (the "Construction Supervision Fee") in connection with all interior and exterior construction renovation or repair activities at the Managed Premises, including, without limitation, all tenant and capital improvements in, on or about the Managed Premises, undertaken during the term of this Agreement, other than ordinary maintenance and repair, equal to five percent (5%) of the cost of such construction which shall include the costs of all related professional services and the cost of general conditions; and (iii) a renovation and repositioning fee (the "Major Renovation Fee") in connection with all Major Hotel Capital Projects equal to three percent (3%) of the cost of such Major Hotel Capital Projects which shall include the costs of all related professional services and the cost of general conditions.

(b) Unless otherwise agreed, the Fee shall be due and payable monthly, in arrears based on a reasonable annual estimate or budget with an annual reconciliation within thirty (30) days after the end of each calendar year. The Construction Supervision Fee and the Major Renovation Fee shall each be due and payable periodically, as agreed by Managing Agent and Owners, based on actual costs incurred to date.

(c) Notwithstanding anything herein to the contrary, Owners shall reimburse Managing Agent for reasonable travel expenses incurred when traveling to and from the Managed Premises while performing its duties in accordance with this Agreement; provided, however, that reasonable travel expenses shall not include expenses incurred for travel to and from the Managed Premises by personnel assigned to work exclusively at the Managed Premises.

(d) Managing Agent shall be entitled to no other additional compensation, whether in the form of commission, bonus or the like for its services under this Agreement. Except as otherwise specifically provided herein with respect to payment by Owners of legal fees, accounting fees, salaries, wages, fees and charges of parties hired by Managing Agent on behalf of Owners to perform operating and maintenance functions in the Managed Premises, and the like, if Managing Agent hires third parties to perform services required to be performed hereunder by Managing Agent without additional charge to Owners, Managing Agent shall (except to the extent the same are reasonably attributable to an emergency at the Managed Premises) be responsible for the charges of such third parties.

7. **Term of Agreement.** This Agreement shall continue in force and effect until December 31, 2041, and, on December 31 of each year after the effective date of this Agreement (each, an “Extension Date”), the term of this Agreement shall be automatically extended an additional year so that the term of this Agreement thereafter ends on the twentieth anniversary of such Extension Date.

Notwithstanding any other provision of this Agreement to the contrary, this Agreement, or any extension thereof, may be terminated prior to the expiration of the term:

(a) by the Company (on behalf of itself and Owners), (i) upon sixty (60) days’ prior written notice to Managing Agent (such termination, a “Termination for Convenience”), (ii) for Cause, immediately upon written notice to Managing Agent (such termination, a “Termination for Cause”), (iii) for a Performance Reason, upon written notice to Managing Agent given within sixty (60) days after the end of the calendar year giving rise to such Performance Reason (such termination, a “Termination for Performance”), or (iv) by written notice at any time during the twelve (12) month period immediately following the date a Managing Agent Change of Control occurred; or

(b) by Managing Agent, for Good Reason, upon sixty (60) days’ prior written notice to the Company (or ninety (90) days if the Company takes steps to cure any relevant default within thirty (30) days of written notice to the Company).

Any notice of termination shall include the reason for such termination.

In the event of a Termination for Convenience by the Company or a termination by Managing Agent pursuant to Section 7(b), the Company shall pay Managing Agent an amount in cash (the “Full Termination Fee”) equal to the sum of the present values of Monthly Future Fees payable for the Remaining Term, determined by assuming that a Monthly Future Fee is payable for each month in the Remaining Term on the thirtieth (30th) day after the end of that month and calculating for each Monthly Future Fee the present value of that fee by applying a discount rate to that fee equal to one-twelfth (1/12) the sum of the applicable Treasury Rate plus 300 basis points, with monthly periods for discounting.

In the event of a Termination for Performance, the Company shall pay Managing Agent an amount in cash (the “Performance Termination Fee”) equal to the sum of the present values of Monthly Future Fees payable for the first one hundred twenty (120) months of the Remaining Term, determined by assuming that a Monthly Future Fee is payable for each of the first one hundred twenty (120) months in the Remaining Term on the thirtieth (30th) day after the end of that month and calculating for each Monthly Future Fee the present value of that fee by applying a discount rate to that fee equal to one-twelfth (1/12) the sum of the applicable Treasury Rate plus 300 basis points, with monthly periods for discounting. It is expressly understood and agreed that a Termination for Performance and payment of the Performance Termination Fee is the Company’s intended remedy for a Performance Reason.

No Full Termination Fee or Performance Termination Fee shall be payable in the event of termination by the Company pursuant to Section 7(a)(ii) (Termination For Cause) or Section 7(a)(iv) (following a Managing Agent Change of Control).

The provisions of this Section 7 shall not apply as a limitation on the amount which may be paid by agreement of the Company and Managing Agent in connection with a transaction pursuant to which any assets or going business values of Managing Agent are acquired by the Company in association with termination of this Agreement and the Full Termination Fee or the Performance Termination Fee, as applicable, is in addition to any amounts otherwise payable to Managing Agent under this Agreement as compensation for services and for expenses of or reimbursement due to Managing Agent through the date of termination.

8. **Termination.** Upon termination of this Agreement with respect to any of the Managed Premises for any reason whatsoever, Managing Agent shall as soon as practicable turn over to Owners all books, papers, funds, records, keys and other items relating to the management and operation of such Managed Premises, including, without limitation, all leases in the possession of Managing Agent and shall render to Owners a final accounting with respect thereto through the date of termination. Owners shall be obligated to pay all compensation for services rendered by Managing Agent hereunder prior and up to the effective time of such termination, including, without limitation, any Fees, Construction Supervision Fees and Major Renovation Fees, as applicable, and shall pay and reimburse to Managing Agent all expenses and costs incurred by Managing Agent prior and up to the effective time of such termination which are otherwise payable or reimbursable to Managing Agent pursuant to the terms of this Agreement (collectively, "Accrued Fees"). The amount of such fees paid as compensation pursuant to the foregoing sentence shall be subject to adjustment in accordance with the annual reconciliation contemplated by Section 6(b) and consistent with past practices in performing such reconciliation.

A computation of all Accrued Fees and of the Termination Fee, if any, due upon termination shall be delivered by Managing Agent to the Company within thirty (30) days following the effective date of termination. The Accrued Fees and, to the extent applicable, the Full Termination Fee or Performance Termination Fee, due upon termination shall be payable within ten (10) business days following the delivery to the Company of such computation.

In addition to other actions on termination of this Agreement, for up to one hundred twenty (120) days following the date of notice of a termination of this Agreement, Managing Agent shall cooperate with the Company and the Owners and use commercially reasonable efforts to facilitate the orderly transfer of (i) management of the Managed Premises and (ii) Major Hotel Capital Projects. In connection therewith Managing Agent shall assign to the Company, to one or more Owners, or to their designee(s), as directed by the Company, and the Company, such Owner(s) or their designee(s) shall assume, all contracts entered into by Managing Agent pursuant to this Agreement, but excluding all insurance contracts, and multi-property contracts not limited in scope to the Managed Premises and all contracts with affiliates of Managing Agent. Managing Agent shall also transfer to the Company all proprietary information with respect to the Company and/or the Owners. Additionally, the Company, one or

more Owners, or their designee(s) shall have the right to offer employment to any employee of Managing Agent whom Managing Agent proposes to terminate in connection with a Covered Termination and Managing Agent shall cooperate with the Company, such Owners, or their designee(s) in connection therewith.

9. **Assignment of Rights and Obligations.**

(a) Without Owners' prior written consent, Managing Agent shall not sell, transfer, assign or otherwise dispose of or mortgage, hypothecate or otherwise encumber or permit or suffer any encumbrance of all or any part of its rights and obligations hereunder, and any transfer, encumbrance or other disposition of an interest herein made or attempted in violation of this paragraph shall be void and ineffective, and shall not be binding upon Owners. Notwithstanding the foregoing, Managing Agent may assign its rights and delegate its obligations under this Agreement to any subsidiary of Parent so long as such subsidiary is then and remains Controlled by Parent.

(b) Owners, without Managing Agent's consent, may not assign their respective rights or delegate their respective obligations hereunder.

(c) Any assignment permitted hereunder shall not release the assignor hereunder.

10. **Indemnification and Insurance.**

(a) Owners agree to defend, indemnify and hold harmless Managing Agent from and against all costs, claims, expenses and liabilities (including reasonable attorneys' fees) arising out of Managing Agent's performance of its duties in accordance with this Agreement including, without limitation, injury or damage to persons or property occurring in, on or about the Managed Premises and violations or alleged violations of any law, ordinance, regulation or order of any governmental authority regarding the Managed Premises except any injury, damage or violation resulting from Managing Agent's fraud, gross negligence or willful misconduct in the performance of its duties hereunder.

(b) Owners and Managing Agent shall maintain such commercially reasonable insurance as shall from time to time be mutually agreed by Owners and Managing Agent.

11. **Notices.** Any notice, report or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given on the date of actual delivery, if delivered personally, or on the date of receipt, if sent by overnight courier (providing proof of delivery) to the parties or if sent by email of a .pdf attachment (providing confirmation of transmission) at the following street addresses or email addresses, as applicable (or at such other United States street address or email address for a party as shall be specified by like notice):

If to the Company or the Owners:

Service Properties Trust
Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458
Attn: President
Email: jmurray@rmrgroup.com
Attn: Secretary
Email: jclark@rmrgroup.com

with copies (which shall not constitute notice) to:

Sullivan & Worcester LLP
One Post Office Square
Boston, MA 02109
Attn: Lindsey A. Getz
Email: lgetz@sullivanlaw.com

If to Managing Agent:

The RMR Group LLC
Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458
Attn: Chief Financial Officer and Treasurer
Email: mjordan@rmrgroup.com

with copies (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square
920 N. King Street
Wilmington, Delaware 19801
Attn: Faiz Ahmad
Email: faiz.ahmad@skadden.com

12. **Limitation of Liability.** The Declarations of Trust establishing certain Owners, a copy of each, together with all amendments thereto (the “**Declarations**”), are duly filed with the State Department of Assessments and Taxation of Maryland, provide that the names of such Owners refers to the trustees under such Declarations collectively as trustees, but not individually or personally. No trustee, officer, shareholder, employee or agent of such Owners shall be held to any personal liability, jointly or severally, for any obligation of, or claim against, such Owners. All persons and entities dealing with such Owners, in any way, shall look only to the respective assets of such Owners for the payment of any sum or the performance of any obligation of such Owners. In any event, all liability of such Owners hereunder is limited to the interest of such Owners in the Managed Premises and, in the case of Managing Agent, to its interest hereunder.

13. **Acquisitions and Dispositions of Properties.** Unless Owners and Managing Agent otherwise agree in writing, all properties from time to time acquired by Owners or their affiliates shall automatically become subject to this Agreement without amendment hereof. Similarly, this Agreement shall automatically terminate with respect to all properties disposed of by Owners in the ordinary course of business, effective upon such disposition.

14. **Modification of Agreement.** This Agreement may not be modified, altered or amended in any manner except by an amendment in writing, duly executed by the parties hereto.

15. **Independent Contractor.** This Agreement is not one of general agency by Managing Agent for Owners, but Managing Agent is being engaged as an independent contractor. Nothing in this Agreement is intended to create a joint venture, partnership, tenancy-in-common or other similar relationship between Owners and Managing Agent for any purposes whatsoever, and, without limiting the generality of the foregoing, neither the terms of this Agreement nor the fact that Owners and Managing Agent have joint interests in any one or more investments, ownership or other interests in any one or more entities or may have common officers or employees or a tenancy relationship shall be construed so as to make them such partners or joint venturers or impose any liability as such on either of them.

16. **Governing Law.** The provisions of this Agreement and any Dispute (as defined below), whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of Maryland without regard to principles of conflicts of law.

17. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, any successors or permitted assigns of the parties hereto as provided herein.

18. **No Third Party Beneficiary.** Except as otherwise provided in Section 21(i), no person or entity other than the parties hereto and their successors and permitted assigns is intended to be a beneficiary of this Agreement.

19. **Severability.** If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits of the remaining provisions hereof.

20. **Survival.** Except for Sections 1 through 5 and Section 13, all other provisions of this Agreement shall survive the termination hereof. Any termination of this Agreement shall be without prejudice to the rights of the parties hereto accrued prior to the termination or upon termination.

21. **Arbitration.**

(a) Any disputes, claims or controversies arising out of or relating to this Agreement, the provision of services by Managing Agent pursuant to this Agreement or the transactions contemplated hereby, including any disputes, claims or controversies brought by or on behalf of Company, any Owner, Parent, Managing Agent or any holder of equity interests (which, for purposes of this Section 21, shall mean any holder of record or any beneficial owner of equity interests or any former holder of record or beneficial owner of equity interests) of Company, any Owner, Parent or Managing Agent, either on his, her or its own behalf, on behalf of Company, any Owner, Parent or

Managing Agent or on behalf of any series or class of equity interests of Company, any Owner, Parent or Managing Agent or holders of any equity interests of Company, any Owner, Parent or Managing Agent against Company, any Owner, Parent or Managing Agent or any of their respective trustees, directors, members, officers, managers (including Managing Agent or its successor), agents or employees, including any disputes, claims or controversies relating to the meaning, interpretation, effect, validity, performance or enforcement of this Agreement, including this arbitration agreement or the governing documents of Company, any Owner, Parent or Managing Agent (all of which are referred to as “Disputes”), or relating in any way to such a Dispute or Disputes shall, on the demand of any party to such Dispute or Disputes, be resolved through binding and final arbitration in accordance with the Commercial Arbitration Rules (the “Rules”) of the American Arbitration Association (“AAA”) then in effect, except as those Rules may be modified in this Section 21. For the avoidance of doubt, Disputes are intended to include derivative actions against the trustees, directors, officers or managers of Company, any Owner, Parent or Managing Agent and class actions by a holder of equity interests against those individuals or entities and Company, any Owner, Parent or Managing Agent. For the avoidance of doubt, and not as a limitation, a Dispute shall include a Dispute made derivatively on behalf of one party against another party. For purposes of this Section 21, the term “equity interest” shall mean, (i) in respect of the Company, shares of beneficial interest of the Company, (ii) in respect of any other Owner, equity interests in that Owner, (iii) in respect of Managing Agent, “membership interest” in Managing Agent as defined in the Maryland Limited Liability Companies Act and (iv) in respect of Parent, shares of capital stock of Parent.

(b) There shall be three (3) arbitrators. If there are only two (2) parties to the Dispute, each party shall select one (1) arbitrator within fifteen (15) days after receipt by respondent of a copy of the demand for arbitration. The arbitrators may be affiliated or interested persons of the parties. If there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, shall each select, by the vote of a majority of the claimants or the respondents, as the case may be, one (1) arbitrator within fifteen (15) days after receipt of the demand for arbitration. The arbitrators may be affiliated or interested persons of the claimants or the respondents, as the case may be. If either a claimant (or all claimants) or a respondent (or all respondents) fail(s) to timely select an arbitrator then the party (or parties) who has selected an arbitrator may request AAA to provide a list of three (3) proposed arbitrators in accordance with the Rules (each of whom shall be neutral, impartial and unaffiliated with any party) and the party (or parties) that failed to timely appoint an arbitrator shall have ten (10) days from the date AAA provides the list to select one (1) of the three (3) arbitrators proposed by AAA. If the party (or parties) fail(s) to select the second (2nd) arbitrator by that time, the party (or parties) who have appointed the first (1st) arbitrator shall then have ten (10) days to select one (1) of the three (3) arbitrators proposed by AAA to be the second (2nd) arbitrator; and, if he/they should fail to select the second (2nd) arbitrator by such time, AAA shall select, within fifteen (15) days thereafter, one (1) of the three (3) arbitrators it had proposed as the second (2nd) arbitrator. The two (2) arbitrators so appointed shall jointly appoint the third (3rd) and presiding arbitrator (who

shall be neutral, impartial and unaffiliated with any party) within fifteen (15) days of the appointment of the second (2nd) arbitrator. If the third (3rd) arbitrator has not been appointed within the time limit specified herein, then AAA shall provide a list of proposed arbitrators in accordance with the Rules, and the arbitrator shall be appointed by AAA in accordance with a listing, striking and ranking procedure, with each party having a limited number of strikes, excluding strikes for cause.

(c) The place of arbitration shall be Boston, Massachusetts unless otherwise agreed by the parties.

(d) There shall be only limited documentary discovery of documents directly related to the issues in dispute, as may be ordered by the arbitrators. For the avoidance of doubt, it is intended that there shall be no depositions and no other discovery other than limited documentary discovery as described in the preceding sentence.

(e) In rendering an award or decision (the "Award"), the arbitrators shall be required to follow the laws of the State of Maryland without regard to principles of conflicts of law. Any arbitration proceedings or award rendered hereunder and the validity, effect and interpretation of this arbitration agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. §1 et seq. The Award shall be in writing and shall state the findings of fact and conclusions of law on which it is based. Any monetary award shall be made and payable in U.S. dollars free of any tax, deduction or offset. Subject to Section 21(g), each party against which the Award assesses a monetary obligation shall pay that obligation on or before the thirtieth (30th) day following the date of the Award or such other date as the Award may provide.

(f) Except to the extent expressly provided by this Agreement or as otherwise agreed by the parties thereto, each party involved in a Dispute shall bear its own costs and expenses (including attorneys' fees), and the arbitrators shall not render an award that would include shifting of any such costs or expenses (including attorneys' fees) or, in a derivative case or class action, award any portion of the Company's, Parent's or Managing Agent's, as applicable, award to the claimant or the claimant's attorneys. Each party (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, respectively) shall bear the costs and expenses of its (or their) selected arbitrator and the parties (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand) shall equally bear the costs and expenses of the third (3rd) appointed arbitrator.

(g) Notwithstanding any language to the contrary in this Agreement, the Award, including but not limited to, any interim Award, may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules ("Appellate Rules"). The Award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) days of receipt of the Award by filing a notice of appeal with any AAA office. Following the appeal process, the decision rendered by the appeal tribunal may be entered in any court having jurisdiction thereof. For the avoidance of doubt, and despite any contrary provision of

the Appellate Rules, Section 21(f) hereof shall apply to any appeal pursuant to this Section and the appeal tribunal shall not render an award that would include shifting of any costs or expenses (including attorneys' fees) of any party.

(h) Following the expiration of the time for filing the notice of appeal, or the conclusion of the appeal process set forth in Section 21(g), the Award shall be final and binding upon the parties thereto and shall be the sole and exclusive remedy between those parties relating to the Dispute, including any claims, counterclaims, issues or accounting presented to the arbitrators. Judgment upon the Award may be entered in any court having jurisdiction. To the fullest extent permitted by law, no application or appeal to any court of competent jurisdiction may be made in connection with any question of law arising in the course of arbitration or with respect to any award made except for actions relating to enforcement of this agreement to arbitrate or any arbitral award issued hereunder and except for actions seeking interim or other provisional relief in aid of arbitration proceedings in any court of competent jurisdiction.

(i) This Section 21 is intended to benefit and be enforceable by the Company, Owners, Managing Agent, Parent and their respective holders of equity interests, trustees, directors, officers, managers (including Managing Agent or its successor), agents or employees, and their respective successors and assigns and shall be binding upon the Company, Owners, Managing Agent, Parent and their respective holders of equity interests, and be in addition to, and not in substitution for, any other rights to indemnification or contribution that such individuals or entities may have by contract or otherwise.

22. **Consent to Jurisdiction and Forum.** The exclusive jurisdiction and venue in any action brought by any party hereto pursuant to this Agreement shall lie in any federal or state court located in Baltimore, Maryland. By execution and delivery of this Agreement, each party hereto irrevocably submits to the jurisdiction of such courts for itself and in respect of its property with respect to such action. The parties irrevocably agree that venue would be proper in such court, and hereby waive any objection that such court is an improper or inconvenient forum for the resolution of such action. The parties further agree and consent to the service of any process required by any such court by delivery of a copy thereof in accordance with Section 11 and that any such delivery shall constitute valid and lawful service of process against it, without necessity for service by any other means provided by statute or rule of court. EACH PARTY HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PROVISION OF SERVICES BY MANAGING AGENT PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. Notwithstanding anything herein to the contrary, if a demand for arbitration of a Dispute is made pursuant to Section 21, this Section 22 shall not pre-empt resolution of the Dispute pursuant to Section 21.

23. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any pre-existing agreements with respect to such subject matter.

24. **Other Agreements.** The Company and Managing Agent are also parties to a Business Management Agreement, dated as of the date hereof, as in effect from time to time (the “Business Management Agreement”). The parties agree that this Agreement does not include or otherwise address the rights and obligations of the parties under the Business Management Agreement and that the Business Management Agreement provides for its own separate rights and obligations of the parties thereto, including without limitation separate compensation payable by the Company to Managing Agent thereunder for services to be provided by the Managing Agent pursuant to the Business Management Agreement.

[Signature Page To Follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amended and Restated Property Management Agreement as a sealed instrument as of the date above first written.

MANAGING AGENT:

THE RMR GROUP LLC

By: /s/ Matthew P. Jordan
Name: Matthew P. Jordan
Title: Executive Vice President, Chief
Financial Officer and Treasurer

OWNERS:

SERVICE PROPERTIES TRUST, on its own behalf and on behalf of its subsidiaries

By: /s/ John G. Murray
Name: John G. Murray
Title: Chief Executive Officer and President

**SOLELY IN RESPECT OF
SECTION 21, PARENT:**

THE RMR GROUP INC.

By: /s/ Matthew P. Jordan
Name: Matthew P. Jordan
Title: Executive Vice President, Chief
Financial Officer and Treasurer

[Signature Page to Third Amended and Restated Property Management Agreement]

Exhibit A

Definitions

The following definitions shall be applied to the terms used in the Agreement for all purposes, unless otherwise clearly indicated to the contrary. All capitalized terms used in this Exhibit A but not defined in this Exhibit A shall have the respective meanings given to those terms in the Agreement. Unless otherwise noted, all section references in this Exhibit A refer to sections in the Agreement.

(1) “Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the first Person.

(2) “Cause” shall mean: (i) Managing Agent engages in any act that constitutes bad faith, fraud, willful misconduct or gross negligence in the performance of its obligations under this Agreement; (ii) a default by Managing Agent in the performance or observance of any material term, condition or covenant contained in this Agreement to be performed by Managing Agent, the consequence of which is a Material Adverse Effect; (iii) Managing Agent is convicted of a felony; (iv) any executive officer or senior manager of Managing Agent is convicted of a felony or other crime, whether or not a felony, involving his or her duties as an employee of Managing Agent and who is not promptly discharged and any actual loss suffered by the Company as a result of such felony or crime is not promptly reimbursed; (v) any involuntary proceeding is commenced against Managing Agent seeking liquidation, reorganization or other relief with respect to Managing Agent or its debts under bankruptcy, insolvency or similar law and such proceeding is not dismissed in one hundred twenty (120) days; or (vi) Managing Agent authorizes the commencement of a voluntary proceeding seeking liquidation, reorganization or other relief with respect to Managing Agent or its debts under bankruptcy, insolvency or similar law or the appointment of a trustee, receiver, liquidator, custodian or similar official of Managing Agent or any substantial part of its property.

(3) “Charitable Organization” shall mean an organization that is described in section 501(c)(3) of the Code (or any corresponding provision of a future United States Internal Revenue law) which is exempt from income taxation under section 501(a) thereof.

(4) “Continuing Parent Directors” shall mean, as of any date of determination, any member of the Board of Directors of Parent, who was (i) a member of the Board of Directors of Parent as of the date of this Agreement or (ii) nominated for election or elected to the Board of Directors of Parent by, or whose election to the Board of Directors of Parent was made or approved by, (x) the affirmative vote of a majority of Continuing Parent Directors who were members of the Board of Directors of Parent at the time of such nomination or election (and not including a director whose initial assumption of office is in connection with an actual or threatened contested solicitation, including, without limitation, a consent or proxy solicitation, relating to the election of directors of Parent or an unsolicited tender offer or exchange offer for Parent’s voting securities) or (y) so long as Parent is Controlled by one or both Founders, by one or both Founders.

(5) “Control” of an entity, shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by contract or otherwise and the participles “Controls” and “Controlled” have parallel meanings.

(6) “Covered Termination” shall mean a Termination for Convenience, a Termination for Performance or a termination by Managing Agent pursuant to Section 7(b).

(7) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

(8) “Founder” shall mean each of Barry M. Portnoy and Adam D. Portnoy.

(9) “Good Reason” shall mean: (i) a default by the Company in the performance or observance of any material term, condition or covenant contained in this Agreement to be performed by the Company, the consequence of which was materially adverse to Managing Agent and which did not result from and was not attributable to any action, or failure to act, of Managing Agent, and such default shall continue for a period of sixty (60) days (or ninety (90) days if the Company takes steps to cure such default within thirty (30) days of written notice to the Company) after written notice thereof by Managing Agent specifying such default and requesting that the same be remedied in such sixty (60) day period; (ii) the Company materially reduces the duties and responsibilities historically performed by Managing Agent or materially reduces the scope of the authority of Managing Agent as historically exercised by Managing Agent under this Agreement, including, without limitation, the Company appoints or engages a Person or personnel to perform material services historically provided by Managing Agent or its personnel; or (iii) the consummation of any direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of the Company (including securities of the Company’s subsidiaries) on a consolidated basis, other than a sale, lease, transfer, conveyance or other disposition to a subsidiary of the Company Controlled by the Company, an RMR Managed Company or another entity to which Managing Agent has agreed to provide management services.

(10) “Immediate Family Member” as used to indicate a relationship with any individual, shall mean (x) any child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, and any other individual (other than a tenant or employee), which individual is sharing the household of that individual or (y) a trust, the beneficiaries of which are the individual and/or any Immediate Family Member of such individual.

(11) “Law” means any law, statute, ordinance, rule, regulation, directive, code or order enacted, issued, promulgated, enforced or entered by any governmental entity.

(12) “Managing Agent Change of Control” shall be deemed to have occurred upon any of the following events:

(i) any “person” or “group” (as such terms are used in Sections 13(d) of the Exchange Act), other than a Permitted Managing Agent Transferee or a Person to whom Managing Agent would be permitted to assign this Agreement pursuant to Section 24 of this Agreement, becomes the “beneficial owner” (as defined in Rule 13d-3 and Rule 13d-5 promulgated under the Exchange Act, except that any person shall be deemed to beneficially own securities such person has a right to acquire whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of fifty percent (50%) or more of the then outstanding voting power of the voting securities of Managing Agent and/or Parent, as applicable;

(ii) the consummation of any direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of Managing Agent (including securities of Managing Agent’s subsidiaries) on a consolidated basis, except the transfer of outstanding voting power of the voting securities of Managing Agent or Parent to a Permitted Managing Agent Transferee or if the transaction constitutes a permissible assignment under Section 9 of this Agreement; or

(iii) at any time, the Continuing Parent Directors cease for any reason to constitute the majority of the Board of Directors of Parent;

provided, however, that if Managing Agent is no longer a subsidiary of Parent as a result of a transaction not constituting a Managing Agent Change of Control, then a Managing Agent Change of Control shall be deemed to have occurred upon any of the foregoing events that affect Managing Agent only (and no Managing Agent Change of Control shall be deemed to have occurred if such event affects Parent).

(13) “Material Adverse Effect” means any fact, circumstance, event, change, effect or occurrence that, individually or in the aggregate with all other facts, circumstances, events, changes, effects and occurrences, has had a material adverse effect on the business, results of operations or financial condition of the Company and its subsidiaries, taken as a whole, but will not include facts, circumstances, events, changes, effects or occurrences to the extent attributable to: (i) any changes in general United States or global economic conditions; (ii) any changes in conditions generally affecting any of the industry(ies) in which the Company and its subsidiaries operate; (iii) any Performance Reason or any decline in the market price, credit rating or trading volume of the Company’s securities (it being understood that the facts or occurrences giving rise to or contributing to such Performance Reason or decline may be taken into account in determining whether there has been a Material Adverse Effect); (iv) regulatory, legislative or political conditions or securities, credit, financial or other capital markets conditions, in each case in the United States or any foreign jurisdiction; (v) any failure by the Company to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics for any period (it being understood that the facts or occurrences giving rise to or contributing to such failure may be taken into account in

determining whether there has been a Material Adverse Effect); (vi) any actions that were not recommended by Managing Agent that are approved by the Independent Trustees, as defined in the Company's Bylaws, as in effect from time to time, or the consequences thereof; (vii) any change in applicable Law or United States generally accepted accounting principles (or authoritative interpretations thereof); (viii) geopolitical conditions, the outbreak or escalation of hostilities, any acts of war, sabotage or terrorism; or (ix) any hurricane, tornado, flood, earthquake or other natural disaster.

(14) "Monthly Future Fee" shall mean (i) the sum of the total Fee, the total Construction Supervision Fee and the total Major Renovation Fee earned by Managing Agent under this Agreement for the twelve (12)-month period immediately preceding the effective date of a Covered Termination, divided by (ii) twelve (12), and rounded upward to the nearest whole number.

If there is a Covered Termination following a merger between the Company and another real estate investment trust to which Managing Agent is providing property management services (an "RMR Managed Company"), the Monthly Future Fee shall be calculated by reference to the sum of (i) the aggregate of the total Fee paid by the Company to Managing Agent and the total similar fee payable by the other RMR Managed Company to Managing Agent for the applicable period, (ii) the aggregate of the total Construction Supervision Fee payable by the Company to Managing Agent and the total construction supervision fee payable by the other RMR Managed Company to Managing Agent for the applicable period and (iii) the aggregate of the total Major Renovation Fee payable by the Company to Managing Agent and the total renovation fee, if applicable, payable by the other RMR Managed Company to Managing Agent for the applicable period.

If there is a Covered Termination following the spin-off of a subsidiary of the Company (by sale in whole or part to the public or distribution to the Company's shareholders) to which the Company contributed properties (the "Contributed Properties") and which was an RMR Managed Company both at the time of the spin-off and on the date of the Covered Termination, in determining the Monthly Future Fee, if any portion of the period with respect to which the Monthly Future Fee is calculated is prior to the spin-off, the monthly installments of the Fee shall be reduced to the extent they are based upon the gross collected rents of the Contributed Properties for such period, the monthly installments of the Construction Supervision Fees shall be reduced to the extent they are based upon the construction renovation or repair activities at the Contributed Properties for such period and the monthly installments of the Major Renovation Fees shall be reduced to the extent they are based upon the major renovation or repositioning activities at the Contributed Properties for such period.

(15) "Parent" shall mean The RMR Group Inc., a Maryland corporation.

(16) "Performance Reason" shall mean, for any period of three (3) consecutive calendar years beginning with the 2016 calendar year: (i) for each calendar year in such period, the TSR of the Company is less than (A) the percentage total shareholder return of the SNL Index (as defined in the Business Management Agreement) for the year, minus (B) five percent (5%) (for illustrative purposes and the avoidance of doubt, if the percentage total shareholder

return of the SNL Index for a year is positive fifteen percent (15%), the TSR for the year must be less than ten percent (10%) in the same year to count as one of the three (3) consecutive years that may be included within a Performance Reason), and (ii) for each calendar year in such period, the TSR of the Company is less than the TSR (determined for each company separately) of sixty-six percent (66%) of the member companies in the SNL Index (for illustrative purposes and the avoidance of doubt, if there are ninety (90) member companies in the SNL Index, the Company's TSR for a year must be less than the TSR of sixty (60) member companies in the SNL Index). For purposes of the calculation of TSR and percentage total shareholder return of the SNL Index in clauses (i) and (ii) of the preceding sentence, each such calendar year shall be treated as a measurement period (a "Measurement Period").

(17) "Permitted Managing Agent Transferee" shall mean: (A) Parent or any of its Controlled subsidiaries; (B) any employee benefit plan of Managing Agent, Parent or any of their respective Controlled subsidiaries; (C) any Founder or any of a Founder's lineal descendants; (D) any Immediate Family Member of a Founder or any of an Immediate Family Member's lineal descendants; (E) any Qualifying Employee, any Immediate Family Member of a Qualifying Employee or any of the Qualifying Employee's or Immediate Family Member's lineal descendants; (F) a Person described in clause (C), (D) or (E) to whom securities are transferred by will or pursuant to the laws of descent and distribution by a Person described in clause (C), (D) or (E) of this definition; (G) any entity Controlled by any Person or Persons described in clause (B), (C), (D), (E) or (F) of this definition; (H) a Charitable Organization Controlled by any Person or Persons described in clause (C), (D), (E) or (F) of this definition; (I) an entity owned, directly or indirectly, by shareholders (or equivalent) of Managing Agent or Parent in substantially the same proportions as their ownership of Managing Agent or Parent, as applicable, immediately prior to the acquisition of beneficial ownership; (J) any Person approved by the Company in writing; or (K) an underwriter temporarily holding securities of Managing Agent or Parent, as applicable, pursuant to an offering of such securities; provided, however, that "lineal descendants" shall not include Persons adopted after attaining the age of eighteen (18) years and any such adopted Person's descendants, and further provided that any subsidiary described in clause (A) or (B), any entity described in clause (G) and Charitable Organization described in clause (H), shall only be a Permitted Managing Agent Transferee so long as it remains Controlled as provided in clause (A), (B), (G) or (H).

(18) "Person" shall mean an individual or any corporation, partnership, limited liability company, trust, unincorporated organization, association, joint venture or any other organization or entity, whether or not a legal entity.

(19) "Qualifying Employee" means any employee of Managing Agent or Parent or any of their respective subsidiaries who is and has been an employee of Managing Agent or Parent or any of their respective subsidiaries for at least thirty-six (36) months.

(20) "Remaining Term" shall mean the remaining period in the term of this Agreement had the Agreement not been terminated (rounded to nearest month), up to a maximum of twenty (20) years.

(21) “Treasury Rate” shall mean, for the calculation of the present value of a Monthly Future Fee, the arithmetic mean of the yields under the heading “Week Ending” published in the most recent Federal Reserve Statistical Release H.15 under the caption “Treasury Constant Maturities” for the maturity corresponding to the date that is the thirtieth (30th) day after the end of the month for which the Monthly Future Fee is assumed to be payable. If no maturity exactly corresponds to such maturity, yields for the two published maturities most closely corresponding to such period shall be calculated pursuant to the immediately preceding sentence and the Treasury Rate shall be interpolated or extrapolated from such yields on a straight-line basis, rounding in each of such relevant periods to the nearest month. For purposes of calculating the applicable Treasury Rates, the most recent Federal Reserve Statistical Release H.15 (or any successor publication which is published weekly by the Federal Reserve System and which establishes yields on actively traded United States government securities adjusted to constant maturities) published prior to the required date of payment of the Termination Fee will be used. If such statistical release is not published at the time of any determination under this Agreement, then any publicly available source of similar market data which shall be selected by Managing Agent, will be used.

(22) “TSR” of a company shall be determined by (i) subtracting, for the relevant Measurement Period, (A) the closing price of the common shares of the company on the principal national securities exchange (as defined in the Exchange Act) on which the shares are traded, on the last trading day immediately prior to the beginning of the Measurement Period (the “Initial Price”) from (B) the sum of the average closing price of the common shares on the ten (10) consecutive trading days having the highest average closing prices during the final thirty (30) trading days of the Measurement Period, plus the aggregate amount of dividends declared in respect of a common share during the Measurement Period, and (ii) dividing the result by the Initial Price.

Exhibit 22.1
List of Guarantor Subsidiaries

The following subsidiaries of Service Properties Trust, a Maryland real estate investment trust (the “Trust”), jointly and severally and fully and unconditionally, guaranteed the Trust’s 7.50% Senior Notes due 2025 and the Trust’s 5.50% Senior Notes due 2027:

<u>Exact Name of Guarantor Subsidiary</u>	<u>Jurisdiction</u>
Cambridge TRS, Inc.	Maryland
Harbor Court Associates, LLC	Maryland
Highway Ventures Borrower LLC	Delaware
Highway Ventures LLC	Delaware
HPT Clift TRS LLC	Maryland
HPT CW MA Realty LLC	Maryland
HPT CW MA Realty Trust	Massachusetts
HPT CY TRS, Inc.	Maryland
HPT Geary ABC Holdings LLC	Maryland
HPT Geary Properties Trust	Maryland
HPT IHG Chicago Property LLC	Maryland
HPT IHG GA Properties LLC	Maryland
HPT IHG-2 Properties Trust	Maryland
HPT IHG-3 Properties LLC	Maryland
HPT SN Holding, Inc.	New York
HPT State Street TRS LLC	Maryland
HPT Suite Properties Trust	Maryland
HPT TA Properties Trust	Maryland
HPT TRS IHG-2, Inc.	Maryland
HPT TRS Inc.	Maryland
HPT TRS MRP, Inc.	Maryland
HPT TRS SPES II, Inc.	Maryland
HPT TRS WYN, Inc.	Maryland
HPT Wacker Drive TRS LLC	Maryland
HPTCY Properties Trust	Maryland
HPTMI Hawaii, Inc.	Delaware
HPTMI Properties Trust	Maryland
SVC Gatehall Drive TRS LLC	Maryland
SVC Holdings LLC	Maryland
SVC Jersey City TRS LLC	Maryland
SVC Morris Plains TRS LLC	Maryland
SVC Nanuet TRS LLC	Maryland
SVC NJ TRS LLC	Maryland
SVC Randolph Street TRS LLC	Maryland
SVC Redondo Beach TRS LLC	Maryland
SVCN 1 LLC	Delaware
SVCN 2 LLC	Delaware
SVCN 3 LLC	Delaware
SVCN 4 LLC	Delaware
SVCN 5 LLC	Delaware

CERTIFICATION PURSUANT TO EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a)

I, John G. Murray, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Service Properties Trust;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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: August 5, 2021

/s/ John G. Murray

John G. Murray

Managing Trustee, President and Chief Executive Officer

CERTIFICATION PURSUANT TO EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a)

I, Brian E. Donley, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Service Properties Trust;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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: August 5, 2021

/s/ Brian E. Donley

Brian E. Donley

Chief Financial Officer and Treasurer

Certification Pursuant to 18 U.S.C. Sec. 1350

In connection with the filing by Service Properties Trust (the “Company”) of the Quarterly Report on Form 10-Q for the period ended June 30, 2021 (the “Report”), each of the undersigned hereby certifies, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ John G. Murray

John G. Murray

Managing Trustee, President and
Chief Executive Officer

/s/ Brian E. Donley

Brian E. Donley

Chief Financial Officer and Treasurer

Date: August 5, 2021